

HOUSE BILL NO. 112

INTRODUCED BY J. ETCHART

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HUMAN TRAFFICKING AND PROSTITUTION LAWS; PROVIDING FOR THE CRIMES OF SEX TRAFFICKING, LABOR TRAFFICKING, AGGRAVATED SEX TRAFFICKING, AND CHILD SEX TRAFFICKING; AMENDING SECTIONS 20-7-1321, 27-1-755, 27-2-216, 40-4-219, 41-3-102, 44-5-311, 45-1-205, 45-2-211, 45-5-601, 45-5-701, 45-5-702, 45-5-703, 45-5-705, 45-5-706, 45-5-707, 45-5-708, 45-5-709, 45-5-710, 45-8-405, 46-16-226, 46-18-104, 46-18-111, 46-18-201, 46-18-203, 46-18-205, 46-18-207, 46-18-219, 46-18-222, 46-18-231, 46-18-608, 46-23-502, 46-23-1011, AND 61-8-818, MCA; AND REPEALING SECTIONS 45-5-602, 45-5-603, 45-5-604, AND 45-5-704, MCA."

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

**Section 1.** Section 20-7-1321, MCA, is amended to read:

**"20-7-1321. Employment assistance for current or former school employees, contractors, and volunteers engaged in sexual misconduct prohibited.** (1) Except as provided in subsection (2), a person who is an officer, trustee, employee, agent, or contractor of a school, school district, county superintendent of schools, or the state superintendent of public instruction and who knows or has probable cause to believe that a current or former school employee, contractor, or agent has committed or has attempted, solicited, or conspired to commit an act with a child or enrolled student that constitutes a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601, ~~45-5-602, 45-5-603, 45-5-625, 45-5-702, 45-5-704, or 45-5-705,~~ 45-5-706, or [section 19] may not assist that school employee, contractor, or agent in obtaining new employment apart from the routine transmission of administrative and personnel files.

(2) Subsection (1) does not apply if:

(a) the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged violation;

(ii) the length of the labor or services is not limited and the nature of the labor or services is not defined.

(5) "Human trafficking" means the commission of an offense under 45-5-702, 45-5-703, ~~45-5-704,~~ or 45-5-705, 45-5-706, or [section 19].

(6) "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(7) "Labor or services" means activity having economic value.

(8) "Prostitution" has the meaning provided in 45-5-601.

~~(8)(9)~~ "Serious harm" means physical or nonphysical harm, including psychological, economic, or reputational harm to a person that would compel a reasonable person of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

~~(9)(10)~~ "Sexual activity" means any sex act or simulated sex act intended to arouse or gratify the sexual desire of any person. The term includes a sexually explicit performance.

(11) "Sexual contact" has the meaning provided in 45-2-101.

~~(40)(12)~~ "Sexually explicit performance" means a live, public, private, photographed, recorded, or videotaped act or simulated act intended to arouse or gratify the sexual desire of any person."

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

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

(a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution, prostitution business, or business promoting commercial sexual activity;

(b) procures an individual for a house of prostitution, prostitution business, or business promoting sexual activity or procures a place for an individual in a house of prostitution ~~for an individual, prostitution business, or business promoting sexual activity;~~

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

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

(e) procures a prostitute for a patron;

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

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

~~(a)(h)~~ recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices another person intending or knowing that the person will be subjected to ~~involuntary servitude or sexual servitude~~ commercial sexual activity; 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~~ 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~~ less than 2 years or more than 20 years, fined an amount not to exceed \$50,000, 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."~~

**Section 12.** Section 45-5-703, MCA, is amended to read:

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

(2) ~~(a)~~ Except as provided in subsection ~~(2)(b)~~ (3), a person convicted of the offense of involuntary