

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 14, 2012
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB12-1151 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, strike lines 5 through 12 and substitute:

2 **"13-21-127. Civil damages for human trafficking and**
3 **involuntary servitude.** (1) A PERSON IS ENTITLED TO RECOVER
4 DAMAGES AND TO OBTAIN INJUNCTIVE RELIEF FROM ANY PERSON WHO
5 COMMITS TRAFFICKING IN ADULTS, AS DESCRIBED IN SECTION 18-3-501,
6 C.R.S.; TRAFFICKING IN CHILDREN, AS DESCRIBED IN SECTION 18-3-502,
7 C.R.S.; OR COERCION OF INVOLUNTARY SERVITUDE, AS DESCRIBED IN
8 SECTION 18-3-503, C.R.S.

9 (2) A CONVICTION FOR TRAFFICKING IN ADULTS, AS DESCRIBED IN
10 SECTION 18-3-501, C.R.S.; TRAFFICKING IN CHILDREN, AS DESCRIBED IN
11 SECTION 18-3-502, C.R.S.; OR COERCION OF INVOLUNTARY SERVITUDE, AS
12 DESCRIBED IN SECTION 18-3-503, C.R.S., SHALL NOT BE A CONDITION
13 PRECEDENT TO MAINTAINING A CIVIL ACTION PURSUANT TO THE
14 PROVISIONS OF THIS SECTION."

15 Page 3, strike lines 14 through 27.

16 Page 4, strike lines 1 through 23 and substitute:

17 **"SECTION 4.** In Colorado Revised Statutes, 12-25.5-112, **add**
18 (3) as follows:

19 **12-25.5-112. Duties of escort bureau.** (3) EACH ESCORT BUREAU
20 SHALL PROVIDE TO EACH EMPLOYEE OF THE ESCORT BUREAU A WRITTEN
21 NOTICE THAT INCLUDES:

1 (a) A STATEMENT THAT HUMAN TRAFFICKING AND COERCION OF
2 INVOLUNTARY SERVITUDE ARE PROHIBITED IN THIS STATE BY THE
3 PROVISIONS OF SECTIONS 18-3-501, 18-3-502, AND 18-3-503, C.R.S.; AND

4 (b) THE NAME, TELEPHONE NUMBER, AND INTERNET WEB SITE
5 ADDRESS OF A LOCAL, STATEWIDE, OR NATIONAL ORGANIZATION THAT
6 PROVIDES ASSISTANCE TO VICTIMS OF HUMAN TRAFFICKING AND SLAVERY.

7 **SECTION 5.** In Colorado Revised Statutes, 12-48.5-110, **amend**
8 (1) (f); and **add** (1) (g) as follows:

9 **12-48.5-110. Unlawful acts.** (1) It is unlawful for any person:

10 (f) To ~~fail~~ OPERATE A MASSAGE PARLOR WHILE FAILING to display
11 at all times in a prominent place on the licensed premises a printed card
12 with a minimum height of fourteen inches and a width of eleven inches
13 with each letter a minimum of one-half inch in height, which shall read
14 as follows:

15 **WARNING**

16 IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN
17 YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY
18 TIME, UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER
19 PARENT OR HAS A PHYSICIAN'S PRESCRIPTION FOR MASSAGE
20 SERVICES.

21 IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON
22 UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE
23 PREMISES AT ANY TIME, UNLESS HE OR SHE IS
24 ACCOMPANIED BY HIS OR HER PARENT OR HAS A
25 PHYSICIAN'S PRESCRIPTION FOR MASSAGE SERVICES.

26 PART 5 OF ARTICLE 3 OF TITLE 18, COLORADO REVISED
27 STATUTES, PROHIBITS TRAFFICKING OF ADULTS,
28 TRAFFICKING OF CHILDREN, AND COERCION OF
29 INVOLUNTARY SERVITUDE AND ESTABLISHES CRIMINAL
30 PENALTIES FOR THESE OFFENSES.

31 FINES OR IMPRISONMENT MAY BE IMPOSED BY THE
32 COURTS FOR VIOLATION OF THESE PROVISIONS UNDER
33 ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

34 (g) To operate a massage parlor while failing to display at all
35 times in a prominent place on the licensed premises a printed card with
36 a minimum height of fourteen inches and a width of eleven inches with
37 each letter a minimum of one-half inch in height, which provides the
38 name and contact information of a state or local organization that
39 provides services or other assistance to victims of human trafficking.

40 **SECTION 6.** In Colorado Revised Statutes, 19-1-306, **add** (5) (d)
41 and (6) (a.5) as follows:

1 **19-1-306. Expungement of juvenile delinquent records.**

2 (5) (d) THE COURT SHALL ORDER EXPUNGED ALL RECORDS IN THE
3 CUSTODY OF THE COURT AND ANY RECORDS IN THE CUSTODY OF ANY
4 OTHER AGENCY OR OFFICIAL THAT PERTAIN TO THE PETITIONER'S
5 CONVICTION FOR PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201,
6 C.R.S.; SOLICITING FOR PROSTITUTION, AS DESCRIBED IN SECTION
7 18-7-202, C.R.S.; KEEPING A PLACE OF PROSTITUTION, AS DESCRIBED IN
8 SECTION 18-7-204, C.R.S.; PUBLIC INDECENCY, AS DESCRIBED IN SECTION
9 18-7-301, C.R.S.; SOLICITING FOR CHILD PROSTITUTION, AS DESCRIBED IN
10 SECTION 18-7-402, C.R.S., OR ANY CORRESPONDING MUNICIPAL CODE OR
11 ORDINANCE IF, AT THE HEARING, THE COURT FINDS THAT THE PETITIONER
12 WHO IS THE SUBJECT OF THE HEARING HAS ESTABLISHED BY A
13 PREPONDERANCE OF THE EVIDENCE THAT, AT THE TIME HE OR SHE
14 COMMITTED THE OFFENSE, HE OR SHE:

15 (I) HAD BEEN SOLD, EXCHANGED, BARTERED, OR LEASED BY
16 ANOTHER PERSON, AS DESCRIBED IN SECTION 18-3-501 OR 18-3-502,
17 C.R.S., FOR THE PURPOSE OF PERFORMING THE OFFENSE; OR

18 (II) WAS COERCED BY ANOTHER PERSON, AS DESCRIBED IN
19 SECTION 18-3-503, C.R.S., TO PERFORM THE OFFENSE.

20 (6) A person is eligible to petition for an expungement order:

21 (a.5) AT ANY TIME FOR THE PURPOSES DESCRIBED IN PARAGRAPH
22 (d) OF SUBSECTION (5) OF THIS SECTION;

23 **SECTION 7.** In Colorado Revised Statutes, **add** 24-72-308.7 as
24 follows:

25 **24-72-308.7. Sealing of criminal conviction records**
26 **information for offenses committed by victims of human trafficking.**

27 (1) **Definitions.** FOR PURPOSES OF THIS SECTION, "CONVICTION RECORDS"
28 MEANS ARREST AND CRIMINAL RECORDS INFORMATION AND ANY RECORDS
29 PERTAINING TO A JUDGMENT OF CONVICTION.

30 (2) **Sealing of conviction records.** (a) (I) A DEFENDANT MAY
31 PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY
32 CONVICTION RECORDS PERTAINING TO THE DEFENDANT'S CONVICTION FOR
33 PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201, C.R.S.; SOLICITING
34 FOR PROSTITUTION, AS DESCRIBED IN SECTION 18-7-202, C.R.S.; KEEPING
35 A PLACE OF PROSTITUTION, AS DESCRIBED IN SECTION 18-7-204, C.R.S.;
36 PUBLIC INDECENCY, AS DESCRIBED IN SECTION 18-7-301, C.R.S., OR ANY
37 CORRESPONDING MUNICIPAL CODE OR ORDINANCE ARE LOCATED FOR THE
38 SEALING OF THE CONVICTION RECORDS, EXCEPT FOR BASIC IDENTIFYING
39 INFORMATION.

40 (II) IF A PETITION IS FILED PURSUANT TO SUBPARAGRAPH (I) OF
41 THIS PARAGRAPH (a) FOR THE SEALING OF A RECORD OF CONVICTION FOR
42 PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201, C.R.S.; SOLICITING

1 FOR PROSTITUTION, AS DESCRIBED IN SECTION 18-7-202, C.R.S.; KEEPING
2 A PLACE OF PROSTITUTION, AS DESCRIBED IN SECTION 18-7-204, C.R.S., OR
3 PUBLIC INDECENCY, AS DESCRIBED IN SECTION 18-7-301, C.R.S., THE
4 COURT SHALL ORDER THE RECORD SEALED AFTER:

- 5 (A) THE PETITION IS FILED;
- 6 (B) THE FILING FEE IS PAID; AND
- 7 (C) THE DEFENDANT ESTABLISHES BY A PREPONDERANCE OF THE
8 EVIDENCE THAT, AT THE TIME HE OR SHE COMMITTED THE OFFENSE, HE OR
9 SHE HAD BEEN SOLD, EXCHANGED, BARTERED, OR LEASED BY ANOTHER
10 PERSON, AS DESCRIBED IN SECTION 18-3-501 OR 18-3-502, C.R.S., FOR THE
11 PURPOSE OF PERFORMING THE OFFENSE, OR HE OR SHE WAS COERCED BY
12 ANOTHER PERSON, AS DESCRIBED IN SECTION 18-3-503, C.R.S., TO
13 PERFORM THE OFFENSE.

14 (III) AN ORDER ENTERED PURSUANT TO THIS SECTION SHALL BE
15 DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF
16 THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
17 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
18 PURSUANT TO THIS SECTION, THE DEFENDANT SHALL PROVIDE THE
19 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
20 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
21 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
22 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU.
23 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT
24 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
25 WERE SEALED.

26 (IV) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY
27 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW
28 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
29 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
30 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER SEALING
31 CONVICTION RECORDS DOES NOT VACATE A CONVICTION. A CONVICTION
32 SEALED PURSUANT TO THIS SECTION MAY BE USED BY A CRIMINAL JUSTICE
33 AGENCY, LAW ENFORCEMENT AGENCY, COURT, OR PROSECUTING
34 ATTORNEY FOR ANY LAWFUL PURPOSE RELATING TO THE INVESTIGATION
35 OR PROSECUTION OF ANY CASE, INCLUDING BUT NOT LIMITED TO ANY
36 SUBSEQUENT CASE THAT IS FILED AGAINST THE DEFENDANT, OR FOR ANY
37 OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF HIS, HER, OR ITS DUTIES. IF
38 A DEFENDANT IS CONVICTED OF A NEW CRIMINAL OFFENSE AFTER AN
39 ORDER SEALING CONVICTION RECORDS IS ENTERED, THE COURT SHALL
40 ORDER THE CONVICTION RECORDS TO BE UNSEALED. A PARTY OR AGENCY
41 REQUIRED BY LAW TO CONDUCT A CRIMINAL HISTORY RECORD CHECK IS

1 AUTHORIZED TO USE ANY SEALED CONVICTION FOR THE LAWFUL PURPOSE
2 FOR WHICH THE CRIMINAL HISTORY RECORD CHECK IS REQUIRED BY LAW.

3 (b) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO THIS
4 SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE RECORDS
5 TO WHOM THE SEALING ORDER IS DIRECTED AND ANY INFORMATION THAT
6 ACCURATELY AND COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED.

7 (c) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF
8 PARAGRAPH (a) OF THIS SUBSECTION (2), UPON THE ENTRY OF AN ORDER
9 TO SEAL THE CONVICTION RECORDS, THE DEFENDANT AND ALL CRIMINAL
10 JUSTICE AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE
11 MATTER, THAT PUBLIC CONVICTION RECORDS DO NOT EXIST WITH RESPECT
12 TO THE DEFENDANT.

13 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF
14 PARAGRAPH (a) OF THIS SUBSECTION (2), INSPECTION OF THE RECORDS
15 INCLUDED IN AN ORDER SEALING CONVICTION RECORDS MAY THEREAFTER
16 BE PERMITTED BY THE COURT ONLY UPON PETITION BY THE DEFENDANT.

17 (e) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV)
18 OF PARAGRAPH (a) OF THIS SUBSECTION (2), EMPLOYERS, STATE AND
19 LOCAL GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES
20 SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY,
21 REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN
22 SEALED CONVICTION RECORDS. AN APPLICANT NEED NOT, IN ANSWER TO
23 ANY QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN
24 SEALED, INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE
25 SEALED CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS
26 NOT BEEN CRIMINALLY CONVICTED.

27 (II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (e)
28 DO NOT PRECLUDE THE BAR COMMITTEE OF THE COLORADO STATE BOARD
29 OF LAW EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF
30 A CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE
31 THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE
32 BOARD OF LAW EXAMINERS HAS A RIGHT TO INQUIRE INTO THE MORAL AND
33 ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE APPLICANT DOES
34 NOT HAVE A RIGHT TO PRIVACY OR PRIVILEGE THAT JUSTIFIES HIS OR HER
35 REFUSAL TO ANSWER A QUESTION CONCERNING SEALED CONVICTION
36 RECORDS THAT HAVE COME TO THE ATTENTION OF THE BAR COMMITTEE
37 THROUGH OTHER MEANS.

38 (III) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I)
39 OF THIS PARAGRAPH (e), THE DEPARTMENT OF EDUCATION MAY REQUIRE
40 A LICENSED EDUCATOR OR AN APPLICANT FOR AN EDUCATOR'S LICENSE
41 WHO FILES A PETITION TO SEAL A CRIMINAL RECORD TO NOTIFY THE

1 DEPARTMENT OF EDUCATION OF THE PENDING PETITION TO SEAL. THE
2 DEPARTMENT HAS THE RIGHT TO INQUIRE INTO THE FACTS OF THE
3 CRIMINAL OFFENSE FOR WHICH THE PETITION TO SEAL IS PENDING. THE
4 EDUCATOR OR APPLICANT HAS NO RIGHT TO PRIVACY OR PRIVILEGE THAT
5 JUSTIFIES HIS OR HER REFUSAL TO ANSWER ANY QUESTIONS CONCERNING
6 THE ARREST AND CRIMINAL RECORDS INFORMATION CONTAINED IN THE
7 PENDING PETITION TO SEAL.

8 (IV) ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO
9 UNSEAL ANY FILE THAT HAS BEEN PREVIOUSLY SEALED UPON A SHOWING
10 THAT CIRCUMSTANCES HAVE COME INTO EXISTENCE SINCE THE ORIGINAL
11 SEALING, AND, AS A RESULT, THE PUBLIC INTEREST IN DISCLOSURE NOW
12 OUTWEIGHS THE DEFENDANT'S INTEREST IN PRIVACY.

13 (f) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST
14 ON ITS WEB SITE A LIST OF ALL PETITIONS TO SEAL CONVICTION RECORDS
15 THAT ARE FILED WITH A DISTRICT COURT. A DISTRICT COURT MAY NOT
16 GRANT A PETITION TO SEAL CONVICTION RECORDS UNTIL AT LEAST THIRTY
17 DAYS AFTER THE POSTING. AFTER THE EXPIRATION OF THIRTY DAYS
18 FOLLOWING THE POSTING, THE PETITION TO SEAL CONVICTION RECORDS
19 AND INFORMATION PERTINENT THERETO SHALL BE REMOVED FROM THE
20 WEB SITE OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.

21 (g) NOTHING IN THIS SECTION AUTHORIZES THE PHYSICAL
22 DESTRUCTION OF ANY CONVICTION RECORDS.

23 (h) NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE
24 CONTRARY, IN REGARD TO ANY CONVICTION OF A DEFENDANT RESULTING
25 FROM A SINGLE CASE IN WHICH THE DEFENDANT IS CONVICTED OF MORE
26 THAN ONE OFFENSE, RECORDS OF THE CONVICTION MAY BE SEALED
27 PURSUANT TO THE PROVISIONS OF THIS SECTION ONLY IF THE RECORDS OF
28 EVERY CONVICTION OF THE DEFENDANT RESULTING FROM THAT CASE MAY
29 BE SEALED PURSUANT TO THE PROVISIONS OF THIS SECTION.

30 (3) **Rules of discovery - rules of evidence - witness testimony.**
31 COURT ORDERS SEALING RECORDS OF OFFICIAL ACTIONS PURSUANT TO
32 THIS SECTION DO NOT LIMIT THE OPERATIONS OF:

33 (a) THE COLORADO RULES OF CIVIL PROCEDURE RELATED TO
34 DISCOVERY OR THE COLORADO RULES OF EVIDENCE PROMULGATED BY
35 THE SUPREME COURT OF COLORADO OR ANY OTHER STATE OR FEDERAL
36 COURT; OR

37 (b) THE PROVISIONS OF SECTION 13-90-101, C.R.S., CONCERNING
38 WITNESS TESTIMONY."

39 Renumber succeeding sections accordingly.

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