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HOUSE BILL NO. 749
INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HUMAN TRAFFICKING LAWS; PROVIDING REQUIREMENTS FOR ~~AND INSPECTIONS OF~~ MASSAGE THERAPY BUSINESSES; PROVIDING AN APPROPRIATION; ~~AMENDING SECTION 37-33-403, MCA;~~ AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

~~WHEREAS, human trafficking occurs in the State of Montana in many forms and traumatizes its victims in countless ways; and~~

~~WHEREAS, licensed massage therapists legally practicing massage therapy promote public health and well-being and provide other valuable health benefits; and~~

~~WHEREAS, purveyors of human trafficking and prostitution often operate under the guise of massage therapy, endangering the safety of legally practicing massage therapists and the public; and~~

~~WHEREAS, owners of these illicit businesses tend to use unlicensed persons who may be victims of human trafficking and other human rights violations.~~

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

NEW SECTION. Section 1. Massage therapy businesses -- requirements -- inspections -- injunctions. (1) A massage therapy business:—

~~(a) shall conspicuously display on the premises the license of each massage therapist working at the business OR, FOR A MOBILE PRACTICE, MAKE THE LICENSE READILY AVAILABLE;~~

~~(b) may not allow any person to live at or sleep at the business; and~~

~~(c) may not permit any person to engage in sexual contact at the business, except that a person with an impaired physical ability, physical dysfunction, recent injury, or other disability may engage in sex therapy with a partner surrogate who is working under the supervision of a social worker, professional counselor, or licensed clinical professional counselor under Title 37, chapter 22 or 23.~~

(2) (a) The department or a local designee, a local government official having jurisdiction, or a local law

1 enforcement officer may enter and inspect a massage therapy business ~~AND REQUEST TO SEE A MASSAGE~~
 2 ~~THERAPIST'S LICENSE AND PROOF OF IDENTIFICATION~~ at any time during business hours ~~TO DETERMINE COMPLIANCE~~
 3 ~~WITH SUBSECTION (1).~~

4 (b) The inspection ~~REQUEST ACTION TAKEN UNDER SUBSECTION (2)(A)~~ may not interrupt a treatment session
 5 that is in progress, except that a treatment session lasting 2 hours or more may be interrupted.

6 ~~————(c) A person inspecting under subsection (2)(a) shall report to law enforcement a suspected violation~~
 7 ~~of 45-5-601, 45-5-602, 45-5-603, or Title 45, chapter 5, part 7.~~

8 ~~————(3) The board or any person may bring an action in district court to enjoin a massage therapy business~~
 9 ~~from violating the requirements of this chapter or a rule adopted under this chapter. If the court finds that the~~
 10 ~~massage therapy business is violating the requirements of this chapter or a rule adopted under this chapter, the~~
 11 ~~court shall enter an order restraining the massage therapy business from committing the violation.—~~

12

13 ~~————Section 2. Section 37-33-403, MCA, is amended to read:~~

14 ~~————"37-33-403. Definitions. As used in this chapter, the following definitions apply:~~

15 ~~————(1) "Board" means the board of massage therapy provided for in 2-15-1782.~~

16 ~~————(2) "Department" means the department of labor and industry provided for in 2-15-1701.~~

17 ~~————(3) "Knowingly" has the meaning provided in 45-2-101.~~

18 ~~————(3)(4)(3) "Massage therapist", "licensed massage therapist", "L.M.T.", "masseur", or "masseuse" means~~
 19 ~~a person who is licensed by the board to practice massage therapy. The terms are equivalent terms, and any~~
 20 ~~derivation of the phrases or any letters implying the phrases are equivalent terms. Any reference to any one of~~
 21 ~~the terms in this chapter includes the others.~~

22 ~~————(4)(5)(4) (a) (i) "Massage therapy" when provided by a massage therapist means the application of a~~
 23 ~~system of structured touch, pressure, positioning, or holding to soft tissues of the body, Swedish massage,~~
 24 ~~effleurage, petrissage, tapotement, percussion, friction, vibration, compression, passive and active stretching or~~
 25 ~~movement within the normal anatomical range of motion, the external application of water, heat, cold, lubricants,~~
 26 ~~salts, skin brushing, or other topical preparations not classified as prescription drugs, providing information for~~
 27 ~~self-care stress management, and the determination of whether massage is contraindicated and whether referral~~
 28 ~~to another health care practitioner is recommended.~~

29 ~~————(ii) The techniques described in subsection (4)(a)(i) (5)(a)(i) (4)(A)(i) must be applied by the massage~~
 30 ~~therapist through the use of hands, forearms, elbows, knees, or feet or through the use of hand-held tools that~~

1 mimic or support the action of the hands and are primarily intended to enhance or restore health and well-being
2 by promoting pain relief, stress reduction, and relaxation.

3 ~~—— (b) The term does not include sexual contact, providing examinations for the purpose of diagnosis,
4 providing treatments that are outside the scope of massage therapy, attempts to adjust, manipulate, or mobilize
5 any articulations of the body or spine by the use of high-velocity, low-amplitude thrusting force, exercise, exercise
6 instruction or prescription, or the use of tape when applied to restrict joint movement, manual or mechanical
7 traction when applied to the spine or extremities for the purposes of joint mobilization or manipulation, injection
8 therapy, laser therapy, microwave diathermy, electrical stimulation, ultrasound, iontophoresis, or phonophoresis.~~

9 ~~—— (6)(a) "Massage therapy business" means a place of business that offers or practices massage therapy
10 on the premises of the business.~~

11 ~~—— (b) The term does not include the residence of a massage therapist.~~

12 ~~—— (7) "Purposely" has the meaning provided in 45-2-101.~~

13 ~~—— (8)(5) "Sexual contact" has the meaning provided in 45-2-101."~~

14
15 **NEW SECTION. Section 2. Appropriation.** (1) There is appropriated \$519,815 from the general fund
16 to the department of justice for the biennium beginning July 1, 2019, for the purpose of establishing a two-person
17 human trafficking enforcement team consisting of two division ~~DIVISIONS~~ of criminal investigation agents AGENTS
18 FROM THE DIVISION OF CRIMINAL INVESTIGATION.

19 ~~(2) There is appropriated \$519,815 from the general fund to the department of corrections for the~~
20 ~~Montana board of crime control for the biennium beginning July 1, 2019, for the purpose of establishing a grant~~
21 ~~program to fund two full-time equivalent employees or four part-time equivalent employees from local law~~
22 ~~enforcement human trafficking task forces.~~

23 ~~(3)(2) The duties of the human trafficking enforcement team and the local law enforcement human~~
24 ~~trafficking task force must include but are not limited to:~~

25 (a) collaborating and coordinating between the department of justice and local law enforcement for the
26 investigation and enforcement of online marketing and advertising in which human trafficking is known to occur;

27 (b) helping to lead and coordinate human trafficking sting operations;

28 (c) conducting interdiction operations on state highways to intercept, identify, and disrupt human
29 trafficking smuggling and activity;

30 (d) providing training, outreach, education, and coordination on human trafficking at a state level; and

1 (e) undertaking efforts to collect and share data on human trafficking investigations and cases between
2 all levels of law enforcement involved in work across the state related to human trafficking.

3
4 NEW SECTION. Section 3. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
5 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
6 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
7 APPLICATIONS.

8
9 NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is
10 effective October 1, 2019.

11 (2) ~~[Section 3]~~ [SECTION 2] and this section are effective July 1, 2019.

12
13 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
14 integral part of Title 37, chapter 33, part 4, and the provisions of Title 37, chapter 33, part 4, apply to [section 1].

15
16 NEW SECTION. Section 6. Termination. ~~[Sections 1 and 2] terminate~~ [SECTION 1] TERMINATES June
17 30, 2023.

18 - END -