

1 A bill to be entitled
2 An act relating to human trafficking; providing
3 legislative findings and intent; creating s. 480.054,
4 F.S.; requiring criminal history checks for certain
5 persons applying for a massage establishment license or
6 renewal of such a license; providing requirements for the
7 criminal history checks; requiring certain new employees
8 to notify the Department of Health when there is a change
9 of employment and to submit information necessary to
10 conduct a criminal history check; authorizing a new
11 employee to serve in his or her capacity pending a report
12 of the criminal history check from the Federal Bureau of
13 Investigation under certain circumstances; authorizing the
14 department to deny an application for a massage
15 establishment license under certain circumstances;
16 amending s. 477.025, F.S.; requiring any person, firm, or
17 corporation that operates a cosmetology salon or specialty
18 salon that provides massage services to obtain a massage
19 establishment license; amending s. 480.033, F.S.; defining
20 the term "convicted" or "conviction" for purposes of ch.
21 480, F.S., relating to massage practice; amending s.
22 480.035, F.S.; authorizing the Board of Massage Therapy to
23 adopt rules that provide for the disapproval of a massage
24 school under certain circumstances; providing a
25 definition; amending s. 480.042, F.S.; requiring massage
26 therapist licensing examinations to be conducted in the
27 English language; requiring each applicant for licensure
28 to demonstrate his or her ability to communicate in

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29 English; amending s. 480.043, F.S.; requiring a person,
30 firm, or corporation to report to the board the license
31 number of each massage therapist employed or otherwise
32 engaged to provide massages services; requiring each
33 massage therapist to report to the board the license
34 number of any massage establishment in which he or she
35 provides massage services; authorizing the board to adopt
36 rules; amending s. 480.046, F.S.; providing that the
37 failure of a massage therapist to report to the board the
38 license number of a massage establishment before providing
39 massages services is grounds for disciplinary action;
40 revising grounds under which the board may revoke or
41 suspend the license of a massage establishment; amending
42 s. 501.015, F.S.; requiring health studios that provide
43 massage services to obtain a massage establishment
44 license; amending s. 509.241, F.S.; requiring public
45 lodging establishments that provide massage services to
46 obtain a massage establishment license; amending s.
47 787.06, F.S.; revising legislative findings relating to
48 the forms in which human trafficking occurs; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. The Legislature finds that many perpetrators of
54 human trafficking are shielding this activity behind counterfeit
55 or valid professional or occupational licenses issued by the
56 state. It is the Legislature's intent to provide law enforcement

57 agencies in this state and the Department of Health the means to
 58 investigate, arrest, and prosecute any person, firm, or
 59 corporation that engages in human trafficking and prostitution
 60 under the guise of providing massage services or as a massage
 61 establishment.

62 Section 2. Section 480.054, Florida Statutes, is created
 63 to read:

64 480.054 Massage establishments; criminal history checks;
 65 prohibited offenses.-

66 (1) Except for a person licensed as a health care provider
 67 by the department; a person, firm, or corporation licensed as a
 68 health care clinic under part X of chapter 400; a public lodging
 69 establishment licensed under chapter 509; or a cosmetology salon
 70 or specialty salon licensed under chapter 477, the following
 71 persons applying for a massage establishment license shall
 72 submit to the department a set of fingerprints on a form under
 73 procedures specified by the department, along with a payment in
 74 an amount equal to the costs incurred by the department for a
 75 criminal history check:

76 (a) The applicant, if an individual.

77 (b) The administrator or a similarly titled person who is
 78 responsible for the day-to-day operation of the massage
 79 establishment.

80 (c) The financial officer or similarly titled individual
 81 who is responsible for the financial operation of the licensee
 82 or massage establishment.

83 (d) Any person who has a controlling interest, if the
 84 department has reason to believe that such person has been

85 convicted of any offense listed in subsection (3). For each
86 person who has a controlling interest and has been convicted of
87 any such offense, the applicant shall submit to the department a
88 description and explanation of the conviction on his or her
89 application for a license.

90 (2) (a) The department shall submit the fingerprints
91 provided by an applicant for initial licensure to the Department
92 of Law Enforcement for a statewide criminal history check, and
93 the Department of Law Enforcement shall forward the fingerprints
94 to the Federal Bureau of Investigation for a national criminal
95 history check of the applicant.

96 (b) For the initial renewal of an applicant's license
97 occurring on or after July 1, 2010, the department shall submit
98 the fingerprints provided by an applicant to the Department of
99 Law Enforcement for a statewide criminal history check, and the
100 Department of Law Enforcement shall forward the fingerprints to
101 the Federal Bureau of Investigation for a national criminal
102 history check.

103 (3) The criminal history check under this section must
104 ensure that a person subject to this section has not been
105 convicted of any offense prohibited under any of the following
106 provisions of the Florida Statutes or under any similar statute
107 of another jurisdiction:

108 (a) Section 393.135, relating to sexual misconduct with
109 certain developmentally disabled clients and reporting of such
110 sexual misconduct.

111 (b) Section 394.4593, relating to sexual misconduct with
112 certain mental health patients and reporting of such sexual

- 113 | misconduct.
- 114 | (c) Section 415.111, relating to adult abuse, neglect, or
- 115 | exploitation of aged persons or disabled adults.
- 116 | (d) Section 782.04, relating to murder.
- 117 | (e) Section 782.07, relating to manslaughter, aggravated
- 118 | manslaughter of an elderly person or disabled adult, or
- 119 | aggravated manslaughter of a child.
- 120 | (f) Section 782.071, relating to vehicular homicide.
- 121 | (g) Section 782.09, relating to killing of an unborn quick
- 122 | child by injury to the mother.
- 123 | (h) Section 784.011, relating to assault, if the victim of
- 124 | the offense was a minor.
- 125 | (i) Section 784.021, relating to aggravated assault.
- 126 | (j) Section 784.03, relating to battery, if the victim of
- 127 | the offense was a minor.
- 128 | (k) Section 784.045, relating to aggravated battery.
- 129 | (l) Section 784.075, relating to battery on a detention or
- 130 | commitment facility staff.
- 131 | (m) Section 787.01, relating to kidnapping.
- 132 | (n) Section 787.02, relating to false imprisonment.
- 133 | (o) Section 790.115(1), relating to exhibiting firearms or
- 134 | weapons within 1,000 feet of a school.
- 135 | (p) Section 790.115(2) (b), relating to possessing an
- 136 | electric weapon or device, destructive device, or other weapon
- 137 | on school property.
- 138 | (q) Section 794.011, relating to sexual battery.
- 139 | (r) Former s. 794.041, relating to prohibited acts of
- 140 | persons in familial or custodial authority.

- 141 (s) Chapter 796, relating to prostitution.
- 142 (t) Section 798.02, relating to lewd and lascivious
- 143 behavior.
- 144 (u) Chapter 800, relating to lewdness and indecent
- 145 exposure.
- 146 (v) Section 806.01, relating to arson.
- 147 (w) Section 810.02, relating to burglary, if the offense
- 148 was a felony.
- 149 (x) Chapter 812, relating to theft, robbery, and related
- 150 crimes, if the offense was a felony.
- 151 (y) Section 817.563, relating to the fraudulent sale of
- 152 controlled substances, if the offense was a felony.
- 153 (z) Section 825.102, relating to abuse, aggravated abuse,
- 154 or neglect of an elderly person or disabled adult.
- 155 (aa) Section 825.1025, relating to lewd or lascivious
- 156 offenses committed upon or in the presence of an elderly person
- 157 or disabled adult.
- 158 (bb) Section 825.103, relating to exploitation of an
- 159 elderly person or disabled adult, if the offense was a felony.
- 160 (cc) Section 826.04, relating to incest.
- 161 (dd) Section 827.03, relating to child abuse, aggravated
- 162 child abuse, or neglect of a child.
- 163 (ee) Section 827.04, relating to contributing to the
- 164 delinquency or dependency of a child.
- 165 (ff) Former s. 827.05, relating to negligent treatment of
- 166 children.
- 167 (gg) Section 827.071, relating to sexual performance by a
- 168 child.

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169 (hh) Section 843.01, relating to resisting arrest with
170 violence.

171 (ii) Section 843.025, relating to depriving a law
172 enforcement, correctional, or correctional probation officer of
173 means of protection or communication.

174 (jj) Section 843.12, relating to aiding in an escape.

175 (kk) Section 843.13, relating to aiding in the escape of
176 juvenile inmates in correctional institutions.

177 (ll) Chapter 847, relating to obscene literature.

178 (mm) Section 874.05(1), relating to encouraging or
179 recruiting another to join a criminal gang.

180 (nn) Chapter 893, relating to drug abuse prevention and
181 control, if the offense was a felony or if any other person
182 involved in the offense was a minor.

183 (oo) Section 944.35(3), relating to inflicting cruel or
184 inhuman treatment on an inmate resulting in great bodily harm.

185 (pp) Section 944.46, relating to harboring, concealing, or
186 aiding an escaped prisoner.

187 (qq) Section 944.47, relating to introduction of
188 contraband into a correctional facility.

189 (rr) Section 985.701, relating to sexual misconduct in
190 juvenile justice programs.

191 (ss) Section 985.711, relating to contraband introduced
192 into detention facilities.

193 (4) A person who is newly employed in a capacity that
194 requires a criminal history check under this section shall
195 notify the department of his or her change in employment and
196 submit to the department information necessary to conduct a

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197 criminal history check or provide evidence of compliance with
 198 the requirements for a criminal history check within 30 days
 199 after being employed. The person may serve in his or her
 200 capacity pending the department's receipt of the report from the
 201 Federal Bureau of Investigation if he or she has met the
 202 standards set forth in subsections (1) and (3) of the criminal
 203 history check from the Department of Law Enforcement. However,
 204 the person may not continue to serve in his or her capacity if
 205 the report indicates any violation of the standards set forth in
 206 subsections (1) and (3) of the criminal history check unless an
 207 exemption from disqualification has been granted by the
 208 Department of Health.

209 (5) The department may deny the application for a massage
 210 establishment license or the renewal of a massage establishment
 211 license if the application reveals that the applicant has been
 212 convicted of any offense listed in subsection (3) or under any
 213 similar statute of another jurisdiction.

214 Section 3. Subsection (12) is added to section 477.025,
 215 Florida Statutes, to read:

216 477.025 Cosmetology salons; specialty salons; requisites;
 217 licensure; inspection; mobile cosmetology salons.—

218 (12) Any person, firm, or corporation operating a
 219 cosmetology salon or specialty salon in this state that provides
 220 massage services shall obtain a massage establishment license
 221 pursuant to s. 480.043 before providing any massage services.

222 Section 4. Subsection (10) is added to section 480.033,
 223 Florida Statutes, to read:

224 480.033 Definitions.—As used in this act:

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225 (10) "Convicted" or "conviction" means a determination of
 226 guilt that is the result of a trial or the entry of a plea of
 227 guilty or nolo contendere, regardless of whether adjudication is
 228 withheld.

229 Section 5. Subsection (8) is added to section 480.035,
 230 Florida Statutes, to read:

231 480.035 Board of Massage Therapy.—

232 (8) The board may adopt rules that provide for the
 233 disapproval of a board-approved massage school where the
 234 majority of the graduates of such a school have engaged in a
 235 pattern of misconduct while providing massage services at a
 236 massage establishment. As used in this subsection, the term
 237 "pattern of misconduct" means being convicted at least once of
 238 violating s. 796.07, relating to prostitution, during any 2-year
 239 period.

240 Section 6. Subsection (5) of section 480.042, Florida
 241 Statutes, is amended to read:

242 480.042 Examinations.—

243 (5) All licensing examinations shall be conducted in such
 244 manner that the applicant shall be known to the department by
 245 number until her or his examination is completed and the proper
 246 grade determined. An accurate record of each examination shall
 247 be made; and that record, together with all examination papers,
 248 shall be filed with the State Surgeon General and shall be kept
 249 for reference and inspection for a period of not less than 2
 250 years immediately following the examination. All licensing
 251 examinations shall be conducted in the English language, and
 252 each applicant shall demonstrate that he or she has the ability

253 | to communicate in English.

254 | Section 7. Section 480.043, Florida Statutes, is amended
 255 | to read:

256 | 480.043 Massage establishments; requisites; licensure;
 257 | inspection; reports.—

258 | (1) A ~~No~~ massage establishment may not ~~shall be allowed to~~
 259 | operate without a license granted by the department in
 260 | accordance with rules adopted by the board.

261 | (2) The board shall adopt rules governing the operation of
 262 | establishments and their facilities, personnel, safety and
 263 | sanitary requirements, financial responsibility, insurance
 264 | coverage, and the license application and granting process.

265 | (3) Any person, firm, or corporation desiring to operate a
 266 | massage establishment in the state shall submit to the
 267 | department an application, upon forms provided by the
 268 | department, accompanied by any information requested by the
 269 | department and an application fee.

270 | (4) Upon receiving the application, the department may
 271 | cause an investigation to be made of the proposed massage
 272 | establishment.

273 | (5) If, based upon the application and any necessary
 274 | investigation, the department determines that the proposed
 275 | establishment would fail to meet the standards adopted by the
 276 | board under subsection (2), the department shall deny the
 277 | application for license. Such denial shall be in writing and
 278 | shall list the reasons for denial. Upon correction of any
 279 | deficiencies, an applicant previously denied permission to
 280 | operate a massage establishment may reapply for licensure.

281 (6) If, based upon the application and any necessary
 282 investigation, the department determines that the proposed
 283 massage establishment may reasonably be expected to meet the
 284 standards adopted by the department under subsection (2), the
 285 department shall grant the license under such restrictions as it
 286 shall deem proper as soon as the original licensing fee is paid.

287 (7) (a) Once issued, a ~~no~~ license for the operation of a
 288 massage establishment may not be transferred from one owner to
 289 another.

290 (b) A license may be transferred from one location to
 291 another only after inspection and approval by the board and
 292 receipt of an application and inspection fee set by rule of the
 293 board, not to exceed \$125.

294 (c) A license may be transferred from one business name to
 295 another after approval by the board and receipt of an
 296 application fee set by rule of the board, not to exceed \$25.

297 (8) Renewal of license registration for massage
 298 establishments shall be accomplished pursuant to rules adopted
 299 by the board. The board may ~~is further authorized to~~ adopt rules
 300 governing delinquent renewal of licenses and ~~may~~ impose penalty
 301 fees for delinquent renewal.

302 (9) The board may ~~is authorized to~~ adopt rules governing
 303 the periodic inspection of massage establishments licensed under
 304 this act.

305 (10) A person, firm, or corporation operating a massage
 306 establishment shall report to the board the license number of
 307 each massage therapist employed or otherwise engaged to provide
 308 massage services. The reporting must be completed before

309 employing or otherwise engaging the massage therapist to provide
 310 massage services at the massage establishment. The board may
 311 adopt rules governing such reporting.

312 (11) Each massage therapist shall report to the board the
 313 license number of any massage establishment at which the massage
 314 therapist provides massage services. The board may adopt rules
 315 governing such reporting.

316 Section 8. Paragraph (p) is added to subsection (1) of
 317 section 480.046, Florida Statutes, and subsection (3) of that
 318 section is amended, to read:

319 480.046 Grounds for disciplinary action by the board.—

320 (1) The following acts constitute grounds for denial of a
 321 license or disciplinary action, as specified in s. 456.072(2):

322 (p) Failure of a massage therapist to report to the board
 323 the license number of any massage establishment before providing
 324 massage services at the massage establishment.

325 (3) The board shall have the power to revoke or suspend
 326 the license of a massage establishment licensed under this act,
 327 or to deny subsequent licensure of such an establishment, in any
 328 ~~either~~ of the following cases:

329 (a) Upon proof that a license has been obtained by fraud
 330 or misrepresentation.

331 (b) Upon proof that the holder of a license is guilty of
 332 fraud or deceit or of gross negligence, incompetency, or
 333 misconduct in the operation of the establishment so licensed.

334 (c) Upon proof that a massage establishment has employed
 335 or otherwise engaged a person to provide massage services who
 336 does not hold a valid license issued pursuant to this chapter.

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337 (d) Upon proof that a massage establishment has employed
338 or otherwise engaged a massage therapist to provide massage
339 services without reporting to the board the license number of
340 the massage therapist before employing or otherwise engaging the
341 massage therapist.

342 Section 9. Section 501.015, Florida Statutes, is amended
343 to read:

344 501.015 Health studios; registration requirements and
345 fees.—

346 (1) Each health studio shall:

347 (a) ~~(1)~~ Register each of its business locations with the
348 department in a form and manner as required by the department.

349 (b) ~~(2)~~ Remit an annual registration fee of \$300 to the
350 department at the time of registration for each of the health
351 studio's business locations.

352 (c) ~~(3)~~ File a security as required by s. 501.016 at the
353 time of registration.

354 (d) ~~(4)~~ Post at the registration desk or front desk,
355 whichever is more prominent, at each business location the proof
356 of registration certificate provided by the department at the
357 time of registration or renewal.

358 (e) ~~(5)~~ Include the registration number issued by the
359 department in all printed advertisements, contracts, and
360 publications utilized by the health studio for a business
361 location.

362 (f) ~~(6)~~ Be considered a new health studio and shall be
363 subject to the requirements of s. 501.016 each time the health
364 studio changes ownership or, in the case of corporate ownership,

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365 each time the stock ownership is changed so as to effectively
 366 put the health studio under new management or control,
 367 notwithstanding the provisions of s. 501.016(6). A change of
 368 ownership does not occur within the meaning of this paragraph
 369 ~~subsection~~ if:

370 1.~~(a)~~ Substantially the same stockholders form a new
 371 corporate entity;

372 2.~~(b)~~ In the opinion of the department, the change does
 373 not effectively place the health studio under new management and
 374 control; and

375 3.~~(c)~~ The health studio has a satisfactory complaint
 376 history with the department.

377 (2)~~(7)~~ Any person applying for or renewing a local
 378 occupational license to engage in business as a health studio
 379 must exhibit an active registration certificate from the
 380 Department of Agriculture and Consumer Services before the local
 381 occupational license may be issued or reissued.

382 (3)~~(8)~~ All moneys collected pursuant to this section shall
 383 be deposited into the General Inspection Trust Fund.

384 (4) Each health studio that offers massage services shall
 385 obtain a massage establishment license issued pursuant to s.
 386 480.043 before providing any massage services.

387 Section 10. Subsection (4) is added to section 509.241,
 388 Florida Statutes, to read:

389 509.241 Licenses required; exceptions.—

390 (4) MASSAGE ESTABLISHMENT LICENSE.—Each public lodging
 391 establishment that offers massage services shall obtain a
 392 massage establishment license issued pursuant to s. 480.043

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393 before providing any massage services.

394 Section 11. Paragraph (b) of subsection (1) of section
395 787.06, Florida Statutes, is amended to read:

396 787.06 Human trafficking.—

397 (1)

398 (b) The Legislature finds that while many victims of human
399 trafficking are forced to work in prostitution or the sexual
400 entertainment industry, trafficking also occurs in forms of
401 labor exploitation, such as domestic servitude, restaurant work,
402 janitorial work, sweatshop factory work, ~~and~~ migrant
403 agricultural work, massage therapy, and work within a specialty
404 salon, cosmetology salon, or spa.

405 Section 12. This act shall take effect July 1, 2010.