

PA 98-0538: Elimination of Felony Prostitution– Summary

INTRODUCTION TO ILLINOIS PA 98-0538 (2013)

Overview of the Act: PA 98-0538 amends the Criminal Code to eliminate all felony sentence enhancements of the state prostitution statute, making all violations of the prostitution statute a Class A misdemeanor. PA 98-0538 allows for defendants charged with prostitution to be admitted into local mental health court programs.

Current Status: Signed by Governor, August 23, 2013. Effective Upon Signing.

Sponsors: In the Senate: John G. Mulroe - Jacqueline Y. Collins - William Delgado - Patricia Van Pelt - Bill Cunningham, Mattie Hunter, Linda Holmes, David Koehler, Iris Y. Martinez, Pamela J. Althoff, Heather A. Steans, Karen McConnaughay, John J. Cullerton, Toi W. Hutchinson, Mike Jacobs, Emil Jones III, Daniel Biss, Napoleon Harris III, and Kyle McCarter.

In the House: Michael J. Zalewski - Rita Mayfield - Kelly M. Cassidy - Kay Hatcher - Robert F. Martwick, Elaine Nekritz, Ann Williams, Arthur Turner, Daniel J. Burke, Robyn Gabel, JoAnn D. Osmond, Greg Harris, Sara Feigenholtz, Deborah Mell, Barbara Flynn Currie, La Shawn K. Ford, Maria Antonia Berrios, Lou Lang, Monique D. Davis, William Davis, Christian L. Mitchell, Linda Chapa LaVia, Elizabeth Hernandez, Patricia R. Bellock, Emanuel Chris Welch, Ron Sandack, Luis Arroyo, Jehan A. Gordon-Booth, Robert Rita, Kenneth Dunkin, Marcus C. Evans, Jr., Camille Y. Lilly, Esther Golar, Cynthia Soto, Thaddeus Jones, Edward J. Acevedo, and Jim Sacia.

ELIMINATING FELONY PROSTITUTION

PA 98-0538 amends Sec. 11-14 of the Criminal Code, which prohibits prostitution, to eliminate the circumstances that would increase the penalty of prostitution, which is a Class A misdemeanor, to a felony. The bill also eliminates an increased penalty for multiple violations of the prostitution statute. Since the bill eliminated the possibility of a felony prostitution charge, the first offender felony probation provision was also deleted by PA 98-0538.

This change was necessary for several reasons. Many of the people charged with felony prostitution were victims of human trafficking. The presence of a felony conviction makes finding employment or pursuing other opportunities very difficult. Relatedly, the law was disproportionately applied to prostituted people, which resulted in significant gender disparities in enforcement of prostitution offenses. Additionally, felony prostitution was ineffective at preventing crime and was expensive for the state due to the high costs of pretrial detention and incarceration for those charged or convicted with felony prostitution.

AUTHORIZING ACCESS TO ALTERNATIVE COURTS

PA 98-0538 and its related trailer bill PA 98-0621 allows for people charged with a misdemeanor prostitution offense to be admitted into a local mental health court program. A person admitted into the program can receive services that are designed to address trauma associated with human trafficking and prostitution. Courts seeking to establish a mental health court program for such defendants must partner with service providers and survivors in developing the service program.