

By Senator Martin

33-00545A-24

2024896__

1 A bill to be entitled
2 An act relating to health care practitioners and
3 massage therapy; amending s. 456.026, F.S.; requiring
4 that a certain annual report required of the
5 Department of Health include specified data; amending
6 s. 456.074, F.S.; requiring the department to
7 immediately suspend the license of massage therapists
8 and massage establishments under certain
9 circumstances; requiring the department to suspend the
10 license of any person or entity under its jurisdiction
11 under certain circumstances; amending s. 480.033,
12 F.S.; revising and providing definitions; amending s.
13 480.035, F.S.; revising quorum requirements for the
14 Board of Massage Therapy; amending s. 480.043, F.S.;
15 revising certain rules the board is required to adopt;
16 prohibiting sexual activity and certain related
17 activities in massage establishments; specifying
18 prohibited conduct by establishment owners and
19 employees; providing requirements for outside windows
20 and signs in massage establishments; providing
21 exceptions; providing employee dress code
22 requirements, with an exception; requiring
23 establishments to maintain certain employment records
24 in English or Spanish; requiring that specified
25 information be recorded before an employee may provide
26 services or treatment; requiring massage
27 establishments to conspicuously display a photo and
28 specified information for each employee; requiring
29 that such photos and information be displayed before

33-00545A-24

2024896__

30 an employee may provide services or treatment;
31 providing for such requirements in massage
32 establishments within public lodging establishments;
33 requiring massage establishments to maintain customer
34 and patient records for services and treatment
35 provided in the massage establishment in English or
36 Spanish; providing that medical records satisfy
37 certain requirements; requiring massage establishments
38 to maintain such records for a specified timeframe;
39 requiring massage establishments to collect and record
40 specified information; requiring massage
41 establishments to confirm the identification of a
42 customer or patient before providing services or
43 treatment; amending s. 480.0465, F.S.; revising
44 advertising requirements and prohibitions for massage
45 therapists and massage establishments; amending s.
46 480.0475, F.S.; prohibiting establishments from being
47 used as a temporary domicile for, to shelter or
48 harbor, or as sleeping quarters for any person, with
49 an exception; amending s. 480.0535, F.S.; requiring
50 the department's investigators to request valid
51 government identification from all employees while in
52 a massage establishment; specifying additional
53 documents a person operating a massage establishment
54 must immediately present, upon request, to department
55 investigators and law enforcement officers; requiring
56 the department to notify a federal immigration office
57 if specified persons in a massage establishment fail
58 to provide valid government identification; amending

33-00545A-24

2024896__

59 s. 823.05, F.S.; providing criminal penalties;
60 providing an effective date.

61

62 Be It Enacted by the Legislature of the State of Florida:

63

64 Section 1. Section 456.026, Florida Statutes, is amended to
65 read:

66 456.026 Annual report concerning finances, administrative
67 complaints, disciplinary actions, and recommendations.—

68 (1) The department is directed to prepare and submit a
69 report to the President of the Senate and the Speaker of the
70 House of Representatives by November 1 of each year. In addition
71 to finances and any other information the Legislature may
72 require, the report must ~~shall~~ include statistics and relevant
73 information, profession by profession, detailing:

74 (a) ~~(1)~~ The revenues, expenditures, and cash balances for
75 the prior year, and a review of the adequacy of existing fees.

76 (b) ~~(2)~~ The number of complaints received and investigated.

77 (c) ~~(3)~~ The number of findings of probable cause made.

78 (d) ~~(4)~~ The number of findings of no probable cause made.

79 (e) ~~(5)~~ The number of administrative complaints filed.

80 (f) ~~(6)~~ The disposition of all administrative complaints.

81 (g) ~~(7)~~ A description of disciplinary actions taken.

82 (h) ~~(8)~~ A description of any effort by the department to
83 reduce or otherwise close any investigation or disciplinary
84 proceeding not before the Division of Administrative Hearings
85 under chapter 120 or otherwise not completed within 1 year after
86 the initial filing of a complaint under this chapter.

87 (i) ~~(9)~~ The status of the development and implementation of

33-00545A-24

2024896__

88 rules providing for disciplinary guidelines pursuant to s.
89 456.079.

90 (j)~~(10)~~ Such recommendations for administrative and
91 statutory changes necessary to facilitate efficient and cost-
92 effective operation of the department and the various boards.

93 (2) The report must separately categorize all complaints,
94 investigations, probable cause findings, and disciplinary
95 actions against a massage therapist or massage establishment
96 licensed under chapter 480 related to a violation of each of the
97 following:

98 (a) Section 480.043(12).

99 (b) Section 480.043(13).

100 (c) Section 480.043(14) (a)-(f).

101 (d) Section 480.0465.

102 (e) Section 480.0475.

103 (f) Section 480.0485.

104 (g) Section 480.0535.

105 Section 2. Subsection (4) of section 456.074, Florida
106 Statutes, is amended, and subsection (7) is added to that
107 section, to read:

108 456.074 Certain health care practitioners; immediate
109 suspension of license.-

110 (4) The department shall issue an emergency order
111 suspending the license of a massage therapist and ~~or~~
112 establishment as those terms are defined in s. 480.033 ~~chapter~~
113 ~~480~~ upon receipt of information that the massage therapist; the
114 designated establishment manager as defined in s. 480.033; an
115 employee of the establishment; ~~;~~ a person with an ownership
116 interest in the establishment; ~~;~~ or, for a corporation that has

33-00545A-24

2024896__

117 more than \$250,000 of business assets in this state, the owner,
118 officer, or individual directly involved in the management of
119 the establishment has been arrested for committing or
120 attempting, soliciting, or conspiring to commit, has been
121 convicted or found guilty of, or has entered a plea of guilty or
122 nolo contendere to, regardless of adjudication, a violation of
123 s. 796.07 ~~s. 796.07(2)(a) which is reclassified under s.~~
124 ~~796.07(7)~~ or a felony offense under any of the following
125 provisions of state law or a similar provision in another
126 jurisdiction:

- 127 (a) Section 787.01, relating to kidnapping.
- 128 (b) Section 787.02, relating to false imprisonment.
- 129 (c) Section 787.025, relating to luring or enticing a
130 child.
- 131 (d) Section 787.06, relating to human trafficking.
- 132 (e) Section 787.07, relating to human smuggling.
- 133 (f) Section 794.011, relating to sexual battery.
- 134 (g) Section 794.08, relating to female genital mutilation.
- 135 (h) Former s. 796.03, relating to procuring a person under
136 the age of 18 for prostitution.
- 137 (i) Former s. 796.035, relating to the selling or buying of
138 minors into prostitution.
- 139 (j) Section 796.04, relating to forcing, compelling, or
140 coercing another to become a prostitute.
- 141 (k) Section 796.05, relating to deriving support from the
142 proceeds of prostitution.
- 143 (l) Section 796.07(4)(a)3., relating to a felony of the
144 third degree for a third or subsequent violation of s. 796.07,
145 relating to prohibiting prostitution and related acts.

33-00545A-24

2024896__

146 (m) Section 800.04, relating to lewd or lascivious offenses
147 committed upon or in the presence of persons less than 16 years
148 of age.

149 (n) Section 825.1025(2) (b), relating to lewd or lascivious
150 offenses committed upon or in the presence of an elderly or
151 disabled person.

152 (o) Section 827.071, relating to sexual performance by a
153 child.

154 (p) Section 847.0133, relating to the protection of minors.

155 (q) Section 847.0135, relating to computer pornography.

156 (r) Section 847.0138, relating to the transmission of
157 material harmful to minors to a minor by electronic device or
158 equipment.

159 (s) Section 847.0145, relating to the selling or buying of
160 minors.

161 (7) The department shall issue an emergency order
162 suspending the license of any licensee upon a finding of the
163 State Surgeon General that probable cause exists to believe that
164 the licensee has committed sexual misconduct as described and
165 prohibited in s. 456.063(1), or the applicable practice act, and
166 that such violation constitutes an immediate danger to the
167 public.

168 Section 3. Present subsections (1) through (6) and (7)
169 through (12) of section 480.033, Florida Statutes, are
170 redesignated as subsections (2) through (7) and (9) through
171 (14), respectively, new subsections (1) and (8) and subsection
172 (15) are added to that section, and present subsection (6) of
173 that section is amended, to read:

174 480.033 Definitions.—As used in this act:

33-00545A-24

2024896__

175 (1) "Advertising medium" means any newspaper; airwave or
176 computer transmission; telephone directory listing, other than
177 an in-column listing consisting only of a name, physical
178 address, and telephone number; business card; handbill; flyer;
179 sign, other than a building directory listing all building
180 tenants and their room or suite numbers; or any other form of
181 written or electronic advertisement.

182 (7)~~(6)~~ "Designated establishment manager" means a massage
183 therapist; a health care practitioner licensed under chapter
184 457; or a physician licensed under chapter 458, chapter 459, or
185 chapter 460 who holds a clear and active license without
186 restriction, who is responsible for the operation of a massage
187 establishment in accordance with the provisions of this chapter,
188 and who is designated the manager by the rules or practices at
189 the establishment.

190 (8) "Employee" means any person, including, but not limited
191 to, independent contractors or lessees of a massage
192 establishment, whose duties involve any aspect or capacity of
193 the massage establishment, including, but not limited to,
194 preparing meals and cleaning, regardless of whether such person
195 is compensated for the performance of such duties. The term does
196 not include a person who is exclusively engaged in the repair or
197 maintenance of the massage establishment or in the delivery of
198 goods to the establishment.

199 (15) "Sexual activity" means any direct or indirect contact
200 by any employee or person, or between any employees or persons,
201 with the intent to abuse, humiliate, harass, degrade, or arouse,
202 or gratify the sexual desire of, any employee or person, or
203 which is likely to cause such abuse, humiliation, harassment,

33-00545A-24

2024896__

204 degradation, arousal, or sexual gratification:

205 (a) With or without the consent of the employee or person.

206 (b) With or without verbal or nonverbal communication that
207 the sexual activity is undesired.

208 (c) With or without the use of any device or object.

209 (d) With or without the occurrence of penetration, orgasm,
210 or ejaculation.

211

212 The term includes, but is not limited to, intentional contact
213 with the genitalia, groin, femoral triangle, anus, buttocks,
214 gluteal cleft, breast or nipples, mouth, or tongue and the
215 intentional removal of any drape without specific written
216 informed consent of the patient.

217 Section 4. Subsection (5) of section 480.035, Florida
218 Statutes, is amended to read:

219 480.035 Board of Massage Therapy.—

220 (5) The board shall hold such meetings during the year as
221 it may determine to be necessary, one of which shall be the
222 annual meeting. The chair of the board shall have the authority
223 to call other meetings at her or his discretion. A quorum of the
224 board shall consist of not less than a majority of the current
225 membership of the board ~~four members~~.

226 Section 5. Present subsection (14) of section 480.043,
227 Florida Statutes, is redesignated as subsection (15), a new
228 subsection (14) is added to that section, and subsection (3) and
229 present subsection (14) of that section are amended, to read:

230 480.043 Massage establishments; requisites; licensure;
231 inspection; human trafficking awareness training and policies.—

232 (3) The board shall adopt rules governing the operation of

33-00545A-24

2024896__

233 massage establishments and their facilities, employees
234 ~~personnel~~, safety and sanitary requirements, financial
235 responsibility, insurance coverage, and the license application
236 and granting process.

237 (14) In order to provide the department and law enforcement
238 agencies the means to more effectively identify persons engaging
239 in human trafficking at massage establishments, the following
240 apply:

241 (a) Sexual activity in a massage establishment is
242 prohibited. An establishment owner or employee may not engage in
243 or allow any person to engage in sexual activity in the
244 establishment or use the establishment to make arrangements to
245 engage in sexual activity in another location. Used or unused
246 condoms are prohibited in a massage establishment.

247 (b) If there is an outside window or windows into the
248 massage establishment's reception area, the outside window or
249 windows must allow for at least 35 percent light penetration,
250 and no more than 50 percent of the outside window or windows may
251 be obstructed with signage, blinds, curtains, or other
252 obstructions, allowing the public to see the establishment's
253 reception area. A sign must be posted on the front window of the
254 establishment that includes the name and license number of the
255 massage establishment and the telephone number that has been
256 provided to the department as part of licensure of the
257 establishment. This paragraph does not apply to:

258 1. A massage establishment within a public lodging
259 establishment as defined in s. 509.013(4).

260 2. A massage establishment located within a county or
261 municipality that has an ordinance that prescribes requirements

33-00545A-24

2024896__

262 related to business window light penetration or signage
263 limitations if compliance with this paragraph would result in
264 noncompliance with such ordinance.

265 (c) All employees within the massage establishment must be
266 fully clothed, and such clothing must be fully opaque and made
267 of nontransparent material that does not expose the employee's
268 genitalia. This requirement does not apply to an employee,
269 excluding a massage therapist, of a public lodging establishment
270 as defined in s. 509.013(4) which is licensed as a clothing-
271 optional establishment and chartered with the American
272 Association for Nude Recreation.

273 (d) A massage establishment must maintain a complete set of
274 legible records in English or Spanish, which must include each
275 employee's start date of employment, full legal name, date of
276 birth, home address, telephone number, and employment position
277 and a copy of the employee's government identification required
278 under s. 480.0535. All information required under this paragraph
279 must be recorded before the employee may provide any service or
280 treatment to a client or patient.

281 (e) A massage establishment must conspicuously display a 2
282 inch by 2 inch photo for each employee, which, for massage
283 therapists, must be attached to the massage therapist's license.
284 Such display must also include the employee's full legal name
285 and employment position. All information required under this
286 paragraph must be displayed before the employee may provide any
287 service or treatment to a client or patient. A massage
288 establishment within a public lodging establishment as defined
289 in s. 509.013(4) may satisfy this requirement by displaying the
290 photos and required information in an employee break room or

33-00545A-24

2024896__

291 other room that is used by employees, but is not used by clients
292 or patients.

293 (f) A massage establishment must maintain a complete set of
294 legible records in English or Spanish which must include the
295 date, time, and type of service or treatment provided; the full
296 legal name of the employee who provided the service or
297 treatment; and the full legal name, home address, and telephone
298 number of the client or patient. Medical records may satisfy
299 this requirement if the records include the specified
300 information. A copy of the client's or patient's photo
301 identification may be used to provide the full legal name and
302 home address of the client or patient. Records required under
303 this paragraph must be maintained for at least 1 year after a
304 service or treatment is provided. All information required under
305 this paragraph must be collected and recorded before any service
306 or treatment is provided to a client or patient. The
307 establishment must confirm the identification of the client or
308 patient before any service or treatment is provided to the
309 client or patient.

310 (15)~~(14)~~ Except for the requirements of subsection (13),
311 this section does not apply to a practitioner ~~physician~~ licensed
312 under chapter 457 or a physician licensed under~~7~~ chapter 458,
313 chapter 459, or chapter 460 who employs a licensed massage
314 therapist to perform massage therapy on the practitioner's or
315 physician's patients at his or her ~~the physician's~~ place of
316 practice. This subsection does not restrict investigations by
317 the department for violations of chapter 456 or this chapter.

318 Section 6. Section 480.0465, Florida Statutes, is amended
319 to read:

33-00545A-24

2024896__

320 480.0465 Advertisement; prohibitions.-

321 (1) Each message therapist or message establishment
322 licensed under this act shall include the number of the license
323 in any advertisement of massage therapy services appearing in
324 any advertising medium, including, but not limited to, a
325 newspaper, airwave transmission, telephone directory, Internet,
326 or other advertising medium. The advertisement must also include
327 the physical address of the massage establishment and the
328 telephone number that has been provided to the department as
329 part of the licensing of the establishment. However, the
330 inclusion of the physical address and telephone number is not
331 required for an advertisement by a massage establishment whose
332 establishment owner operates more than five locations in this
333 state.

334 (2) A message therapist, an establishment owner, an
335 employee, or any third party directed by the establishment owner
336 or employee may not place, publish, or distribute, or cause to
337 be placed, published, or distributed, any advertisement in any
338 advertising medium which states prostitution services, escort
339 services, or sexual services are available.

340 (3) A message therapist, an establishment owner, an
341 employee, or any third party directed by the message therapist,
342 establishment owner, or employee may not place, publish, or
343 distribute, or cause to be placed, published, or distributed,
344 any online advertisement on any website known for advertising
345 prostitution services, escort services, or sexual services
346 ~~Pending licensure of a new massage establishment under s.~~
347 ~~480.043(7), the license number of a licensed massage therapist~~
348 ~~who is an owner or principal officer of the establishment may be~~

33-00545A-24

2024896__

349 ~~used in lieu of the license number for the establishment.~~

350 Section 7. Subsection (2) of section 480.0475, Florida
351 Statutes, is amended to read:

352 480.0475 Massage establishments; prohibited practices.—

353 (2) A person operating a massage establishment may not use
354 or permit the establishment to be used as a principal or
355 temporary domicile for, to shelter or harbor, or as sleeping or
356 napping quarters for any person unless the establishment is
357 zoned for residential use under a local ordinance.

358 Section 8. Section 480.0535, Florida Statutes, is amended
359 to read:

360 480.0535 Documents required while working in a massage
361 establishment; penalties; reporting.—

362 (1) In order to provide the department and law enforcement
363 agencies the means to more effectively identify, investigate,
364 and arrest persons engaging in human trafficking, an employee a
365 person employed by a massage establishment and any person
366 performing massage therapy in a massage establishment ~~therein~~
367 must immediately present, upon the request of an investigator of
368 the department or a law enforcement officer, valid government
369 identification while in the establishment. An investigator of
370 the department must request valid government identification from
371 all employees while in the establishment. A valid government
372 identification for the purposes of this section is:

373 (a) A valid, unexpired driver license issued by any state,
374 territory, or district of the United States;

375 (b) A valid, unexpired identification card issued by any
376 state, territory, or district of the United States;

377 (c) A valid, unexpired United States passport;

33-00545A-24

2024896__

- 378 (d) A naturalization certificate issued by the United
379 States Department of Homeland Security;
- 380 (e) A valid, unexpired alien registration receipt card
381 (green card); or
- 382 (f) A valid, unexpired employment authorization card issued
383 by the United States Department of Homeland Security.
- 384 (2) A person operating a massage establishment must:
- 385 (a) Immediately present, upon the request of an
386 investigator of the department or a law enforcement officer:
- 387 1. Valid government identification while in the
388 establishment.
- 389 2. A copy of the documentation specified in paragraph
390 (1)(a) for each employee and any person performing massage
391 therapy in the establishment.
- 392 3. A copy of the documents required under s. 480.043(14)(d)
393 and (f).
- 394 (b) Ensure that each employee and any person performing
395 massage therapy in the massage establishment is able to
396 immediately present, upon the request of an investigator of the
397 department or a law enforcement officer, valid government
398 identification while in the establishment.
- 399 (3) A person who violates ~~any provision of~~ this section
400 commits:
- 401 (a) For a first violation, a misdemeanor of the second
402 degree, punishable as provided in s. 775.082 or s. 775.083.
- 403 (b) For a second violation, a misdemeanor of the first
404 degree, punishable as provided in s. 775.082 or s. 775.083.
- 405 (c) For a third or subsequent violation, a felony of the
406 third degree, punishable as provided in s. 775.082, s. 775.083,

33-00545A-24

2024896__

407 or s. 775.084.

408 (4) The department shall notify a federal immigration
409 office if a person operating a massage establishment, an
410 employee, or any person performing massage therapy in a massage
411 establishment fails to provide valid government identification
412 as required under this section.

413 Section 9. Subsection (3) of section 823.05, Florida
414 Statutes, is amended to read:

415 823.05 Places and groups engaged in certain activities
416 declared a nuisance; abatement and enjoinder.-

417 (3) A massage establishment as defined in s. 480.033 which
418 operates in violation of s. 480.043(14)(a) or (f), s. 480.0475,
419 or s. 480.0535(2) is declared a nuisance and may be abated or
420 enjoined as provided in ss. 60.05 and 60.06.

421 Section 10. This act shall take effect July 1, 2024.