

1 SENATE BILL NO. 265  
2 INTRODUCED BY M. NOLAND, J. SMALL, S. HINEBAUCH, T. MCGILLVRAY, S. FITZPATRICK, B. USHER,  
3 W. MCKAMEY, D. BARTEL, J. ELLSWORTH, K. BOGNER, D. EMRICH, S. SALES, F. MANDEVILLE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HUMAN TRAFFICKING;  
6 INCREASING FINES AND MAKING FINES MANDATORY; AMENDING SECTIONS 45-5-702, 45-5-703, 45-5-  
7 704, AND 45-5-705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10

11 **Section 1.** Section 45-5-702, MCA, is amended to read:

12 **"45-5-702. Trafficking of persons.** (1) A person commits the offense of trafficking of persons if the  
13 person purposely or knowingly:

14 (a) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or  
15 entices another person intending or knowing that the person will be subjected to involuntary servitude or sexual  
16 servitude; or

17 (b) benefits, financially or by receiving anything of value, from facilitating any conduct described in  
18 subsection (1)(a) or from participation in a venture that has subjected another person to involuntary servitude or  
19 sexual servitude.

20 (2) (a) Except as provided in subsections (2)(b) and (2)(c), a person convicted of the offense of  
21 trafficking of persons shall be imprisoned in the state prison for a term of not more than 15 years, fined an  
22 amount ~~not to exceed \$50,000~~ in the amount of \$400,000, or both.

23 (b) A person convicted of the offense of trafficking of persons shall be imprisoned in the state  
24 prison for a term of not more than 50 years, fined ~~an amount not to exceed~~ in the amount of \$100,000  
25 \$400,000, or both, if the victim was a child.

26 (c) A person convicted of the offense of trafficking of persons shall be imprisoned in the state  
27 prison for a term of not more than 25 years, fined ~~an amount not to exceed \$75,000~~ in the amount of \$400,000,  
28 or both, if the violation involves aggravated kidnapping, aggravated sexual intercourse without consent, or

**Amendment - 1st Reading-white - (H) Judiciary**

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Drafter: Rachel Weiss, 406-444-5367

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1 amount not to exceed \$50,000 ~~in the amount of \$400,000~~, or both.

2 (b) ~~— If the individual patronized was a child, a person convicted of the offense of patronizing a victim~~  
3 ~~of sexual servitude, whether or not the person believed the child was an adult, shall be imprisoned in the state~~  
4 ~~prison for a term of not more than 25 years and fined an amount not to exceed \$75,000 in the amount of~~  
5 ~~\$400,000."~~

6

7 COORDINATION SECTION. Section 5. Coordination instruction. If both House Bill No. 112 and  
8 [this act] are passed and approved and if both contain a section that amends 45-5-702, then the sections  
9 amending 45-5-702 are void and 45-5-702 must be amended as follows:

10 **"45-5-702. Trafficking of persons Sex trafficking.** (1) A person commits the offense of sex  
11 trafficking of persons if the person purposely or knowingly:

12 (a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association  
13 with others, a house of prostitution or prostitution business;

14 (b) procures an individual for a house of prostitution or prostitution business or procures a place in  
15 a house of prostitution or prostitution business for an individual;

16 (c) encourages, induces, or otherwise purposely causes another person to become or remain a  
17 prostitute;

18 (d) solicits clients for another person who is a prostitute;

19 (e) procures a prostitute for a patron;

20 (f) transports an individual into or within this state with the purpose to promote that individual's  
21 engaging in prostitution or procures or pays for transportation with that purpose;

22 (g) leases other otherwise permits a place controlled by the offender, alone or in association with  
23 others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable  
24 effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or using other legally  
25 available means;

26 (a)(h) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or  
27 entices another person intending or knowing that the person will be subjected to ~~involuntary servitude or sexual~~  
28 servitude prostitution; or

~~(b)(i) benefits, financially or by receiving anything of value, from facilitating any conduct described in subsection subsections (1)(a) through (1)(h) or from participation in a venture that has subjected another person to involuntary servitude or sexual servitude.~~

~~(2) (a) Except as provided in subsections (2)(b) and (2)(c), a person convicted of the offense of sex trafficking of persons shall be imprisoned in the state prison for a term of not more than 15 years not less than 2 years or more than 20 years, fined an amount not to exceed \$50,000 in the amount of \$400,000, or both.~~

~~(b) A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 50 years, fined an amount not to exceed \$100,000, or both, if the victim was a child.~~

~~(c) A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 25 years, fined an amount not to exceed \$75,000, or both, if the violation involves aggravated kidnapping, aggravated sexual intercourse without consent, or deliberate homicide."~~

COORDINATION SECTION. Section 6. Coordination instruction. If both House Bill No. 112 and [this act] are passed and approved and both contain a section that amends 45-5-702(2)(b), then [section 19 of House Bill No. 112] is void must be replaced with the following:

"NEW SECTION. Section 19. Child sex trafficking. (1) A person commits the offense of child sex trafficking by purposely or knowingly:

(a) committing the offense of sex trafficking with a child; or

(b) recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, enticing, or using a child for the purposes of commercial sexual activity.

(2) (a) A person convicted of the offense of child sex trafficking shall be imprisoned in the state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a) except as provided in 46-18-222(1) through (4). During the first 25 years of imprisonment, the offender is not eligible for parole. The exceptions provided in 46-18-222(5) and (6) do not apply.

(b) In addition to the sentence of imprisonment imposed under subsection (2)(a), the offender:

(i) must be fined in the amount of \$400,000; and

1 (ii) if released after the mandatory minimum period of imprisonment, is subject to supervision by  
2 the department of corrections for the remainder of the offender's life and shall participate in the program for  
3 continuous, satellite-based monitoring provided for in 46-23-1010.

4 (3) It is not a defense in a prosecution under this section:

5 (a) that a child consented to engage in commercial sexual activity; or

6 (b) that the defendant believed the child was an adult. Absolute liability, as provided in 45-2-104, is  
7 imposed."

8

9 COORDINATION SECTION. Section 7. Coordination instruction. If both House Bill No. 112 and  
10 [this act] are passed and approved and both contain a section that amends 45-5-703, then then sections  
11 amending 45-5-703 are void and 45-5-703 must be amended as follows:

12 "~~45-5-703. Involuntary servitude~~Labor trafficking. (1) A person commits the offense of ~~involuntary~~  
13 ~~servitude labor trafficking~~ if the person purposely or knowingly uses coercion to compel another person to  
14 provide labor or services, unless the conduct is otherwise permissible under federal or state law.

15 (2) ~~(a)~~ Except as provided in subsection ~~(2)(b)(3)~~, a person convicted of the offense of ~~involuntary~~  
16 ~~servitude labor trafficking~~ shall be imprisoned in the state prison for a term of not more than 15 years, fined ~~an~~  
17 ~~amount not to exceed \$50,000 in the amount of \$400,000~~, or both.

18 ~~(b) A person convicted of the offense of involuntary servitude shall be imprisoned in the state prison~~  
19 ~~for a term of not more than 50 years and may be fined not more than \$100,000 if:~~

20 ~~(i) the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate~~  
21 ~~homicide; or~~

22 ~~(ii) the victim was a child.~~

23 ~~(3) If the victim is less than 18 years of age, the offender shall be imprisoned in the state prison for~~  
24 ~~a term of not less than 4 years or more than 50 years, fined in the amount of \$400,000, or both."~~

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26 COORDINATION SECTION. Section 8. Coordination instruction. If both House Bill No. 112 and  
27 [this act] are passed and approved and both contain a section that amends 45-5-705, then the sections that  
28 amend 45-5-705 are void and 45-5-705 must be amended as follows:

1       **"45-5-705. Patronizing victim of ~~sexual servitude~~ sex trafficking.** (1) A person commits the  
2 offense of patronizing a victim of ~~sexual servitude~~ sex trafficking if the person purposely or knowingly gives,  
3 agrees to give, or offers to give anything of value so that a person may engage in commercial sexual activity:  
4       ~~(a)~~ that involves sexual contact that is direct and not through clothing with another person who the  
5 person knows or reasonably should have known is a victim of ~~sexual servitude~~ sex trafficking; ~~or~~  
6       ~~(b)~~ with a child.

7       (2)     ~~(a)~~ Except as provided in subsection ~~(2)(b)(3)~~, a person convicted of the offense of patronizing  
8 a victim of ~~sexual servitude~~ sex trafficking shall:  
9       ~~(a)~~ for the first offense, be imprisoned in the state prison for a term of not more than 15 years,  
10 fined ~~an amount not to exceed \$50,000 in the amount of \$400,000,~~ or both; ~~or~~  
11       ~~(b)~~ for a second or subsequent offense, be imprisoned in the state prison for a term of not less  
12 than 2 years or more than 15 years, fined in the amount of \$400,000, or both.

13       ~~(b)(3)~~ ~~(a)~~ If the individual patronized was a child and the patron was 18 years of age or older, a  
14 person convicted of the offense of patronizing a victim of ~~sexual servitude~~ sex trafficking, whether or not the  
15 person believed the child was an adult, ~~shall~~:  
16       ~~(i)~~ shall be imprisoned in the state prison for a term of ~~not more than 25~~ 100 years, ~~and fined an~~  
17 ~~amount not to exceed \$75,000~~ The court may not suspend execution or defer imposition of the first 25 years of  
18 a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and  
19 during the first 25 years of imprisonment the offender is not eligible for parole.

20       ~~(ii)~~ shall be fined in the amount of \$400,000; and  
21       ~~(iii)~~ must be ordered to enroll in and successfully complete the educational phase and the cognitive  
22 and behavioral phase of a sexual offender treatment program provided or approved by the department of  
23 corrections.

24       ~~(b)~~ If the offender is released after the mandatory minimum period of imprisonment, the offender is  
25 subject to supervision by the department of corrections for the remainder of the offender's life and shall  
26 participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

27       (4)     It is not a defense in a prosecution under this section:  
28       ~~(a)~~ that a child consented to engage in commercial sexual activity; or

1 (b) that the defendant believed that the child was an adult. Absolute liability, as provided in 45-2-  
2 104, is imposed."

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4 COORDINATION SECTION. Section 9. Coordination instruction. If both House Bill No. 112 and  
5 [this act] are passed and approved, if House Bill No. 112 contains a section amending 45-5-706, and if [this act]  
6 contains a section amending 45-5-702(2)(c) then the section in House Bill No. 112 amending 45-5-706 is void  
7 and 45-5-706 must be amended as follows:

8 **"45-5-706. Aggravating circumstance Aggravated sex trafficking.** (1) A person commits the  
9 offense of aggravated sex trafficking if, during the commission of the offense of sex trafficking, the person  
10 purposely or knowingly:

11 (a) uses fraud, coercion, or deception to control an adult to engage in prostitution; or

12 (b) An aggravating circumstance during the commission of an offense under 45-5-702, 45-5-703,  
13 45-5-704, or 45-5-705 occurs when the defendant recruited, enticed, or obtained recruits, entices, or obtains  
14 the victim of the offense from a shelter that serves runaway youth, foster children, homeless persons, or  
15 persons subjected to human trafficking victims, or victims of domestic violence, or sexual assault violence.

16 (2) If the trier of fact finds that an aggravating circumstance occurred during the commission of an  
17 offense under 45-5-702, 45-5-703, 45-5-704, or 45-5-705, the defendant may be imprisoned for up to 5 years in  
18 addition to the period of imprisonment prescribed for the offense. An additional sentence prescribed by this  
19 section must run consecutively to the sentence provided for the underlying offense. A person convicted of the  
20 offense of aggravated sex trafficking shall be imprisoned in the state prison for a term of not less than 5 years  
21 or more than 40 years, fined in the amount of \$400,000, or both. The exceptions provided in 46-18-222(5) and  
22 (6) do not apply."

23  
24 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

25 - END -