

SENATE BILL NO. 259

INTRODUCED BY ARNTZEN, LASZLOFFY

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A COURT TO VACATE CERTAIN CONVICTIONS WHEN THE OFFENDER WAS A VICTIM OF TRAFFICKING FOR COMMERCIAL SEXUAL ACTIVITY."

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

NEW SECTION. **Section 1. Motion to vacate prostitution conviction -- trafficking victims.** (1) On the motion of a person, a court may vacate the person's conviction of the offense of prostitution under 45-5-601 if the court finds that the person's participation in the offense was a result of having been a victim of trafficking for commercial sexual activity under 45-5-306 or of sex trafficking under the federal Trafficking Victims Protection Act, 22 U.S.C. 7103 through 7112.

(2) The motion must:

(a) be made within a reasonable time after the person ceased to be involved in trafficking for commercial sexual activity or sought services for trafficking victims, subject to reasonable concerns for the safety of the person, family members of the person, or other victims of trafficking who could be jeopardized by filing a motion under this section; and

(b) state why the facts giving rise to the motion were not presented to the court during the prosecution of the person.

(3) Official documentation from a local government or a state or federal agency of the person's status as a victim of trafficking for commercial sexual activity creates a rebuttable presumption that the person's participation in the offense of prostitution was a result of having been a victim of trafficking for commercial sexual activity.

(4) If a court vacates a conviction of prostitution under this section, the court shall:

(A) send a copy of the order vacating the conviction to the prosecutor and the department of justice accompanied by a form prepared by the department of justice and containing identifying information about the person; AND

(B) INFORM THE PERSON WHOSE CONVICTION HAS BEEN VACATED UNDER THIS SECTION THAT THE PERSON MAY BE ELIGIBLE FOR CERTAIN STATE AND FEDERAL PROGRAMS AND SERVICES AND PROVIDE THE PERSON WITH INFORMATION

1 FOR CONTACTING APPROPRIATE STATE AND FEDERAL VICTIM SERVICES ORGANIZATIONS. After the conviction is vacated,
2 all records and data relating to the conviction are confidential criminal justice information, as defined in 44-5-103,
3 and the public access to the information may be obtained only by district court order upon good cause shown.

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5 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
6 integral part of Title 46, chapter 18, and the provisions of Title 46, chapter 18, apply to [section 1].

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