

1 SENATE BILL NO. 265

2 INTRODUCED BY M. NOLAND, J. SMALL, S. HINEBAUCH, T. MCGILLVRAY, S. FITZPATRICK, B. USHER,  
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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."

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

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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

1 deliberate homicide."

2

3 **Section 2.** Section 45-5-703, MCA, is amended to read:

4 **"45-5-703. Involuntary servitude.** (1) A person commits the offense of involuntary servitude if the  
5 person purposely or knowingly uses coercion to compel another person to provide labor or services, unless the  
6 conduct is otherwise permissible under federal or state law.

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

10 (b) A person convicted of the offense of involuntary servitude shall be imprisoned in the state  
11 prison for a term of not more than 50 years and may be fined ~~not more than \$100,000~~ in the amount of  
12 \$400,000 if:

13 (i) the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate  
14 homicide; or

15 (ii) the victim was a child."  
16

17 **Section 3.** Section 45-5-704, MCA, is amended to read:

18 **"45-5-704. Sexual servitude.** (1) A person commits the offense of sexual servitude if the person  
19 purposely or knowingly:

20 (a) uses fraud, coercion, or deception to compel an adult to engage in commercial sexual activity;

21 or

22 (b) recruits, transports, transfers, harbors, receives, provides, obtains by any means, isolates,  
23 entices, maintains, or makes available a child for the purpose of commercial sexual activity.

24 (2) It is not a defense in a prosecution under subsection (1)(b) that the child consented to engage  
25 in commercial sexual activity or that the defendant believed the child was an adult.

26 (3) (a) A person convicted of the offense of sexual servitude under subsection (1)(a) shall be  
27 imprisoned in the state prison for a term of not more than 15 years, fined ~~an amount not to exceed \$50,000~~ in  
28 the amount of \$400,000, or both.

1 (b) A person convicted of the offense of sexual servitude under subsection (1)(b) shall be  
2 imprisoned in the state prison for a term of not more than 25 years and fined ~~an amount not to exceed \$75,000~~  
3 in the amount of \$400,000."

4

5 **Section 4.** Section 45-5-705, MCA, is amended to read:

6 **"45-5-705. Patronizing victim of sexual servitude.** (1) A person commits the offense of patronizing  
7 a victim of sexual servitude if the person purposely or knowingly gives, agrees to give, or offers to give anything  
8 of value so that a person may engage in commercial sexual activity:

9 (a) that involves sexual contact that is direct and not through clothing with another person who the  
10 person knows or reasonably should have known is a victim of sexual servitude; or

11 (b) with a child.

12 (2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of patronizing a  
13 victim of sexual servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined ~~an~~  
14 ~~amount not to exceed \$50,000~~ in the amount of \$400,000, or both.

15 (b) If the individual patronized was a child, a person convicted of the offense of patronizing a victim  
16 of sexual servitude, whether or not the person believed the child was an adult, shall be imprisoned in the state  
17 prison for a term of not more than 25 years and fined ~~an amount not to exceed \$75,000~~ in the amount of  
18 \$400,000."

19

20 **Section 5.** Section 45-5-705, MCA, is amended to read:

21 ~~"45-5-705. Patronizing victim of sexual servitude.~~ (1) A person commits the offense of patronizing  
22 a victim of sexual servitude if the person purposely or knowingly gives, agrees to give, or offers to give anything  
23 of value so that a person may engage in commercial sexual activity:

24 ~~(a) that involves sexual contact that is direct and not through clothing with another person who the~~  
25 ~~person knows or reasonably should have known is a victim of sexual servitude; or~~

26 ~~(b) with a child.~~

27 ~~(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of patronizing a~~  
28 ~~victim of sexual servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined an~~

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

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

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

7           ~~(b)~~ A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison  
8 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.

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

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13           COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 112 AND  
14 [THIS ACT] ARE PASSED AND APPROVED AND BOTH CONTAIN A SECTION THAT AMENDS 45-5-702(2)(B), THEN [SECTION  
15 19 OF HOUSE BILL NO. 112] IS VOID MUST BE REPLACED WITH THE FOLLOWING:

16           "NEW SECTION. SECTION 19. CHILD SEX TRAFFICKING. (1) A PERSON COMMITS THE OFFENSE OF CHILD  
17 SEX TRAFFICKING BY PURPOSELY OR KNOWINGLY:

18           (A) COMMITTING THE OFFENSE OF SEX TRAFFICKING WITH A CHILD; OR

19           (B) RECRUITING, TRANSPORTING, TRANSFERRING, HARBORING, RECEIVING, PROVIDING, OBTAINING,  
20 ISOLATING, MAINTAINING, ENTICING, OR USING A CHILD FOR THE PURPOSES OF COMMERCIAL SEXUAL ACTIVITY.

21           (2) (A) A PERSON CONVICTED OF THE OFFENSE OF CHILD SEX TRAFFICKING SHALL BE IMPRISONED IN THE  
22 STATE PRISON FOR A TERM OF 100 YEARS. THE COURT MAY NOT SUSPEND EXECUTION OR DEFER IMPOSITION OF THE  
23 FIRST 25 YEARS OF A SENTENCE OF IMPRISONMENT IMPOSED UNDER THIS SUBSECTION (2)(A) EXCEPT AS PROVIDED IN  
24 46-18-222(1) THROUGH (4). DURING THE FIRST 25 YEARS OF IMPRISONMENT, THE OFFENDER IS NOT ELIGIBLE FOR  
25 PAROLE. THE EXCEPTIONS PROVIDED IN 46-18-222(5) AND (6) DO NOT APPLY.

26           (B) IN ADDITION TO THE SENTENCE OF IMPRISONMENT IMPOSED UNDER SUBSECTION (2)(A), THE  
27 OFFENDER:

28           (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  
2 SUPERVISION BY THE DEPARTMENT OF CORRECTIONS FOR THE REMAINDER OF THE OFFENDER'S LIFE AND SHALL  
3 PARTICIPATE IN THE PROGRAM FOR 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-  
7 104, IS IMPOSED."

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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  
28 THAT 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           (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

