

**HOUSE . . . . . No. 4963**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act Relating To Anti-Human Trafficking And Protection..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after  
2 section 66 the following section:-

3 Section 66A. There shall be established and set up on the books of the commonwealth a  
4 separate fund to be known as the Victims of Human Trafficking Trust Fund. The fund shall  
5 consist of assets forfeited and the proceeds of assets seized and forfeited pursuant to chapter  
6 265A and fines and assessments collected pursuant to said chapter 265A, together with any  
7 interest or earnings accrued on such monies through investment or deposit. The state treasurer  
8 shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to  
9 him under this section in accordance with sections 34, 34A and 38 of chapter 29 in such a  
10 manner as to secure the highest rate of return available consistent with the safety of the fund, and  
11 shall credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer  
12 shall transfer funds from the income and receipts of the fund to the victim and witness assistance  
13 board, as established in section 4 of chapter 258B, from time to time, at the request of the office.  
14 The board shall award and administer grants from the fund, without further appropriation, to

15 public, private non-profit or community-based programs in the commonwealth to provide  
16 services to human trafficking victims, as defined in section 1 of said chapter 265A including, but  
17 not limited to, legal and case management services, health care, mental health, social services,  
18 housing or shelter services, education, job training or preparation, interpreting services, English-  
19 as-a-second-language classes, victims' compensation, and public and private non-profit  
20 collaborations to protect and assist human trafficking victims. The board shall develop, in  
21 conjunction with the Anti-Human Trafficking Task Force established by section 20 of chapter  
22 265A, written criteria for the awarding of those grants, which shall be evaluated and, if  
23 necessary, revised on an annual basis.

24         The board shall file a report detailing the amount of funds collected and expended from  
25 the fund along with a copy of the written criteria used to expend the funds to the house and  
26 senate committees on ways and means not later than August 15 of each calendar year. An  
27 amount not to exceed 5 per cent of the total funds deposited in the fund may be expended by the  
28 office for administrative costs directly attributable to the grants and programs funded by the fund  
29 including, but not limited to, the costs of clerical and support personnel. Any unexpended  
30 balance of monies in the fund at the end of the fiscal year shall not revert to the General Fund but  
31 shall remain available for expenditure from such fund in subsequent fiscal years. No expenditure  
32 made from the fund shall cause the fund to become deficient at any point during a fiscal year.

33         SECTION 2. Section 2 of chapter 62 of the General Laws, as so appearing, is hereby  
34 amended by inserting after the word "year", in line 179, the following subparagraph:-

35 (Q) Any amounts received by a human trafficking victim, as defined in section 1 of  
36 chapter 265A, pursuant to an action for involuntary servitude, trafficking of persons for forced  
37 labor or services or sexual servitude.

38 SECTION 3. Section 51A of chapter 119, as so appearing, is hereby amended by striking  
39 the seventh paragraph and inserting in place thereof the following paragraph:-

40 Any privilege established by sections 135A and 138B of chapter 112 or by sections 20A,  
41 20B or 20M of chapter 233, relating to confidential communications shall not prohibit the filing  
42 of a report pursuant to this section or section 24.

43 SECTION 4. Chapter 231 of the 2004 official edition of the general laws is hereby  
44 amended by inserting, after section 59H, the following section:-

45 Section 59I. In any civil action in any court of the commonwealth in which the plaintiff  
46 alleges to be a human trafficking victim, as defined in section 1 of chapter 265A, the court shall,  
47 upon motion of the plaintiff, advance the proceeding for speedy trial so that it may be heard and  
48 determined with as little delay as possible.

49 SECTION 5. Chapter 233 of the General Laws, as so appearing, is hereby amended by  
50 inserting after section 11 the following new section:

51 Section 11A. Notwithstanding any general or special law to the contrary, in any civil  
52 action or other civil judicial proceeding commenced by a person alleging to be a human  
53 trafficking victim, as defined in chapter 265A, in which the petitioner is unable to be present in  
54 the jurisdiction in order to prosecute such action or proceeding due to the application of the  
55 immigration laws of the United States or undue financial or other hardship, testimony of such

56 person may be given under oath before any ambassador or consul general or their respective  
57 designee in any embassy or consular office of the United States in any foreign country at which  
58 legal counsel for the defendant shall have the opportunity to either (a) be present and cross  
59 examine the witness, or (b) see, hear and cross examine the witness by way of video conference  
60 or other technology providing defense counsel with the opportunity to see, hear and cross  
61 examine the witness in real time. A live-video conference, a video-taped record or a transcript of  
62 such testimony shall be admissible at trial in any such action or proceeding.

63 SECTION 6. Said chapter 233 is hereby further amended by inserting after section 20L  
64 the following 2 sections:-

65 Section 20M. (a) As used in this section the following words shall unless the context  
66 clearly requires otherwise have the following meanings:—

67 “Confidential communication”, information transmitted in confidence by and between a  
68 human trafficking victim and a human trafficking victims’ caseworker by a means which does  
69 not disclose the information to a person other than a person present for the benefit of the victim,  
70 or to those to whom disclosure of such information is reasonably necessary to the counseling and  
71 assisting of such victim. The term includes all information received by the human trafficking  
72 victims’ caseworker which arises out of and in the course of such counseling and assisting,  
73 including, but not limited to, reports, records, working papers or memoranda.

74 “Human trafficking victims’ caseworker”, a person who is employed or volunteers in  
75 program serving human trafficking, who has undergone a minimum of 25 hours of training and  
76 who reports to and is under the direct control and supervision of a direct service supervisor of a

77 human trafficking victims' program, and whose primary purpose is the rendering of advice,  
78 counseling or assistance to human trafficking victims.

79 "Human trafficking victims' program", any refuge, shelter, office, safe house, institution  
80 or center established for the purpose of offering assistance to human trafficking victims through  
81 crisis intervention, medical, legal or support counseling.

82 "Victim", a victim of a violation of section 2, 3, or 4 of chapter 265A and who consults a  
83 human trafficking victims' caseworker for the purpose of securing advice, counseling or  
84 assistance concerning a mental, physical or emotional condition caused by such violation.

85 (b) A human trafficking victim's caseworker shall not disclose any confidential  
86 communication without the prior written consent of the victim, or the victim's guardian in the  
87 case of a child, except as hereinafter provided. Such confidential communication shall not be  
88 subject to discovery in any civil, legislative or administrative proceeding without the prior  
89 written consent of the victim, or victim's guardian in the case of a child to whom such  
90 confidential communication relates. In criminal actions such confidential communication shall  
91 be subject to discovery and shall be admissible as evidence but only to the extent of information  
92 contained therein which is exculpatory in relation to the defendant; provided, however, that the  
93 court shall first examine such confidential communication and shall determine whether or not  
94 such exculpatory information is therein contained before allowing such discovery or the  
95 introduction of such evidence.

96 (c) During the initial meeting between the caseworker and victim, the caseworker shall  
97 inform the human trafficking victim and any guardian thereof of such confidential  
98 communications and the limitations thereto.