



Rep. Jennifer Sanalitra

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10400HB3237ham001

LRB104 10133 RLC 23508 a

1 AMENDMENT TO HOUSE BILL 3237

2 AMENDMENT NO. _____. Amend House Bill 3237 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by adding
5 Section 6-3.1 as follows:

6 (720 ILCS 5/6-3.1 new)

7 Sec. 6-3.1. Trafficking victims; defense.

8 (a) In this Section, "trafficking victim" has the meaning
9 ascribed to that term in paragraph (10) of subsection (a) of
10 Section 10-9.

11 (b) A person is not engaged in conduct that would
12 constitute a felony or a Class A misdemeanor or in a place
13 where the person does not have a right to be if the person is
14 engaged in the activity or in the place due to the person's
15 status as a trafficking victim.

16 (c) The person must prove the person's status as a

1 trafficking victim by a preponderance of the evidence.

2 (d) The person may provide evidence of the person's status
3 as a trafficking victim through testimony or other such
4 evidence the court deems of sufficient credibility and
5 probative value in determining whether the person is a
6 trafficking victim.

7 (e) If the person files a motion as defined in Section
8 115-6.1 of the Code of Criminal Procedure of 1963, the court
9 shall follow the procedure defined in Section 115-6.1 in the
10 Code of Criminal Procedure of 1963.

11 Section 10. The Code of Criminal Procedure of 1963 is
12 amended by changing Section 115-6.1 as follows:

13 (725 ILCS 5/115-6.1)

14 Sec. 115-6.1. Affirmative Prostitution;~~affirmative~~
15 defense as a result of human trafficking.

16 (a) In prosecutions ~~for prostitution~~, when the accused
17 intends to raise at trial the affirmative defense provided in
18 Section 6-3.1 of the Criminal Code of 2012 or subsection (c-5)
19 of Section 11-14 of the Criminal Code of 2012 and has reason to
20 believe that the evidence presented in asserting that defense
21 may jeopardize the safety of the accused, courtroom personnel,
22 or others impacted by human trafficking, the accused may file
23 under seal a motion for an in camera hearing to review the
24 accused's safety concerns. Upon receipt of the motion and

1 notice to the parties, the court shall conduct an in camera
2 hearing, with counsel present, limited to review of potential
3 safety concerns. The court shall cause an official record of
4 the in camera hearing to be made, which shall be kept under
5 seal. The court shall not consider the merits of the
6 affirmative defense during the in camera review.

7 (b) If the court finds by a preponderance of the evidence
8 that the assertion of an affirmative defense under Section
9 6-3.1 of the Criminal Code of 2012 or subsection (c-5) of
10 Section 11-14 of the Criminal Code of 2012 by the accused in
11 open court would likely jeopardize the safety of the accused,
12 court personnel, or other persons, the court may clear the
13 courtroom with the agreement of the accused, order additional
14 in camera hearings, seal the records, prohibit court personnel
15 from disclosing the proceedings without prior court approval,
16 or take any other appropriate measure that in the court's
17 discretion will enhance the safety of the proceedings and
18 ensure the accused a full and fair opportunity to assert his or
19 her affirmative defense.

20 (c) Statements made by the accused during the in camera
21 hearing to review safety concerns shall not be admissible
22 against the accused for the crimes charged.

23 (Source: P.A. 99-109, eff. 7-22-15.)".