

HOUSE No. 3287

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prohibit human trafficking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William N. Brownsberger</i>		<i>1/28/2011</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>2/1/2011</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>2/2/2011</i>
<i>Patricia D. Jehlen</i>		<i>2/2/2011</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>2/3/2011</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2011</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/4/2011</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>2/4/2011</i>

HOUSE No. 3287

By Mr. Lewis of Winchester, a petition (accompanied by bill, House, No. 3287) of William N. Brownsberger and others for legislation to prohibit human trafficking and assist victims. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to prohibit human trafficking.

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

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

Section 66A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Victims of Human Trafficking Trust Fund. The fund shall consist of assets forfeited and the proceeds of assets seized and forfeited under chapter 265A and fines and assessments collected under said chapter 265A, together with any interest or earnings accrued on such monies through investment or deposit. The state treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to the fund under this section under sections 34 and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund and shall credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer shall transfer funds from the income and receipts of the fund to the victim and witness assistance board, established in section 4 of chapter 258B, from time to time, at the request of the victim witness assistance board. The board shall

award and administer grants from the fund, without further appropriation, to public, private non-profit or community-based programs in the commonwealth to provide services to human trafficking victims, as defined in section 1 of said chapter 265A including, but not limited to, social services, housing, job training or victims' compensation and public and private non-profit organizations that assist human trafficking victims. The board shall develop written criteria for the awarding of those grants, which shall be evaluated and, if necessary, revised on an annual basis. In addition, the board shall make available monies from the fund to support the costs of production of certain materials by the attorney general under section 19 of chapter 265A.

The board shall file a report detailing the amount of funds collected and expended from the fund along with a copy of the written criteria used to expend the funds to the house and senate committees on ways and means not later than December 1 of each calendar year. An amount not to exceed 5 per cent of the total monies deposited in the fund may be expended by the board for administrative costs directly attributable to the grants and programs funded by the fund including, but not limited to, the costs of clerical and support personnel. Any unexpended monies remaining in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure from such fund in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point.

SECTION 2. Section 51A of chapter 119, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (j) and inserting in place thereof the following subsection:-

(j) Any privilege established by sections 135A and 135B of chapter 112 or by sections 20A, 20B or 20M of chapter 233, relating to confidential communications shall not prohibit the filing of a report under this section or a care and protection petition under section 24.

SECTION 3. Chapter 231 of the General Laws is hereby amended by inserting, after section 59H, the following section:-

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

SECTION 4. Chapter 233 of the General Laws, as appearing, is hereby amended by inserting after section 11 the following section:

Section 11A. Notwithstanding any general or special law to the contrary, in a civil action or other civil judicial proceeding in which the petitioner alleges to be a human trafficking victim, as defined in chapter 265A, and is unable to be present in the jurisdiction in order to prosecute such action or proceeding due to the application of the immigration laws of the United States or undue financial or other hardship, testimony of such petitioner may be given under oath before an ambassador or consul general or respective designee in an embassy or consular office of the United States in any foreign country; provided, however, that legal counsel for the defendant shall have the opportunity to either (a) be present and cross-examine the witness; or (b) see, hear and cross-examine the witness by way of video conference or other technology providing defense counsel with the opportunity to see, hear and cross-examine the witness in real time. A

live-video conference, a video-taped record or a transcript of such testimony shall be admissible at trial in any such action or proceeding.

SECTION 5. Said chapter 233 is hereby further amended by inserting after section 20L the following 2 sections:-

Section 20M. (a) As used in this section and section 20N the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Confidential communication”, information transmitted in confidence by and between a human trafficking victim and a human trafficking victims’ caseworker by a means which does not disclose the information to a person other than a person present for the benefit of the victim, or to those to whom disclosure of such information is reasonably necessary to counseling and assisting such victim; provided, however, that “confidential communication” shall include all information received by the human trafficking victims’ caseworker which arises out of, and in the course of, such counseling and assisting, including, but not limited to, reports, records, working papers and memoranda.

“Human trafficking”, human trafficking as defined in section 1 of chapter 265A.

“Human trafficking victims’ caseworker”, a person who is employed or volunteers in a program serving human trafficking, who has undergone a minimum of 25 hours of training and who reports to and is under the direct control and supervision of a direct service supervisor of a human trafficking victims’ program and whose primary purpose is rendering advice, counseling or assistance to human trafficking victims.

“Human trafficking victims’ program”, any refuge, or shelter, or office of any kind established for the purpose of offering assistance to human trafficking victims through crisis intervention or counseling.

“Victim”, a petitioner who alleges to be the victim of a violation of section 2, 3 or 4 who consults a human trafficking victims’ caseworker for advice, counseling or assistance concerning any issue caused by the violation.

(b) A human trafficking victim’s caseworker shall not disclose any confidential communication without the prior written consent of the victim, or the victim’s guardian in the case of a child, except as provided in this section. Such confidential communication shall not be subject to discovery in any civil, legislative or administrative proceeding without the prior written consent of the victim, or victim’s guardian in the case of a child to whom such confidential communication relates. In criminal actions, such confidential communication shall be subject to discovery and shall be admissible if exculpatory to the defendant; provided, however, that the court shall first examine such confidential communication and shall determine whether such exculpatory information is contained within the communication before allowing such discovery or the introduction of such evidence.

(c) During the initial meeting between the caseworker and victim, the caseworker shall inform the victim and any guardian of the victim of such confidential communications and the limitations under subsection (b).

Section 20N. At each stage of an investigation and prosecution of an offense involving a human trafficking victim, as defined by section 1 of chapter 265A, the names and identifying information of the victim and the victim’s family shall be withheld from public inspection. Once

97 a complaint is filed or an indictment returned, the court shall order that any identifying
98 information of such a victim and family member shall be kept confidential and the court shall
99 impound or redact the names and identifying information of the victim and the victim's family in
100 any such proceeding, unless the victim provides written consent to the court to disclose the
101 information in those records.

102 SECTION 6. Section 21B of said chapter 233, as amended by sections 46 to 48,
103 inclusive, of chapter 267 of the acts of 2010, is hereby further amended by striking out the first
104 sentence and inserting in place thereof the following sentence:- Evidence of the reputation of a
105 victim's sexual conduct shall not be admissible in any investigation or proceeding before a grand
106 jury or any court of the commonwealth for a violation of sections 13B, 13B ½, 13B ¾, 13F, 13H,
107 22, 22A, 22B, 22C, 23, 23A, 23B, 24 and 24B of chapter 265, section 4 of chapter 265A or
108 section 5 of chapter 272.

109 SECTION 7. Section 3 of chapter 258B of the General Laws, as so appearing, is hereby
110 amended by inserting, after clause (v), the following clause:-

111 (w) for human trafficking victims, to be provided with a copy of an incident or police
112 report relative to the prosecution of the case; provided, however, that no charge shall be assessed
113 to such victim for a copy of the report.

114 SECTION 8. The General Laws are hereby amended by inserting after chapter 265 the
115 following chapter:-

116 Chapter 265A

117 HUMAN TRAFFICKING CRIMES AND PROTECTION FOR VICTIMS.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Asset”, property including, but not limited to, real property, things affixed to and found in land and tangible and intangible personal property, including rights, privileges, interests, claims, accounts and securities.

“Blackmail”, any malicious verbal, written, electronic, printed or other form of communication which threatens to accuse another of a crime or offense, to injure the person or property of another or to expose any secret tending to subject any person to hatred, contempt or ridicule.

“Bodily injury”, substantial impairment of the physical condition, including, but not limited to, a burn, bone fracture, subdural hematoma, injury to an internal organ or an injury which occurs as the result of repeated harm to a bodily function or organ, including human skin.

“Business entity”, a corporation, its officers or directors, an association, partnership, limited liability company, limited liability partnership or other legal entity.

“Child”, a person under 18 years of age.

“Coercion”, threats of serious harm to or physical restraint against a person; a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against a person; the abuse or threatened abuse of the legal process.

“Entice”, lure, induce, persuade, tempt, incite, solicit, coax or invite.

“Financial harm”, includes, but shall not be limited to, extortion as defined by section 25 of chapter 265, a violation of section 49 of chapter 271 or any use or threat to use anything of value or the deprivation or threat of deprivation of anything of value.

“Forced labor or services”, work of economic or financial value or activities performed directly or indirectly under the supervision of or for the benefit of another including, but not limited to, sexual conduct for a fee or other thing of value, sexually-explicit performances and involvement in the production of pornography; provided, however, that such work or services shall have been obtained or maintained, in whole or in part, through:

(i) intimidation, fraud, duress or coercion;

(ii) psychological manipulation;

(iii) causing or threatening to cause injury to a person;

(iv) physically restraining or threatening to physically restrain another person;

(v) abusing or threatening to abuse the law or legal process by knowingly providing misinformation as to the adverse legal consequences of a person’s actions including, but not limited to, threats of deportation;

(vi) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person;

(vii) blackmail; or

157 (viii) causing or threatening to cause financial harm or to use financial control over any
158 person.

159 “Human trafficking”, (i) the intentional subjection of a person to forced labor or services;
160 (ii) the intentional enticement, harboring, transportation or delivery of a person with the intent
161 that the person be subjected to forced labor or services or intentionally benefiting financially or
162 receiving anything of value, directly or indirectly; (iii) the intentional enticement, harboring,
163 transportation or delivery of another, with the intent that the person engage in a sexually-explicit
164 performance, the production of pornography or sexual conduct for a fee or other thing of value,
165 whether or not a person is the recipient of the fee or other thing of value or intentionally benefits
166 financially or receives anything of value, directly or indirectly.

167 “Human trafficking victim”, a person subjected to forced labor or services, forced
168 engagement in sexually-explicit performance, forced participation in the production of
169 pornography or forced engagement in sexual conduct for a fee or other thing of value or a person
170 otherwise victimized by human trafficking.

171 “Intimidation”, direct or indirect willful use of force or bodily injury or threats of force or
172 bodily injury to influence or confine another.

173 “Maintain”, to secure continued performance of labor or services, regardless of any initial
174 agreement on the part of the victim to perform such type of service.

175 “Serious bodily injury”, includes bodily injury which results in a permanent
176 disfigurement, protracted loss or impairment of a bodily function, limb or organ or substantial
177 risk of death.

“Sexually-explicit performance”, an act involving sexual conduct intended to arouse or satisfy the sexual desires of another and which is a live and public or private act or a photographed, recorded or videotaped act or show.

Section 2. Whoever intentionally subjects another person to forced labor or services shall be guilty of the crime of involuntary servitude and shall be punished by a fine of not less than \$2,000 and by imprisonment in the state prison for not more than 20 years.

Section 3. Whoever intentionally: (a) entices, harbors, transports or delivers another, with the intent that the person be subjected to forced labor or services; or (b) benefits financially or receives anything of value, directly or indirectly, from a violation of this section shall be guilty of trafficking of persons for forced labor or services and shall be punished by a fine of not more than \$2,000 and by imprisonment in the state prison for not more than 15 years.

Section 4. Whoever intentionally: (a) entices, harbors, transports or delivers another, with the intent that the person engage in a sexually-explicit performance, the production of pornography or sexual conduct for a fee or other thing of value, whether or not the person is the recipient of the fee or other thing of value; or (b) benefits financially or receives anything of value, directly or indirectly, from a violation of this section shall be guilty of procuring another for sexual servitude and shall be punished by a fine of not more than \$2,000 and by imprisonment in the state prison for not more than 25 years.

Section 5. Whoever publishes, disseminates or otherwise discloses the location of any human trafficking victim:

(i) with the intent that such victim suffers bodily injury as a result, shall be punished by imprisonment in the state prison for not less than 5 years nor more than 10 years; or

(ii) as a result causes serious bodily injury to such victim shall be punished by imprisonment in the state prison for not more than 25 years; or

(iii) as a result causes the death of such victim shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 30 years.

Section 6. Whoever maliciously publishes, disseminates or otherwise discloses the name of a human trafficking victim, knowing that the victim's identity has been the subject of a confidentiality order under section 20N of chapter 233, shall be punished by imprisonment in a jail or house of correction for not more than 2½ years and by a \$1,000 fine.

Section 7. Whoever (i) intentionally recruits, entices, harbors, transports, delivers or obtains by any means, another person, or attempts to do so, intending or knowing that the person will have an organ, tissue or other body parts removed for sale; or (ii) intentionally benefits financially or receives anything of value, directly or indirectly, or attempts to do so, from a violation of this section, shall be guilty of organ trafficking and punished by imprisonment in the state prison for not more than 20 years and a fine of not less than \$10,000 nor more than \$50,000.

Section 8. (a) Whoever commits a violation of sections 2 to 6, inclusive, shall be punished by imprisonment in the state prison for not more than 20 years if the victim of that violation is a child. Under section 8A of chapter 279, such sentence shall begin after the expiration of the sentence imposed for a violation of section 2, 3, 4, 5 or 6.

(b) Whoever commits a violation of section 2, 3 or 4 by means of kidnapping, in violation of section 26 of chapter 265, shall be punished by imprisonment in the state prison for not more

than 20 years. Under section 8A of chapter 279, such sentence shall begin from and after the expiration of the sentence imposed for a violation of section 2, 3 or 4.

(c) Whoever commits a violation of section 2, 3 or 4 and, as a result: (i) causes bodily injury to the victim of such offense shall be punished by imprisonment in the state prison for not more than 15 years; or (ii) causes serious bodily injury to the victim of such offense shall be punished by imprisonment in the state prison for not more than 20 years. Under section 8A of chapter 279, such sentences shall begin from and after the expiration of the sentence imposed for a violation of section 2, 3 or 4.

(d) Whoever commits a violation of section 2, 3 or 4 and as a result causes the death of another, shall be punished by imprisonment in the state prison for life or for any term of years, but for not less than 20 years. Under section 8A of chapter 279, such sentence shall begin from and after the expiration of the sentence imposed for a violation of section 2, 3 or 4.

(e) Whoever commits a violation of section 2, 3 or 4 and the victim of that violation was subjected to the violation for: (i) between 180 days and 1 year, shall be punished by imprisonment in the state prison for not more than 5 years; or (ii) more than 1 year, shall be punished by imprisonment in the state prison for not more than 25 years. Under section 8A of chapter 279, such sentences shall begin from and after the expiration of the sentence imposed for a violation of section 2, 3 or 4.

Section 9. Whoever violates section 53A of chapter 272 knowing or having reason to know that the person engaging in sexual conduct for a fee or other thing of value is a human trafficking victim shall be punished by imprisonment in the state prison for not more than 5 years

and by a fine of \$2,000; or if the human trafficking victim is a child, shall be punished by imprisonment in the state prison for not more than 10 years and by a fine of \$2,000.

Section 10. The court shall order restitution to human trafficking victims for violations of this chapter including, in addition to any other amount of loss identified, the following:

(a) lost income, which shall include the greater of: (i) the gross income or value to the defendant of the victim's labor or services; or (ii) the value of the victim's labor or services as guaranteed under the commonwealth's minimum wage and overtime laws and interest;

(b) medical and related professional services relating to physical, psychiatric or psychological care;

(c) physical and occupational therapy or rehabilitation;

(d) necessary transportation, temporary housing, and child care expenses;

(e) in the case of an offense resulting in damage to or destruction of property, return of the property, or if return is impossible, impracticable or inadequate, payment of the replacement value of the property;

(f) in the case of an offense resulting in death, or bodily injury that results in death, the costs and expenses of necessary funeral and related services;

(g) attorney's fees and other costs and expenses incurred, including those costs and expenses incurred that are related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(h) compensation for emotional distress, pain, and suffering;

(i) expenses incurred in relocating away from the defendant including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing and personal items; and

(j) any other losses suffered by the human trafficking victim.

Section 11. (a) All fines collected under this chapter shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer the monies, from time to time, into the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10.

(b) There shall be an assessment of \$250 against any person who violates section 2 to 6, inclusive. No court may waive the assessment for any reason. If a person is sentenced to a correctional facility and the assessment has not been paid, the court shall note the assessment on the mittimus. The monies collected from the assessment established by this paragraph shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer the monies into the Victims of Human Trafficking Trust Fund established in said section 66A of said chapter 10. The monies shall then be administered by the Massachusetts Office of Victim Assistance under said section 66A. The assessment paid by an individual into the Victims of Human Trafficking Trust Fund under this section shall be in addition to, and not in lieu of, any other fee imposed by the court under this chapter or any other chapter. The administrative office of the trial court shall file a report detailing the amount of funds imposed and collected under this section to the house and senate committees on ways and means and to the Massachusetts Office of Victim Assistance not later than December 1 of each calendar year.

Section 12. An individual who is a human trafficking victim may bring a civil action for involuntary servitude, trafficking of persons for forced labor or services or sexual servitude. The court may award actual damages, compensatory damages, punitive damages, injunctive relief or any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages may be awarded on proof of actual damages where the defendant's acts were willful and malicious.

Section 13. (a) A business entity that knowingly aids or participates in involuntary servitude, trafficking of a person for forced labor or services or sexual servitude shall be liable in a civil action for an offense under this section and may be subject to loss of a business license issued by the commonwealth.

(b) Upon a finding of responsibility for aiding or participating in involuntary servitude, trafficking of a person for forced labor or services or sexual servitude, a business entity shall be assessed a fine of not less than \$10,000 and not more than \$100,000 for each such violation. No court shall waive the assessment for any reason. The court may, in its discretion, order:

- (i) the dissolution or reorganization of the business entity;
- (ii) the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or
- (iii) the surrender of its charter or the revocation of its certificate to conduct business in the commonwealth.

Section 14. (a) A civil action for involuntary servitude, trafficking of persons for forced labor or services, or sexual servitude shall be commenced within 7 years of the date on which the

human trafficking victim was freed from human trafficking, or if the victim was a child when the act of human trafficking occurred, within 7 years after the date the victim attains the age of 18.

(b) If a person entitled to sue is under a disability at the time the cause of action accrues, such that it is impossible or impracticable for the person to bring an action, the time during which the person is under a disability shall toll the statute until the disability ceases.

(c) A defendant is estopped from asserting a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action, or preventing the plaintiff from filing the action, including threats made by the defendant that caused duress upon the plaintiff.

(d) The suspension of the statute of limitations due to disability or estoppel applies to all other related claims arising out of the trafficking. A criminal action includes investigation and prosecution and remains pending until final adjudication in the trial court. A legal guardian, family member, representative of the human trafficking victim or court appointee may represent the victim's rights, if the victim is deceased or otherwise unable to represent their own interests in court.

Section 15. (a) The following property shall be subject to forfeiture to the commonwealth and all property rights in such property shall be in the commonwealth:

(i) conveyances, including aircraft, vehicles or vessels used or intended for use, to transport, conceal or otherwise facilitate a violation of section 2, 3 or 4;

(ii) books, records and research, including microfilm, tapes and data which are used, or intended for use, in violation of section 2, 3 or 4;

(iii) monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by a person in exchange for involuntary servitude, forced labor or services or sexual servitude, all proceeds traceable to such an exchange, including real estate and any other thing of value and monies, negotiable instruments and securities used or intended to be used to facilitate a violation of section 2, 3, 4 or 5; and

(iv) real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements thereto, which is used in any manner or part, to commit or to facilitate a violation of section 2, 3 or 4.

No forfeiture under this section shall extinguish a perfected security interest held by a creditor in a conveyance or in any real property at the time of the filing of the forfeiture action.

(b) Property subject to forfeiture under clauses (i) to (iv), inclusive, shall, upon motion of the attorney general or district attorney be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this section.

(c) The court shall order forfeiture of all conveyances and real property subject to forfeiture under this section, except as follows:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or had knowledge of a violation of section 2, 3 or 4;

(ii) no conveyance shall be forfeited by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, the commonwealth or any state; and

(iii) no conveyance or real property shall be subject to forfeiture unless the owner of the conveyance knew or should have known that such conveyance or real property was used in violation of section 2, 3 or 4.

(d) A district attorney or the attorney general may petition the superior court in the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of a conveyance, real property, monies or other things of value subject to forfeiture under subsection (a). Such petition shall be filed in the court having jurisdiction over the conveyance, real property, monies or other things of value or having final jurisdiction over any related criminal proceeding brought under section 2, 3 or 4. In all such suits in which the property is claimed by any person other than the commonwealth, the commonwealth shall have the burden of proving to the court the existence of probable cause to institute the action and any such claimant shall then have the burden of proving that the property is not subject to forfeiture under subsection (c). The owner of the conveyance or real property or other person claiming an exception under subsections (c) and (j) shall have the burden of proof. The court shall order the commonwealth to give notice by certified or registered mail to the owner of the conveyance, real property, monies or other things of value and to such other persons as appear to have an interest in the conveyance, real property, monies or other things of value, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of the owner of the conveyance, real property, monies or other things of value, the court may continue the hearing on the petition

pending the outcome of any criminal trial related to the violation of section 2, 3 or 4. At such hearing the court shall hear evidence and make conclusions of law, and shall issue a final order based upon those conclusions, from which the parties shall have a right of appeal. In all such suits where a final order results in a forfeiture, the final order shall provide for disposition of the conveyance, real property, monies or any other thing of value by the commonwealth or any subdivision of the commonwealth in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, or sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and the balance of the sale shall be distributed as further provided in this section.

(e) The final order of the court shall provide that the monies and the proceeds of any such sale shall be distributed as follows:

(i) one-half shall be divided equally between the prosecuting district attorney or attorney general and the city, town or state police department involved in the seizure. If more than 1 department was substantially involved in the seizure, the court having jurisdiction over the forfeiture proceeding shall distribute the police portion equitably among these departments; and

(ii) one-half shall be deposited into the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10.

(f) Such monies and proceeds received by a prosecuting district attorney or attorney general shall be deposited in the separate special law enforcement trust funds for each district attorney and for the attorney general within the office of the state treasurer, established under paragraph (d) of section 47 of chapter 94C. Each district attorney, the attorney general or the

state treasurer shall ensure that proper accounting procedures are in place to account for monies and proceeds received and expended under this section. All such monies and proceeds shall be expended without further appropriation to defray the costs of protracted investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants or for such other law enforcement purposes as the district attorney or attorney general deems appropriate. The district attorney or attorney general may also expend monies and proceeds for human trafficking prevention or to provide victims' services to human trafficking victims. Within 90 days of the close of the fiscal year, each district attorney and the attorney general shall file an annual report with the house and senate committees on ways and means on the use of the monies in such trust fund to prohibit human trafficking.

(g) All such monies and proceeds received by a police department shall be deposited in a special law enforcement trust fund and shall be expended without further appropriation to: defray the costs of protracted investigations; provide additional technical equipment or expertise; provide matching funds to obtain federal grants; or accomplish such other law enforcement purposes as the chief of police of such city or town, or the colonel of state police deems appropriate, but such funds shall not be considered a source of revenue to meet the operating needs of such department.

(h) An officer, department or agency having custody of any property subject to forfeiture under this section or having disposed of the property shall keep and maintain full and complete records showing from whom it received the property, under what authority it held or received or disposed of said property, to whom it delivered the property, the date and manner of disposition of the property and the exact kinds, quantities and forms of the property. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state

human trafficking laws. Persons making final disposition of the property under court order shall report, under oath, to the court the exact circumstances of such disposition.

(i) (1) During the pendency of the proceedings the court may issue, at the request of the commonwealth ex-parte, any preliminary order or process as is necessary to seize or secure the property for which forfeiture is sought and to provide for its custody including, but not limited to, an order that the commonwealth remove the property if possible and safeguard it in a secure location in a reasonable fashion; that monies be deposited in an interest-bearing escrow account; and that a substitute custodian be appointed to manage such property. Property taken or detained under this section shall not be repleviable, but once seized shall be deemed to be lawfully in the custody of the commonwealth pending forfeiture, subject only to the orders and decrees of the court having jurisdiction. Process for seizure of the property shall issue only upon a showing of probable cause and the application for seizure and the issuance, execution and return of such property shall be subject to chapter 276, as applicable.

(2) A district attorney or the attorney general may refer any real property and any furnishings, equipment and related personal property located in that property, for which seizure is sought, to the division of capital asset management and maintenance office of seized property management, established under section 47 of chapter 94C. The office of seized property management shall preserve and manage the property in a reasonable fashion and dispose of the property upon a judgment ordering forfeiture, and enter into contracts to preserve, manage and dispose of the property. The office of seized property management may receive initial funding from the special law enforcement trust funds of the attorney general and each district attorney under paragraph (f) and shall subsequently be funded by a portion of the

proceeds of each sale of such managed property to the extent provided as payment of reasonable expenses in paragraph (d).

(j) The owner of any real property which is the principal domicile of the immediate family of the owner and which is subject to forfeiture under this section may file a petition for homestead exemption with the court having jurisdiction over such forfeiture. The court may, in its discretion, allow the petition exempting from forfeiture an amount allowed under section 1 of chapter 188. The value of the balance of the principal domicile, if any, shall be forfeited as provided in this section. Such homestead exemption may be acquired on only 1 principal domicile for the benefit of the immediate family of the owner.

(k) A forfeiture proceeding affecting the title to real property or the use and occupation of such real property or the buildings on such real property shall not have any effect except against the parties to the proceeding and persons having actual notice of the proceeding, until a memorandum containing the names of the parties to such proceeding, the name of the town in which the affected real property lies, and a description of the real property sufficiently accurate for identification is recorded in the registry of deeds for the county or district in which the real property lies. At any time after a judgment on the merits, or after the discontinuance, dismissal or other final disposition is recorded by the court having jurisdiction over such matter, the clerk of such court shall issue a certificate of the fact of such judgment, discontinuance, dismissal or other final disposition and such certificate shall be recorded in the registry in which the original memorandum recorded under this section was filed.

Section 16. If any person is arrested, charged, or convicted of a crime involving sexual conduct for a fee or other thing of value and it is later discovered that, at the time of the offense

the person was induced to engage in the crime through the use of force, fraud, or coercion by another, or if the person was a minor, he or she may file a petition with the court dismissing the complaint pursuant to this section. Such person shall not be required to pay any fees for the filing of the petition under this subsection.

Section 17. (a) For purposes of this section, human trafficking shall mean a severe form of trafficking under Section 7102(8) of Title 22 of the United States Code on October 28, 2000. The attorney general, district attorney or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this chapter has begun and that the human trafficking victim is willing to cooperate or is cooperating with the investigation in order to enable that individual, if eligible under federal law, to qualify for an appropriate visa and to access available federal benefits. Cooperation with law enforcement shall not be required of human trafficking victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.

(b) When a credible report has been made to the police of a crime described in this chapter, and upon request of the victim of that crime, the attorney general, district attorney, department of social services or any law enforcement official shall certify in writing to the United States Department of Justice, the United States Department of Homeland Security, including any subset of the Department of Homeland Security, such as the United States Customs and Immigration Service or the United States Immigration and Customs Enforcement, that the individual making the request is a victim of such crime and that the individual has been, is being, or is likely to be helpful in the investigation or prosecution of that crime in order to

enable that individual, if eligible under federal law, to qualify for an appropriate visa and to access available federal benefits. For the purposes of this section, an individual shall be deemed to have been helpful in the investigation or prosecution of the crime if the individual has filed a credible report of the crime with the police or other law enforcement officials or provided a statement concerning the underlying circumstances of the crime to the police or other law enforcement officials even where that victim has requested that no domestic prosecution occur because of a reasonable fear that harm will come to individuals who reside abroad where local law enforcement cannot provide protection. The certification provided under this subsection, as well as a photocopy of the victim's report of the crime, shall be made available to the victim and the victim's designated representative.

Section 18. Subject to appropriation, the department of social services, in consultation with the department of youth services, shall provide child human trafficking victims with age-appropriate resources and services including, but not limited to, information about their rights, privacy protections, shelter and psychological counseling. Such services shall include a coordinated multidisciplinary plan by government and non-governmental agencies to minimize the number of child interviews, enhance the provision of services and best meet the needs of the child.

Section 19. (a)(1) Subject to funding made available under paragraph (2), the office of the attorney general shall prepare and make available educational or informational materials on human trafficking laws and services that are available to protect or treat victims of human trafficking to state and local employers and their employees who, through the dispatch of their duties, may encounter individuals who either identify themselves as or are suspected of being human trafficking victims.

503 (2) Funds supporting non-personnel-related costs of preparing and distributing said
504 educational or informational materials shall be made available by the victim and witness
505 assistance board, as established in section 4 of chapter 258B, from funds held in the Victims of
506 Human Trafficking Trust Fund established in section 66A of chapter 10.

507 (b) The office of the attorney general, in consultation with the Massachusetts Office of
508 Victims Assistance shall maintain statistics and other relevant information regarding incidents of
509 human trafficking in the commonwealth, including, but not limited to, information from the state
510 police, district attorneys and local law enforcement. An annual report of said incidents shall be
511 delivered to the joint committee on children and families, the joint committee on the judiciary
512 and the joint committee on public safety and homeland security.

513 SECTION 9. The second sentence of the first paragraph of section 63 of chapter 277 of
514 the General Laws, as amended by section 67 to 69, inclusive, of chapter 267 of the acts of 2010,
515 is hereby further amended by inserting, after the figure “265”, the following words:- ,or section
516 2, 3, 4, 5, 6 or 7 of chapter 265A.

517 SECTION 10. The second paragraph of said section 63 of said chapter is hereby amended
518 by inserting, after the figure “265”, the following words:- ,or section 2, 3, 4, 5, 6 or 7 of chapter
519 265A.