



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2755

Introduced 2/16/2023, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-25.2	
725 ILCS 5/112A-29	from Ch. 38, par. 112A-29
725 ILCS 5/116-2.1	
725 ILCS 203/20	
750 ILCS 60/303	from Ch. 40, par. 2313-3

Amends the Criminal Code of 2012. Deletes a provision that timely notice to a retail mercantile establishment that is a victim of retail theft, organized retail crime, financial institution fraud, or looting shall include 7 days' notice of any court proceedings. Amends the Code of Criminal Procedure of 1963. Provides that a law enforcement officer may not refuse to complete a written report as required by the Protective Orders Article of the Code on any ground. Provides that a law enforcement officer shall not discourage or attempt to discourage a victim from filing a police report concerning an incident of abuse. Provides for the vacation of a conviction (rather than only prostitution convictions) if the defendant was a victim of human trafficking. Provides that the determination of the motion shall be by a preponderance of the evidence. Provides that evidence demonstrating the defendant's status as a victim of human trafficking at the time of the offense shall create a rebuttable presumption that the defendant was a victim of human trafficking at the time of the offense. Provides that evidence demonstrating the defendant's status as a victim of trafficking at the time of the offense shall create a rebuttable presumption that the defendant was a victim of human trafficking at the time of the offense. Provides that, regardless of whether the court grants a motion to vacate the sentence, it may permit the defendant to file an expedited petition for expungement or sealing under the Criminal Identification Act to be heard whenever possible before the same judge to whom the motion to vacate his or her conviction was presented upon 30 days' notice to those entitled to notification of expungement or sealing proceedings. Amends the Sexual Assault Incident Procedure Act. Provides that a law enforcement officer shall not discourage or attempt to discourage a victim from filing a police report concerning sexual assault or sexual abuse. Amends the Illinois Domestic Violence Act of 1986 to make conforming changes.

LRB103 27409 RLC 53781 b

1 AN ACT concerning victim rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Section 16-25.2 as follows:

6 (720 ILCS 5/16-25.2)

7 Sec. 16-25.2. Retail loss prevention report and notice
8 requirements.

9 (a) A retail mercantile establishment that is a victim of
10 a violation of Section 16-25, 16-25.1, 17-10.6, or 25-4 shall
11 have the right:

12 (1) to timely notification of all court proceedings as
13 defined under subsection (e) of Section 3 of the Rights of
14 Crime Victims and Witnesses Act. ~~Timely notice shall~~
15 ~~include 7 days' notice of any court proceedings.~~ Timely
16 notice shall be sent to the location of the retail
17 mercantile establishment where the violation occurred and
18 to the point of contact as provided by the retail
19 mercantile establishment. The point of contact may be any
20 employee of the retail mercantile establishment or
21 representative as provided by the retail mercantile
22 establishment;

23 (2) to communicate with the prosecution;

1 (3) to be reasonably heard at any post-arraignment
2 court proceeding in which a right of the victim is at issue
3 and any court proceeding involving a post-arraignment
4 release decision, plea, or sentencing;

5 (4) to be notified of the conviction, the sentence,
6 the imprisonment, and the release of the accused; and

7 (5) to have present at all court proceedings subject
8 to the rules of evidence an advocate of the retail
9 mercantile establishment's choice.

10 (b) Unless a retail mercantile establishment refuses to
11 file a report regarding the incident, the law enforcement
12 agency having jurisdiction shall file a report concerning the
13 incident with the State's Attorney. No law enforcement agent
14 shall discourage or attempt to discourage a retail mercantile
15 establishment from filing a police report concerning the
16 incident. Upon the request of the retail mercantile
17 establishment, the law enforcement agency having jurisdiction
18 shall provide a free copy of the police report concerning the
19 incident, as soon as practicable, but in no event later than 5
20 business days after the request. The Illinois Law Enforcement
21 Training Standards Board shall not consider any allegation of
22 a violation of this subsection that is contained in a
23 complaint made under Section 1-35 of the Police and Community
24 Relations Improvement Act.

25 (Source: P.A. 102-757, eff. 5-13-22.)

1 Section 10. The Code of Criminal Procedure of 1963 is
2 amended by changing Sections 112A-29 and 116-2.1 as follows:

3 (725 ILCS 5/112A-29) (from Ch. 38, par. 112A-29)

4 Sec. 112A-29. Reports by law enforcement officers.

5 (a) Every law enforcement officer investigating an alleged
6 incident of abuse between family or household members shall
7 make a written police report of any bona fide allegation and
8 the disposition of such investigation. The police report shall
9 include the victim's statements as to the frequency and
10 severity of prior incidents of abuse by the same family or
11 household member and the number of prior calls for police
12 assistance to prevent such further abuse.

13 (b) Every police report completed pursuant to this Section
14 shall be recorded and compiled as a domestic crime within the
15 meaning of Section 5.1 of the Criminal Identification Act.

16 (c) A law enforcement officer may not refuse to complete a
17 written report as required by this Section on any ground. A law
18 enforcement officer shall not discourage or attempt to
19 discourage a victim from filing a police report concerning an
20 incident of abuse.

21 (Source: P.A. 87-1186.)

22 (725 ILCS 5/116-2.1)

23 Sec. 116-2.1. Motion to vacate ~~prostitution~~ convictions
24 for offenses committed as a result of the defendants having

1 been human ~~sex~~ trafficking victims.

2 (a) A motion under this Section may be filed at any time
3 following the entry of a verdict or finding of guilty for one
4 or more offenses reported to have been committed as a result of
5 ~~where the conviction was under Section 11-14 (prostitution) or~~
6 ~~Section 11-14.2 (first offender; felony prostitution) of the~~
7 ~~Criminal Code of 1961 or the Criminal Code of 2012 or a similar~~
8 ~~local ordinance and the defendant ~~defendant's participation in~~~~
9 ~~the offense was a result of~~ having been a trafficking victim
10 under Section 10-9 (involuntary servitude, involuntary sexual
11 servitude of a minor, or trafficking in persons) of the
12 Criminal Code of 1961 or the Criminal Code of 2012; or a victim
13 of a severe form of trafficking under the federal Trafficking
14 Victims Protection Act (22 U.S.C. Section 7102(13)); provided
15 that:

16 (1) a motion under this Section shall state why the
17 facts giving rise to this motion were not presented to the
18 trial court, ~~and shall be made with due diligence, after~~
19 ~~the defendant has ceased to be a victim of such~~
20 ~~trafficking or has sought services for victims of such~~
21 ~~trafficking~~, subject to reasonable concerns for the safety
22 of the defendant, family members of the defendant, or
23 other victims of such trafficking that may be jeopardized
24 by the bringing of such motion, or for other reasons
25 consistent with the purpose of this Section; and

26 (2) reasonable notice of the motion shall be served

1 upon the State.

2 (b) The court may grant the motion if, in the discretion of
3 the court, the violation was a result of the defendant having
4 been a victim of human trafficking. Determination of the
5 motion under this Section shall be by a preponderance of the
6 evidence. Evidence demonstrating the defendant's status as a
7 victim of human trafficking at the time of the offense shall
8 create a rebuttable presumption that the defendant was a
9 victim of human trafficking at the time of the offense.
10 Evidence of such may include, but is not limited to:

11 (1) certified records of federal or State court
12 proceedings which demonstrate that the defendant was a
13 victim of a trafficker charged with a trafficking offense
14 under Section 10-9 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or under 22 U.S.C. Chapter 78;

16 (2) certified records of "approval notices" or "law
17 enforcement certifications" generated from federal
18 immigration proceedings available to such victims; or

19 (3) a sworn statement from a trained professional
20 staff of a victim services organization, an attorney, a
21 member of the clergy, or a medical or other professional
22 from whom the defendant has sought assistance in
23 addressing the trauma associated with being trafficked.

24 Alternatively, the court may consider such other evidence
25 as it deems of sufficient credibility and probative value in
26 determining whether the defendant is a trafficking victim or

1 victim of a severe form of trafficking.

2 (c) If the court grants a motion under this Section, it
3 must vacate the conviction and may take such additional action
4 as is appropriate in the circumstances.

5 (d) Regardless of whether the court grants a motion under
6 this Section, it may permit the defendant to file an expedited
7 petition for expungement or sealing pursuant to the Criminal
8 Identification Act to be heard whenever possible before the
9 same judge to whom the motion to vacate his or her conviction
10 was presented upon 30 days' notice to those entitled to
11 notification of expungement or sealing proceedings pursuant to
12 paragraph (4) of subsection (d) of Section 5.2 of the Criminal
13 Identification Act.

14 (e) If the court grants a motion under this Section, the
15 clerk of the court shall certify copies of the order to the
16 defendant, the appropriate State's Attorney, and the arresting
17 agency. The arresting agency is responsible for forwarding the
18 order to any other agency listed in the court order and to
19 which the arresting agency disseminated the criminal history
20 record information to which the order pertains.

21 (Source: P.A. 97-267, eff. 1-1-12; 97-897, eff. 1-1-13;
22 97-1150, eff. 1-25-13.)

23 Section 15. The Sexual Assault Incident Procedure Act is
24 amended by changing Section 20 as follows:

1 (725 ILCS 203/20)

2 Sec. 20. Reports by law enforcement officers.

3 (a) A law enforcement officer shall complete a written
4 police report upon receiving the following, regardless of
5 where the incident occurred:

6 (1) an allegation by a person that the person has been
7 sexually assaulted or sexually abused regardless of
8 jurisdiction;

9 (2) information from hospital or medical personnel
10 provided under Section 3.2 of the Criminal Identification
11 Act; or

12 (3) information from a witness who personally observed
13 what appeared to be a sexual assault or sexual abuse or
14 attempted sexual assault or sexual abuse.

15 (b) The written report shall include the following, if
16 known:

17 (1) the victim's name or other identifier;

18 (2) the victim's contact information;

19 (3) time, date, and location of offense;

20 (4) information provided by the victim;

21 (5) the suspect's description and name, if known;

22 (6) names of persons with information relevant to the
23 time before, during, or after the sexual assault or sexual
24 abuse, and their contact information;

25 (7) names of medical professionals who provided a
26 medical forensic examination of the victim and any

1 information they provided about the sexual assault or
2 sexual abuse;

3 (8) whether an Illinois State Police Sexual Assault
4 Evidence Collection Kit was completed, the name and
5 contact information for the hospital, and whether the
6 victim consented to testing of the Evidence Collection Kit
7 by law enforcement;

8 (9) whether a urine or blood sample was collected and
9 whether the victim consented to testing of a toxicology
10 screen by law enforcement;

11 (10) information the victim related to medical
12 professionals during a medical forensic examination which
13 the victim consented to disclosure to law enforcement; and

14 (11) other relevant information.

15 (c) If the sexual assault or sexual abuse occurred in
16 another jurisdiction, the law enforcement officer taking the
17 report must submit the report to the law enforcement agency
18 having jurisdiction in person or via fax or email within 24
19 hours of receiving information about the sexual assault or
20 sexual abuse.

21 (d) Within 24 hours of receiving a report from a law
22 enforcement agency in another jurisdiction in accordance with
23 subsection (c), the law enforcement agency having jurisdiction
24 shall submit a written confirmation to the law enforcement
25 agency that wrote the report. The written confirmation shall
26 contain the name and identifier of the person and confirming

1 receipt of the report and a name and contact phone number that
2 will be given to the victim. The written confirmation shall be
3 delivered in person or via fax or email.

4 (e) No law enforcement officer shall require a victim of
5 sexual assault or sexual abuse to submit to an interview.

6 (f) No law enforcement agency may refuse to complete a
7 written report as required by this Section on any ground. A law
8 enforcement officer shall not discourage or attempt to
9 discourage a victim from filing a police report concerning
10 sexual assault or sexual abuse.

11 (g) All law enforcement agencies shall ensure that all
12 officers responding to or investigating a complaint of sexual
13 assault or sexual abuse have successfully completed training
14 under Section 10.21 of the Illinois Police Training Act and
15 Section 2605-51 of the Illinois State Police Law of the Civil
16 Administrative Code of Illinois.

17 (Source: P.A. 102-538, eff. 8-20-21.)

18 Section 20. The Illinois Domestic Violence Act of 1986 is
19 amended by changing Section 303 as follows:

20 (750 ILCS 60/303) (from Ch. 40, par. 2313-3)

21 Sec. 303. Reports by law enforcement officers.

22 (a) Every law enforcement officer investigating an alleged
23 incident of abuse, neglect, or exploitation between family or
24 household members shall make a written police report of any

1 bona fide allegation and the disposition of such
2 investigation. The police report shall include the victim's
3 statements as to the frequency and severity of prior incidents
4 of abuse, neglect, or exploitation by the same family or
5 household member and the number of prior calls for police
6 assistance to prevent such further abuse, neglect, or
7 exploitation.

8 (b) Every police report completed pursuant to this Section
9 shall be recorded and compiled as a domestic crime within the
10 meaning of Section 5.1 of the Criminal Identification Act.

11 (c) No law enforcement officer may refuse to complete a
12 written report as required by this Section on any ground. No
13 law enforcement officer shall discourage or attempt to
14 discourage a victim from filing a police report concerning an
15 incident of abuse, neglect, or exploitation.

16 (Source: P.A. 86-542; 87-1186.)