

**HOUSE . . . . . No. 3470**

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill relative to the commercial exploitation of people (House, No. 3469) ought to pass with an amendment substituting a bill with the same title (House, No. 3470).

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act relative to the commercial exploitation of people.

*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 265 of the General Laws, as most recently amended by section 119  
2 of chapter 256 of the acts of 2010, is hereby further amended by inserting after section 48 the  
3 following 5 sections:-

4 Section 49. As used in sections 50 to 51, inclusive, the following words shall, unless the  
5 context clearly requires otherwise, have the following meanings:

6 “Commercial sexual activity”, any sexual act on account of which anything of value is  
7 given, promised to or received by any person.

8 “Financial harm”, a detrimental position in relation to wealth, property or other monetary  
9 benefits that occurs as a result of another person’s illegal act including, but not limited to,  
10 extortion as defined by section 25 of chapter 265, a violation of section 49 of chapter 271 or  
11 illegal employment contracts.

12 "Forced services", services performed or provided by a person that are obtained or  
13 maintained by another person: (i) causing or threatening to cause serious harm to any person; (ii)  
14 physically restraining or threatening to physically restrain another person; (iii) abusing or  
15 threatening to abuse the law or legal process; (iv) knowingly destroying, concealing, removing,  
16 confiscating or possessing any actual or purported passport or other immigration document, or  
17 any other actual or purported government identification document, of another person; (v) use of  
18 extortion as defined by section 25 of chapter 265; or (vi) causing or threatening to cause financial  
19 harm to any person.

20 "Services", acts performed by a person under the supervision of or for the benefit of  
21 another, including, but not limited to, commercial sexual activity and sexually-explicit  
22 performances.

23 "Sexually-explicit performance", an unlawful live or public act or show intended to  
24 arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

25 Section 50. (a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits,  
26 entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice,  
27 harbor, transport, provide or obtain by any means, another person to engage in commercial  
28 sexual activity, sexually-explicit performance or the production of unlawful pornography in  
29 violation of chapter 272, or causes or attempts to cause a person to engage in commercial sexual  
30 activity, sexually-explicit performance or the production of unlawful pornography in violation of  
31 chapter 272; or (ii) benefits, financially or by receiving anything of value, from participation in a  
32 venture which has engaged in an act described herein, is guilty of the crime of trafficking of  
33 persons for sexual servitude and shall be punished by imprisonment in the state prison for not

34 more than 15 years or by a fine of not more than \$25,000, or both; provided, however, that a  
35 prosecution commenced under the provisions of this section shall not be continued without a  
36 finding or placed on file.

37 (b) Whoever commits the crime of trafficking of persons for sexual servitude upon a  
38 person under 18 years of age shall be punished by imprisonment in the state prison for life or for  
39 any term of years; provided, however, that a prosecution commenced under the provisions of this  
40 section shall not be continued without a finding or placed on file.

41 Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to  
42 forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or  
43 attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person,  
44 intending or knowing that the person will be subjected to forced services; or (ii) benefits,  
45 financially or by receiving anything of value, from participation in a venture which has engaged  
46 in an act described herein, is guilty of trafficking of persons for forced services and shall be  
47 punished by imprisonment in the state prison for not more than 15 years or by a fine of not more  
48 than \$25,000, or both; provided, however, that a prosecution commenced under the provisions of  
49 this section shall not be continued without a finding or placed on file. A business entity that  
50 commits trafficking of persons for forced labor services shall be punished by a fine of not more  
51 than \$500,000.

52 (b) Whoever commits the crime of trafficking of persons for forced labor services upon a  
53 person under 18 years of age shall be punished by imprisonment in the state prison for life or for  
54 any term of years; provided, however, that a prosecution commenced under the provisions of this  
55 section shall not be continued without a finding or placed on file.

56 Section 52. (a) Whoever, after having been convicted of a violation of section 50 or 51,  
57 commits a second or subsequent offense under said sections shall be punished by imprisonment  
58 in the state prison for life or for any term of years. Prosecutions commenced under this section  
59 shall not be continued without a finding nor placed on file.

60 (b) In any prosecution commenced pursuant to this section, introduction into evidence of  
61 a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested  
62 copies of original court papers, or certified attested copies of the defendant's biographical and  
63 informational data from records of the department of probation, any jail or house of correction or  
64 the department of correction, shall be prima facie evidence that the defendant before the court  
65 has been convicted previously by a court of the commonwealth or any other jurisdiction. Such  
66 documentation shall be self-authenticating and admissible, after the commonwealth has  
67 established the defendant's guilt on the primary offense, as evidence in any court of the  
68 commonwealth to prove the defendant's prior conviction described therein. The commonwealth  
69 shall not be required to introduce any additional corroborating evidence or live witness testimony  
70 to establish the validity of such prior conviction.

71 Section 53. All money seized as a result of a violation of section 50 or 51 shall be subject  
72 to forfeiture to the commonwealth and shall be made available by the court to any victim who is  
73 ordered restitution by the court pursuant to section 3 of chapter 258B.

74 SECTION 2. Chapter 272 of the General Laws, as appearing in the 2008 Official  
75 Edition, is hereby amended by striking out section 8 and inserting in place thereof the following  
76 new section:-

77 Section 8. Whoever solicits or receives compensation for soliciting for a prostitute shall  
78 be punished by imprisonment in a house of correction for not more than 2 ½ years, or by a fine  
79 of not more than \$5,000 or by both such imprisonment and fine.

80 SECTION 3. Said chapter 272 of the General Laws, as so appearing, is hereby amended  
81 by striking out section 53A and inserting in place thereof the following new section:-

82 Section 53A. (a)Whoever engages, agrees to engage or offers to engage in sexual  
83 conduct with another person in return for a fee, shall be punished by imprisonment in the house  
84 of correction for not more than 1 year or by a fine of not more than \$500, or by both such  
85 imprisonment and fine, whether such sexual conduct occurs or not.

86 (b) Whoever pays, agrees to pay or offers to pay another person to engage in sexual  
87 conduct, or to agree to engage in sexual conduct with another person, shall be punished by  
88 imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more  
89 than \$5,000, or by both such imprisonment and fine, whether such sexual conduct occurs or not.

90 (c) Whoever pays, agrees to pay or offers to pay any person with the intent to engage in  
91 sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay or agrees that a  
92 third person be paid in return for aiding a person who intends to engage in sexual conduct with a  
93 child under the age of 18, shall be punished by imprisonment in the state prison for not more  
94 than 10 years, or in the house of correction for not more than 2 ½ years, whether such sexual  
95 conduct occurs or not; provided, however, that a prosecution commenced under the provisions of  
96 this section shall not be continued without a finding or placed on file.

97 SECTION 4. (a) There shall be an interagency task force to address all aspects of human  
98 trafficking, including sex trafficking and labor trafficking. The task force shall consist of 19

99 members: 1 of whom shall be the attorney general or the attorney general's designee who shall  
100 serve as chair ; 1 of whom shall be the president of the Massachusetts district attorneys  
101 association or the president's designee; 1 of whom shall be the executive director of the  
102 Massachusetts office for victim assistance or the director's designee; 1 of whom shall be the  
103 director of the department of labor standards or the director's designee; 1 of whom shall be the  
104 commissioner of the department of children and families or the commissioner's designee; 1 of  
105 whom shall be the director of the office for refugees and immigrants or the director's designee; 1  
106 of whom shall be the secretary of the executive office of public safety and security or the  
107 secretary's designee; 1 of whom shall be the president of the Massachusetts chiefs of police  
108 association or the president's designee; 1 of whom shall be the commissioner of the office of  
109 probation or the commissioner's designee; 1 of whom shall be the colonel of the Massachusetts  
110 state police or the colonel's designee; 1 of whom shall be the chief of the Massachusetts Bay  
111 transportation authority transit police or the chief's designee; 1 of whom shall be the director of  
112 the division of professional licensure or the director's designee; 1 of whom shall be the  
113 commissioner of the Boston police department or the commissioner's designee; 2 of whom shall  
114 be the chairs of the joint committee on the judiciary or such chairs designees; 1 of whom shall be  
115 an academic researcher dedicated to the subject of human trafficking; and 3 of whom shall be  
116 appointed by the attorney general from non-governmental organizations that specialize in human  
117 trafficking, including, but not limited to, those who work in the following areas: child and  
118 runaway services, sexually exploited adults and labor, who shall serve a term of 18 months. In  
119 addition to the designated members of the task force, the attorney general shall invite  
120 representatives of the U.S. Attorneys' offices and of federal law enforcement agencies operating

121 within the state, including the Federal Bureau of Investigation, U.S. Immigration and Customs  
122 Enforcement, and the U.S. Department of Labor, to participate on the task force.

123 (b) The task force shall: (i) coordinate the collection and sharing of human trafficking  
124 data among government agencies; provided, however that such data collection shall respect the  
125 privacy of victims of human trafficking; coordinate strategies and make recommendations for  
126 law enforcement to share information for the purposes of detecting individuals and groups  
127 engaged in human trafficking; (ii) review and recommend policies and procedures to enable state  
128 government to work with non-governmental organizations and other elements of civil society to  
129 prevent human trafficking and to protect and provide assistance to victims of trafficking; (iii)  
130 identify and review the existing services and facilities that meet the needs of victims of human  
131 trafficking that include, but are not limited to, health and mental health services, housing,  
132 education and job training, legal services, and victim compensation; (iv) recommend a system  
133 that would coordinate such services and assess the need for additional services; (v) evaluate  
134 various approaches used by state and local governments to increase public awareness of human  
135 trafficking; (vi) develop strategies to address the demand side of human trafficking; (vii) review  
136 the General Laws to determine if they need to be further amended in order to address human  
137 trafficking; and (viii) submit a report of its findings and recommendations to the clerks of the  
138 senate and the house of representatives who shall forward the same to the chairs of the joint  
139 committee on the judiciary 18 months from the effective date of this act. The task force shall  
140 determine if subsequent reports are necessary in order to properly address human trafficking.