

1 House BILL NO. 171
2 INTRODUCED BY Federico

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LEGALIZE
5 PROSTITUTION OUTSIDE OF INCORPORATED CITIES AND TOWNS;
6 PROVIDING FOR ITS LICENSING AND REGULATIONS; DEFINING
7 PANDERING; PROVIDING PENALTIES; AND REPEALING SECTIONS
8 94-5-602 AND 94-5-603, R.C.M. 1947."
9

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

11 Section 1. Definitions. As used in this act, unless
12 the context clearly requires otherwise:

13 (1) "A house of prostitution" means any place where
14 prostitution or promotion of prostitution is carried on by
15 one (1) or more persons.

16 (2) "Prostitution" means engaging in or agreeing or
17 offering to engage in sexual intercourse with another person
18 for compensation.

19 Section 2. Prostitution unlawful in incorporated
20 cities and towns -- penalty. (1) It is unlawful for any
21 person to engage in prostitution or conduct a house of
22 prostitution within the limits of any incorporated city or
23 town in this state.

(2) A person convicted of violating this section shall
25 be fined not to exceed five hundred dollars (\$500) or be

1 imprisoned in the county jail for any term not to exceed six
2 (6) months, or both.

3 Section 3. Prostitution allowed in the county. The
4 governing body of any county may, by resolution, allow
5 houses of prostitution to operate in the county. If the
6 governing body of the county has voted to allow houses of
7 prostitution in the county they shall be licensed and
8 regulated as provided in section [4].

9 Section 4. Licensing of houses of prostitution --
10 counties -- penalty. (1) Every person, firm, corporation,
11 or association of persons wishing to engage in the business
12 of conducting a house of prostitution outside of an
13 incorporated city or incorporated town shall:

14 (a) make application by petition to the license board,
15 provided for in subsection (2) of this section, of the
16 county in which the business is to be engaged for a county
17 prostitution license. The application shall be in a form
18 prescribed by the regulations of the license board;

19 (b) file the application with the required license fee
20 with the county clerk and recorder, who shall present it to
21 the license board at its next regular meeting;

22 (2) The board of county commissioners, the sheriff,
23 and the county attorney of the county constitute the license
24 board and the county clerk and recorder shall be the clerk
25 thereof.

1 (3) The board may refer the petition to the sheriff,
 2 who shall report upon it at the next regular meeting of the
 3 board. The board shall then and there grant or refuse the
 4 license petitioned for or enter any other order consistent
 5 with its regulations. In unincorporated towns and cities
 6 the license board has the exclusive power to license and
 7 regulate houses of prostitution.

8 (4) The license board may:

9 (a) fix, impose, and collect license fees upon the
 10 business of prostitution;

11 (b) grant or deny applications for licenses and impose
 12 conditions, limitations, or restrictions upon the licensee;

13 (c) adopt, amend, or repeal regulations relating to
 14 licenses and licensees; or

15 (d) restrict, revoke, or suspend licenses for cause
 16 after a hearing. In an emergency the board may issue an
 17 order for immediate suspension of a license, but the order
 18 shall state the reason for suspension and afford the
 19 licensee a hearing.

20 (5) The licensing board shall hold a public hearing
 21 before adopting, amending, or repealing regulations relating
 22 to the control or licensing of houses of prostitution.
 23 Notice of the hearing shall be published in a newspaper
 24 having general circulation in the county at least once a
 25 week for a period of two (2) weeks before the hearing.

1 (6) A quorum is necessary for the transaction of any
 2 business by the board and a majority of the members of the
 3 license board constitutes a quorum. A majority vote of the
 4 members of the board present shall govern in the transaction
 5 of all board business.

6 (7) It is unlawful for any person, firm, association,
 7 or corporation to engage in the business of conducting a
 8 house of prostitution without first obtaining the license
 9 provided for in this section. A person convicted of
 10 violating this section shall be fined not to exceed five
 11 hundred dollars (\$500) or be imprisoned in the county jail
 12 for any term not to exceed six (6) months, or both.

13 Section 5. Pandering -- penalty. (1) Any person
 14 commits the offense of pandering who:

15 (a) shall induce, persuade, encourage, inveigle or
 16 entice a person to become a prostitute; or

17 (b) by threats, violence or by any device or scheme,
 18 shall cause, induce, persuade, encourage, take, place,
 19 harbor, inveigle or entice a person to become an inmate of a
 20 house of prostitution, or assignation place, or any place
 21 where prostitution is practiced, encouraged or allowed; or

22 (c) by threats, violence, or by any device or scheme,
 23 by fraud or artifice, or by duress of person or goods, or by
 24 abuse of any position of confidence or authority, or having
 25 legal charge, shall take, place, harbor, inveigle, entice,

1 persuade, encourage, or procure any person to enter any
 2 place within this state in which prostitution is practiced,
 3 encouraged or allowed, for the purpose of prostitution; or

4 (d) shall, by promises, threats, violence, or by any
 5 device or scheme, by fraud or artifice, by duress of person
 6 or goods, or abuse of any position of confidence or
 7 authority or having legal charge, take, place, harbor,
 8 inveigle, entice, persuade, encourage, or procure any person
 9 of previous chaste character to enter any place within this
 10 state in which prostitution is practiced, encouraged or
 11 allowed for the purpose of sexual intercourse; or

12 (e) shall receive or give or agree to receive or give
 13 any money or thing of value for procuring or attempting to
 14 procure any person to become a prostitute or to come into
 15 this state or leave this state for the purpose of
 16 prostitution.

17 (2) Any person who is guilty of pandering shall be
 18 punished:

19 (a) where physical force or the immediate threat of
 20 such force is used upon the person, by imprisonment in the
 21 state prison for not less than one (1) year nor more than
 22 ten (10) years.

23 (b) where no physical force or immediate threat of
 such force is used, by imprisonment in the state prison for
 25 not less than one (1) year nor more than six (6) years, or

1 by a fine of not more than five thousand dollars (\$5,000) or
 2 by both fine and imprisonment.

3 Section 6. Placing spouse in brothel -- pandering.

4 (1) Any person who by force, fraud, intimidation or
 5 threats, places, or procures any other person or persons to
 6 place, his spouse in a house of prostitution or lead a life
 7 of prostitution shall be guilty of pandering and upon
 8 conviction thereof shall be punished:

9 (a) Where physical force or the immediate threat of
 10 such force is used upon the spouse, by imprisonment in the
 11 state prison for not less than one (1) year nor more than
 12 ten (10) years.

13 (b) Where no physical force or immediate threat of
 14 such force is used, by imprisonment in the state prison for
 15 not less than one (1) year nor more than six (6) years, or
 16 by a fine of not more than five thousand dollars (\$5,000) or
 17 by both fine and imprisonment.

18 (2) Upon the trial of any offense mentioned in this
 19 section, a person shall be a competent witness for or
 20 against that person's spouse, with or without his consent,
 21 and may be compelled so to testify.

22 Section 7. Living from earnings of prostitute.

23 (1) Any person who shall knowingly accept, receive, levy or
 24 appropriate any money or other valuable thing, without
 25 consideration, from the proceeds of any persons engaged in

1 prostitution, shall be punished by imprisonment in the state
 2 prison for not less than one (1) year nor more than six (6)
 3 years, or by a fine of not more than five thousand dollars
 4 (\$5,000) or by fine and imprisonment.

5 (2) Any such acceptance, receipt, levy or
 6 appropriation of such money or valuable thing shall, upon
 7 any proceedings or trial for violation of this section, be
 8 presumptive evidence of lack of consideration.

9 Section 8. Detaining person in brothel because of debt
 10 -- pandering. Any person or persons who attempt to detain
 11 any person in a house of prostitution because of any debt or
 12 debts he has contracted, or is said to have contracted,
 13 while living in the house, shall be guilty of pandering and
 14 upon conviction thereof shall be punished:

15 (1) Where physical force or the immediate threat of
 16 such force is used upon the person, by imprisonment in the
 17 state prison for not less than one (1) year nor more than
 18 ten (10) years.

19 (2) Where no physical force or immediate threat of
 20 such force is used, by imprisonment in the state prison for
 21 not less than one (1) year nor more than six (6) years, or
 22 by a fine of not more than five thousand dollars (\$5,000) or
 23 by both fine and imprisonment.

24 Section 9. Furnishing transportation -- pandering.

25 (1) Any person who shall knowingly transport or cause to be

1 transported, by any means of conveyance, into, through or
 2 across this state, or who shall aid or assist in obtaining
 3 such transportation for, any person, with the intent and
 4 purpose to induce, entice or compel such person to become a
 5 prostitute, shall be deemed guilty of pandering, and upon
 6 conviction thereof shall be punished:

7 (a) where physical force or the immediate threat of
 8 such force is used upon the person, by imprisonment in the
 9 state prison for not less than one (1) year nor more than
 10 ten (10) years.

11 (b) where no physical force or immediate threat of
 12 such force is used, by imprisonment in the state prison for
 13 not less than one (1) year nor more than six (6) years, or
 14 by a fine of not more than five thousand dollars (\$5,000) or
 15 by both fine and imprisonment.

16 (2) Any person who may commit the crime mentioned in
 17 this section may be prosecuted, indicted, tried and
 18 convicted in any county or city in or through which he shall
 19 so transport or attempt to transport any person.

20 Section 10. Venue for trial of offenses constituting
 21 pandering. It shall not be a defense to a prosecution for
 22 any of the acts prohibited in sections [5 through 10], that
 23 any part of such act or acts shall have been committed
 24 outside this state, and the offense shall in such case be
 25 deemed and alleged to have been committed, and the offender

1 tried and punished, in any county in which the prostitution
2 was consummated, or any overt act in furtherance of the
3 offense shall have been committed.

4 Section 11. Placing person in house of prostitution --
5 penalty. (1) Every person is guilty of a felony who:

6 (a) shall place a person in the charge or custody of
7 another person for immoral purposes, or in a house of
8 prostitution, with intent that he shall live a life of
9 prostitution, or who shall compel any person to reside with
10 him or with any other person for immoral purposes, or for
11 the purposes of prostitution, or shall compel any such
12 person to reside in a house of prostitution or to live a
13 life of prostitution; or

14 (b) shall ask or receive any compensation, gratuity or
15 reward, or promise thereof, for or on account of placing in
16 a house of prostitution or elsewhere any person for the
17 purpose of causing him to cohabit with any person or persons
18 not his spouse; or

19 (c) shall give, offer, or promise any compensation,
20 gratuity or reward, to procure any person for the purpose of
21 placing him for immoral purposes in any house of
22 prostitution, or elsewhere, against his will; or

23 (d) being the spouse of any person, or the parent,
24 guardian or other person having legal charge of the person
25 under the age of eighteen (18) years, shall connive at,

1 consent to, or permit his being or remaining in any house of
2 prostitution or leading a life of prostitution; or

3 (e) shall live with or accept any earnings of a common
4 prostitute, or entice or solicit any person to go to a house
5 of prostitution for any immoral purposes, or to have sexual
6 intercourse with a common prostitute; or

7 (f) shall decoy, entice, procure or in any manner or
8 way induce any person to become a prostitute or to become an
9 inmate of a house of prostitution, for purposes of
10 prostitution, or for purposes of employment, or for any
11 purpose whatever, when he does not know that the house is
12 one of prostitution; or

13 (g) shall decoy, entice, procure or in any manner or
14 way induce any person, under the age of twenty-one (21)
15 years, to go into or visit, upon any pretext or for any
16 purpose whatever, any house of prostitution, or any room or
17 place inhabited or frequented by any prostitute, or used for
18 purposes of prostitution.

19 (2) Any person who violates the provisions of
20 subsection (1) shall be punished:

21 (a) where physical force or the immediate threat of
22 such force is used upon the person, by imprisonment in the
23 state prison for not less than one (1) year nor more than
24 ten (10) years.

25 (b) where no physical force or immediate threat of

1 such force is used, by imprisonment in the state prison for
2 not less than one (1) year nor more than six (6) years, or
3 by a fine of not more than five thousand dollars (\$5,000) or
4 by both fine and imprisonment.

5 Section 12. Location of houses of prostitution.
6 (1) It is unlawful for any owner, or agent of any owner, or
7 any other person to keep any house of prostitution or to let
8 or rent to any person whatever, for any length of time
9 whatever, to be kept or used as a house of prostitution, or
10 resort for the purposes of prostitution, any house, room or
11 structure situated within four hundred (400) yards of any
12 schoolhouse or schoolroom used by any public or common
13 school in the state of Montana, or within four hundred (400)
14 yards of any church, edifice, building or structure erected
15 for and used for devotional services or religious worship in
16 this state.

17 (2) Any person violating the provisions of subsection
18 (1) shall be punished by a fine of not more than five
19 hundred dollars (\$500).

20 Section 13. Sections 94-5-602, and 94-5-603, R.C.M.
21 1947, are repealed.

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