

SENATE . . . . . No. 820

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 relating to anti-human trafficking and protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	
Louis L. Kafka	8th Norfolk
Antonio F. D. Cabral	13th Bristol
Paul W. Mark	2nd Berkshire
Peter V. Kocot	1st Hampshire
Kay Khan	11th Middlesex
Ellen Story	3rd Hampshire
Denise Provost	27th Middlesex
Tom Sannicandro	7th Middlesex
Edward F. Coppinger	10th Suffolk
Christopher G. Fallon	33rd Middlesex
Geraldine M. Creedon	11th Plymouth
Jennifer E. Benson	37th Middlesex
John W. Scibak	2nd Hampshire
Cheryl A. Coakley-Rivera	10th Hampden
Michael O. Moore	
Jason M. Lewis	31st Middlesex
Carl M. Sciortino, Jr.	34th Middlesex

<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Bruce E. Tarr</i>	
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>James B. Eldridge</i>	
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Robert L. Hedlund</i>	
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Richard T. Moore</i>	
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>James E. Timilty</i>	
<i>Steven A. Baddour</i>	
<i>Gale D. Candaras</i>	
<i>Harriette L. Chandler</i>	
<i>Sonia Chang-Diaz</i>	
<i>Susan C. Fargo</i>	
<i>Jennifer L. Flanagan</i>	
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Karen E. Spilka</i>	

**SENATE . . . . . No. 820**

By Mr. Montigny, petition (accompanied by bill, Senate, No. 820) of Mark C. Montigny, Louis L. Kafka, Antonio F. D. Cabral and other members of the General Court for legislation relative to anti-human trafficking and protection [Joint Committee on the Judiciary].

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

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  
2 after section 66 the following section:-

3 Section 66A. There shall be established and set up on the books of the  
4 commonwealth a separate fund to be known as the Victims of Human Trafficking Trust Fund.

5 The fund shall consist of assets forfeited and the proceeds of assets seized and forfeited pursuant  
6 to chapter 265A and fines and assessments collected pursuant to said chapter 265A, together

7 with any interest or earnings accrued on such monies through investment or deposit. The state  
8 treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies

9 transmitted to him under this section in accordance with sections 34, 34A and 38 of chapter 29 in  
10 such a manner as to secure the highest rate of return available consistent with the safety of the

11 fund, and shall credit interest and earnings on the trust fund corpus to the trust fund. The state  
12 treasurer shall transfer funds from the income and receipts of the fund to the victim and witness

13 assistance board, as established in section 4 of chapter 258B, from time to time, at the request of

14 the office. The board shall award and administer grants from the fund, without further  
15 appropriation, to public, private non-profit or community-based programs in the commonwealth  
16 to provide services to human trafficking victims, as defined in section 1 of said chapter 265A  
17 including, but not limited to, legal and case management services, health care, mental health,  
18 social services, housing or shelter services, education, job training or preparation, interpreting  
19 services, English-as-a-second-language classes, victims' compensation, and public and private  
20 non-profit collaborations to protect and assist human trafficking victims. The board shall  
21 develop, in conjunction with the Anti-Human Trafficking Task Force established by section 20  
22 of chapter 265A, written criteria for the awarding of those grants, which shall be evaluated and,  
23 if necessary, revised on an annual basis.

24                   The board shall file a report detailing the amount of funds collected and  
25 expended from the fund along with a copy of the written criteria used to expend the funds to the  
26 house and senate committees on ways and means not later than August 15 of each calendar year.  
27 An amount not to exceed 5 per cent of the total funds deposited in the fund may be expended by  
28 the office for administrative costs directly attributable to the grants and programs funded by the  
29 fund 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  
34 hereby 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  
39 by striking 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  
44 hereby amended by inserting, after section 59H, the following section:-

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

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

51 Section 11A. Notwithstanding any general or special law to the contrary, in  
52 any civil 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  
64 section 20L the following 2 sections:-

65 Section 20M. (a) As used in this section the following words shall unless the  
66 context 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  
83 consults a human trafficking victims' caseworker for the purpose of securing advice, counseling  
84 or 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  
97 caseworker shall inform the human trafficking victim and any guardian thereof of such  
98 confidential communications and the limitations thereto.





120 "Asset", property of any kind including, but not limited to, real property, things affixed to  
121 and found in land and tangible and intangible personal property, including rights, privileges,  
122 interests, claims, accounts, and securities.

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

127 "Bodily injury", substantial impairment of the physical condition, including, but not  
128 limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or  
129 any injury which occurs as the result of repeated harm to any bodily function or organ, including  
130 human skin.

131 "Business entity", a corporation, its officers or directors, an association, partnership,  
132 limited liability company, limited liability partnership, or other legal entity.

133 "Child", any person under 18 years of age.

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

138 "Entice", to lure, induce, persuade, tempt, incite, solicit, coax or invite.

139 "Financial harm", includes extortion as defined by section 25 of chapter 265, violation of  
140 the criminal usury laws as defined by section 49 of chapter 271, or any use or threat to use  
141 anything of value or the deprivation or threat of deprivation of anything of value.

142 "Forced labor or services", means (1) work of economic or financial value or (2)  
143 activities performed directly or indirectly, under the supervision of or for the benefit of another  
144 including, but not limited to, sexual conduct for a fee or other thing of values, sexually-explicit  
145 performances and involvement in the production of pornography. Such work or services shall  
146 have been obtained or maintained in whole or in part, through:

147 (i) intimidation, fraud, duress or coercion;

148 (ii) psychological manipulation;

149 (iii) causing or threatening to cause injury to any person;

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

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

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

157 (vii) the use of blackmail;

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

160 "Human trafficking", means a violation of section 2, 3 or 4.

161 "Human trafficking victim", any person subjected to a violation of section 2, 3  
162 or 4.

163 "Intimidation", direct or indirect willful use of force or bodily injury or threats  
164 of force or bodily injury to influence or confine another.

165 "Maintain", means, in relation to labor or services, to secure continued  
166 performance thereof, regardless of any initial agreement on the part of the victim to perform such  
167 type of service.

168 "Serious bodily injury" includes bodily injury which results in a permanent  
169 disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial  
170 risk of death.

171 "Sexually-explicit performance" is an act involving sexual conduct intended to  
172 arouse or satisfy the sexual desires of another and which is: ( i ) a live and public or private act;  
173 or (ii) a photographed, recorded or videotaped act or show.

174 Section 2. Whoever intentionally subjects another person to forced labor or  
175 services shall be guilty of the crime of involuntary servitude and shall be punished by a fine of  
176 not less than \$2,000 and by imprisonment in the state prison for not less than 5 years nor more  
177 than 25 years.

178                   Section 3. Whoever (a) intentionally entices, harbors, transports or delivers  
179 another, with the intent that the person be subjected to forced labor or services; or (b)  
180 intentionally benefits financially or receives anything of value, directly or indirectly, from a  
181 violation of this section shall be guilty of trafficking of persons for forced labor or services and  
182 shall be punished by a fine of not more than \$2,000 and by imprisonment in the state prison for  
183 not less than 10 years nor more than 20 years.

184                   Section 4. Whoever (a) intentionally entices, harbors, transports or delivers  
185 another, with the intent that the person engage in a sexually-explicit performance, the production  
186 of pornography or sexual conduct for a fee or other thing of value, whether or not the person is  
187 the recipient of the fee or other thing of value; or (b) intentionally benefits financially or receives  
188 anything of value, directly or indirectly, from a violation of this section shall be guilty of  
189 procuring another for sexual servitude and shall be punished by a fine of not more than \$2,000  
190 and by imprisonment in the state prison for not less than 20 years nor more than 30 years.

191                   Section 5. Whoever publishes, disseminates or otherwise discloses the  
192 location of any human trafficking victim with the intent that such victim suffers bodily injury  
193 thereby shall be punished in the state prison for not less than 3 years nor more than 5 years.  
194 Whoever violates this section and thereby causes bodily injury to such victim shall be punished  
195 by imprisonment in the state prison for not less than 5 years nor more than 10 years, or thereby  
196 causes serious bodily injury to such victim shall be punished by imprisonment in the state prison  
197 for not less than 10 years nor more than 20 years, or thereby causes the death of such victim shall  
198 be punished by imprisonment in the state prison for life or for any term of years, but not less than  
199 20 years.

200                   Section 6. Whoever maliciously publishes, disseminates or otherwise  
201 discloses the name of any human trafficking victim who's identity has been the subject of a  
202 confidentially order under section 20N of chapter 233, knowing that such victim's name was the  
203 subject of such order shall be punished in the house of correction for not less than 2 ? years and  
204 by a \$1,000 fine.

205                   Section 7. (a) Whoever commits a violation of section 2 to 6, inclusive, and  
206 the victim thereof is a child shall be punished by imprisonment in the state prison for not less  
207 than 10 years nor more than 15 years. In accordance with section 8A of chapter 279, such  
208 sentence shall begin from and after the expiration of the sentence for violation of section 2, 3, 4,  
209 5 or 6.

210                   (b) Whoever commits a violation of section 2, section 3 or section 4 by means  
211 of kidnapping, in violation of section 26 of chapter 265, shall be punished by imprisonment in  
212 the state prison for not less than 10 years nor more than 15 years. In accordance with section 8A  
213 of chapter 279, such sentence shall begin from and after the expiration of the sentence for  
214 violation of section 2, 3 or 4.

215                   (c) Whoever commits a violation of section 2, section 3 or section 4 and: ( i )  
216 thereby causes bodily injury to the victim of such offense shall be punished by imprisonment in  
217 the state prison for not less than 5 nor more than 10 years; or (ii) thereby causes serious bodily  
218 injury to the victim of such offense shall be punished by imprisonment in the state prison for not  
219 less than 10 year nor more than 15 years. In accordance with section 8A of chapter 279, such  
220 sentences shall begin from and after the expiration of the sentence for violation of section 2, 3 or  
221 4.

222 (d) Whoever commits a violation of section 2, section 3 or section 4 and  
223 thereby causes the death of another shall be punished by imprisonment in state prison for life or  
224 for any term of years, but not less than 20 years. In accordance with section 8A of chapter 279,  
225 such sentence shall begin from and after the expiration of the sentence for violation of section 2,  
226 3 or 4.

227 (e) Whoever commits a violation of section 2, section 3 or section 4 and the  
228 victim thereof was subjected to the provisions of any such section: ( i ) for between 180 days and  
229 1 year, shall be punished by imprisonment in the state prison for not less than 3 years nor more  
230 than 5 years; or (ii) for more than 1 year, shall be punished by imprisonment in the state prison  
231 for not less than 5 years nor more than 25 years. In accordance with section 8A of chapter 279,  
232 such sentences shall begin from and after the expiration of the sentence for violation of section 2,  
233 3 or 4.

234 Section 8. Whoever violates section 53A of chapter 272 knowing or having  
235 reason to know that the person engaging in sexual conduct for a fee or other thing of value is a  
236 human trafficking victim shall be punished by imprisonment in state prison for not less than 3  
237 years nor more than 5 years and by a fine of \$2,000, or if the human trafficking victim is a child,  
238 shall be punished by imprisonment in state prison for not less than 5 years nor more than 10  
239 years and by a fine of \$2,000.

240 Section 9. Whoever (i) intentionally recruits, entices, harbors, transports,  
241 delivers or obtains by any means, another person, or attempts to do so, intending or knowing that  
242 the person will have an organ, tissue or other body parts removed for sale; or (ii) intentionally  
243 benefits financially or receives anything of value, directly or indirectly, or attempts to do so,

244 from a violation of this section shall be guilty of organ trafficking and punished by imprisonment  
245 in the state prison for not more than 20 years and a fine of not less than \$10,000 nor more than  
246 \$50,000.

247                   Section 10. Restitution to human trafficking victims shall be ordered by the  
248 court in sentences rendered for violations of this chapter. In addition to any other amount of loss  
249 identified, the court shall order restitution including the following:

250                               (1) lost income, which includes the greater of: ( i ) the gross income  
251 or value to the defendant of the victim's labor or services; or (ii) the value of the victim's labor or  
252 services as guaranteed under the commonwealth's minimum wage and overtime provisions, and  
253 interest;

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

256                               (3) physical and occupational therapy or rehabilitation;

257                               (4) necessary transportation, temporary housing, and child care  
258 expenses;

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

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

264 (7) attorneys' fees and other costs and expenses incurred, including  
265 those costs and expenses incurred that are related to participation in the investigation or  
266 prosecution of the offense or attendance at proceedings related to the offense;

267 (8) compensation for emotional distress, pain, and suffering;

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

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

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

276 (b) There shall be an assessment of \$250 against any person who violates any  
277 provision of section 2 to 6, inclusive. The assessment shall not be subject to waiver by the court  
278 for any reason. If a person is sentenced to a correctional facility and the assessment has not been  
279 paid, the court shall note the assessment on the mittimus. The monies collected pursuant to the  
280 assessment established by this paragraph shall be transmitted monthly by the courts to the state  
281 treasurer who shall then deposit, invest and transfer the monies into the Victims of Human  
282 Trafficking Trust Fund established in said section 66A of said chapter 10. The monies shall then  
283 be administered, pursuant to said section 66 of said chapter 10, by the Massachusetts Office of  
284 Victim Assistance for the purposes set forth in said section 66A. The assessment paid by an  
285 individual into the Victims of Human Trafficking Trust Fund pursuant to this section shall be in



286 addition to, and not in lieu of, any other fee imposed by the court pursuant to this chapter or any  
287 other chapter. The administrative office of the trial court shall file a report detailing the amount  
288 of funds imposed and collected pursuant to this section to the house and senate committees on  
289 ways and means and to the Massachusetts Office of Victim Assistance not later than August 15  
290 of each calendar year.

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

297           Section 13. (a) Any business entity that knowingly aids or participates in  
298 involuntary servitude, trafficking of person for forced labor or services or sexual servitude shall  
299 be civilly liable for an offense under this section and may be subject to loss of business license in  
300 the state.

301           (b) Upon a finding of responsibility of aiding or participating in involuntary  
302 servitude, trafficking of person for forced labor or services or sexual servitude, a business entity  
303 shall be assessed a fine of not less than \$10,000 and not more than \$100,000. The assessment  
304 shall not be subject to waiver by the court for any reason. The court may:

305                           (i) order its dissolution or reorganization;

306                           (ii) order the suspension or revocation of any license, permit, or prior  
307 approval granted to it by a state agency; or

308 (iii) order the surrender of its charter or the revocation of its  
309 certificate to conduct business in the Commonwealth.

310 Section 14. (a) A civil action for involuntary servitude, trafficking of persons  
311 for forced labor or services or sexual servitude shall be commenced within 7 years of the date on  
312 which the human trafficking victim was freed from the human trafficking situation, or if the  
313 victim was a child when the act of human trafficking against the victim occurred, within 7 years  
314 after the date the plaintiff attains the age of 18.

315 (b) If a person entitled to sue is under a disability at the time the cause of action  
316 accrues, such that it is impossible or impracticable for him or her to bring an action, the time  
317 during which the plaintiff is under a disability tolls the statute until the disability ceases.

318 (c) In the event that a child plaintiff is under a disability, the failure of the  
319 child's guardian ad litem to bring a plaintiff's action within the applicable limitation period will  
320 not prejudice the plaintiff's right to do so after his disability ceases.

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

325 (e) The suspension of the statute of limitations due to disability or estoppel  
326 applies to all other related claims arising out of the trafficking situation. A criminal action  
327 includes investigation and prosecution and remains pending until final adjudication in the trial  
328 court. Any legal guardian, family member, representative of the human trafficking victim, or

329 court appointee may represent the human trafficking victim's rights, in the event the human  
330 trafficking victim is deceased or otherwise unable to represent his own interests in court.

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

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

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

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

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

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

347 (b) Property subject to forfeiture pursuant to clauses ( i ) to ( iv ), inclusive,  
348 shall, upon motion of the attorney general or district attorney, be declared forfeit by any court

349 having jurisdiction over said property or having final jurisdiction over any related criminal  
350 proceeding brought under this section.

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

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

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

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

365 (d) A district attorney or the attorney general may petition the superior court in  
366 the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of a  
367 conveyance, real property, monies or other things of value subject to forfeiture under subsection  
368 (a). Such petition shall be filed in the court having jurisdiction over the conveyance, real  
369 property, monies or other things of value or having final jurisdiction over any related criminal  
370 proceeding brought under section 2, 3 or 4. In all such suits in which the property is claimed by

371 any person, other than the commonwealth, the commonwealth shall have the burden of proving  
372 to the court the existence of probable cause to institute the action, and any such claimant shall  
373 then have the burden of proving that the property is not forfeitable pursuant to subsection (c).  
374 The owner of the conveyance or real property, or other person claiming thereunder shall have the  
375 burden of proof as to all exceptions set forth in subsections (c) and (j). The court shall order the  
376 commonwealth to give notice by certified or registered mail to the owner of the conveyance, real  
377 property, monies or other things of value and to such other persons as appear to have an interest  
378 therein, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the  
379 petition. Upon the motion of the owner of the conveyance, real property, monies or other things  
380 of value, the court may continue the hearing on the petition pending the outcome of any criminal  
381 trial related to the violation of section 2, 3 or 4. At such hearing the court shall hear evidence  
382 and make conclusions of law, and shall thereupon issue a final order, from which the parties shall  
383 have a right of appeal. In all such suits where a final order results in a forfeiture, the final order  
384 shall provide for disposition of the conveyance, real property, monies or any other thing of value  
385 by the commonwealth or any subdivision thereof in any manner not prohibited by law, including  
386 official use by an authorized law enforcement or other public agency, or sale at public auction or  
387 by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable  
388 expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and  
389 notice and the balance thereof shall be distributed as further provided in this section.

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

392 ( i ) half shall be divided equally between the prosecuting district  
393 attorney or attorney general and the city, town or state police department involved in the seizure.

394 If more than 1 department was substantially involved in the seizure, the court having jurisdiction  
395 over the forfeiture proceeding shall distribute the police portion equitably among these  
396 departments; and

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

399 (f) All such monies and proceeds received by any prosecuting district attorney  
400 or attorney general shall be deposited in the separate special law enforcement trust funds for each  
401 district attorney and for the attorney general within the office of the state treasurer, established  
402 under paragraph (d) of section 47 of chapter 94C. Each district attorney, the attorney general or  
403 the state treasurer shall ensure that proper accounting procedures are in place to account for  
404 monies and proceeds received and expended pursuant to this section. All such monies and  
405 proceeds shall be expended without further appropriation to defray the costs of protracted  
406 investigations, to provide additional technical equipment or expertise, to provide matching funds  
407 to obtain federal grants, or for such other law enforcement purposes as the district attorney or  
408 attorney general deems appropriate. The district attorney or attorney general may also expend  
409 monies and proceeds for human trafficking prevention or to provide victims' services to human  
410 trafficking victims. Within 90 days of the close of the fiscal year, each district attorney and the  
411 attorney general shall file an annual report with the house and senate committees on ways and  
412 means on the use of the monies in such trust fund to prohibit human trafficking.

413 (g) All such monies and proceeds received by any police department shall be  
414 deposited in a special law enforcement trust fund and shall be expended without further  
415 appropriation to defray the costs of protracted investigations, to provide additional technical

416 equipment or expertise, to provide matching funds to obtain federal grants, or to accomplish such  
417 other law enforcement purposes as the chief of police of such city or town, or the colonel of state  
418 police deems appropriate, but such funds shall not be considered a source of revenue to meet the  
419 operating needs of such department.

420 (h) Any officer, department, or agency having custody of any property subject  
421 to forfeiture under this section or having disposed of the property shall keep and maintain full  
422 and complete records showing from whom it received the property, under what authority it held  
423 or received or disposed of said property, to whom it delivered the property, the date and manner  
424 of disposition of the property, and the exact kinds, quantities and forms of the property. The  
425 records shall be open to inspection by all federal and state officers charged with enforcement of  
426 federal and state human trafficking laws. Persons making final disposition of the property under  
427 court order shall report, under oath, to the court the exact circumstances of such disposition.

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

438 execution and return thereof shall be subject to the provisions of chapter 276, so far as  
439 applicable.

440 (ii) A district attorney or the attorney general may refer any real  
441 property, and any furnishings, equipment and related personal property located therein, for which  
442 seizure is sought, to the division of capital asset management and maintenance office of seized  
443 property management, established under section 47 of chapter 94C. The office of seized  
444 property management shall preserve and manage the property in a reasonable fashion and  
445 dispose of the property upon a judgment ordering forfeiture, and to enter into contracts to  
446 preserve, manage and dispose of the property. The office of seized property management may  
447 receive initial funding from the special law enforcement trust funds of the attorney general and  
448 each district attorney under paragraph (f) and shall subsequently be funded by a portion of the  
449 proceeds of each sale of such managed property to the extent provided as payment of reasonable  
450 expenses in paragraph (d).

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

458 (k) A forfeiture proceeding affecting the title to real property or the use and  
459 occupation thereof or the buildings thereon shall not have any effect except against the parties



460 thereto and persons having actual notice thereof, until a memorandum containing the names of  
461 the parties to such proceeding, the name of the town wherein the affected real property lies, and a  
462 description of the real property sufficiently accurate for identification is recorded in the registry  
463 of deeds for the county or district wherein the real property lies. At any time after a judgment on  
464 the merits, or after the discontinuance, dismissal or other final disposition is recorded by the  
465 court having jurisdiction over such matter, the clerk of such court shall issue a certificate of the  
466 fact of such judgment, discontinuance, dismissal or other final disposition, and such certificate  
467 shall be recorded in the registry in which the original memorandum recorded pursuant to this  
468 section was filed.

469           Section 16. In any prosecution of a person who is a human trafficking victim,  
470 it shall be an affirmative defense that he was under duress or coerced into committing the  
471 offenses for which he is being prosecuted, unless prohibited by the general laws. A human  
472 trafficking victim is not criminally liable for any sexual conduct for a fee or other thing of value  
473 committed as a direct result of, or incident or related to, being trafficked.

474           Section 17. Compensation is mandatory under this section. In addition to any  
475 other amount of loss identified, the division of victim compensation and assistance in the  
476 department of the attorney general shall compensate human trafficking victims including the  
477 greater of the following: (1) the gross income or value to the defendant of the victim's labor or  
478 services or (2) the value of the victim's labor or services as guaranteed under the  
479 commonwealth's minimum wage and overtime provisions; whichever is greater, and interest.  
480 Any alleged human trafficking victim will also be eligible for any state funded benefits  
481 including, but not limited to, cash assistance and medical insurance.

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

493                   (b) When a credible report has been made to the police of a crime described in  
494 this chapter, and upon request of the victim of that crime, the attorney general, district attorney,  
495 department of social services, or any law enforcement official shall certify in writing to the  
496 United States Department of Justice, the United States Department of Homeland Security,  
497 including any subset thereof, such as the United States Customs and Immigration Service or the  
498 United States Immigration and Customs Enforcement, that the individual making the request is a  
499 victim of such crime and that the individual has been helpful, is being helpful, or is likely to be  
500 helpful in the investigation or prosecution, of that crime in order to enable that individual, if  
501 eligible under federal law, to qualify for a U-Visa or another appropriate visa and to access  
502 available federal benefits. For the purposes of this section, an individual will be deemed to have  
503 been helpful in the investigation or prosecution of the crime if he has filed a credible report of  
504 the crime with the police or other law enforcement officials or provided a statement concerning

505 the underlying circumstances of the crime to the police or other law enforcement officials even  
506 where that victim has requested that no domestic prosecution occur because of a reasonable fear  
507 that harm will come to individuals who reside abroad where local law enforcement cannot  
508 provide protection. The certification provided under this subsection, as well as a photocopy of  
509 the victim's report of the crime, shall be made available to the victim and the victim's designated  
510 representative.

511 (c) Human trafficking victims may be eligible for continued presence status in  
512 the United States subject to the provisions of 28 Code of Federal Regulations 1100.35.

513 (d) (i) Within 20 business days of the first encounter of a human  
514 trafficking victim, law enforcement agencies shall provide brief letters that satisfy the following  
515 Law Enforcement Agency Endorsement, hereinafter "LEA", regulations as found in Section  
516 214.11(f)(1) of Chapter 8 of the Code of Federal Regulations.

517 (ii) The LEA must be submitted on Supplement B, Declaration of  
518 Law Enforcement Officer for Victim of Trafficking in Persons, of Form I-914. The LEA  
519 endorsement must be filled out completely in accordance with the instructions contained on the  
520 form and must attach the results of any name or database inquiry performed. In order to provide  
521 persuasive evidence, the LEA endorsement must contain a description of the victimization upon  
522 which the application is based, including the dates the human trafficking and victimization  
523 occurred, and be signed by a supervising official responsible for the investigation or prosecution  
524 of human trafficking. The LEA endorsement must address whether the victim had been  
525 recruited, harbored, transported, provided, or obtained specifically for either labor or services or  
526 for the purposes of a sexual conduct for a fee or other thing of value.

527 (iii) Where state or local law enforcement agencies find the grant of  
528 an LEA endorsement to be inappropriate for a human trafficking victim, the agency shall within  
529 15 business days provide the human trafficking victim with a letter explaining the grounds for  
530 the denial of the LEA . The human trafficking victim may submit additional evidence to the law  
531 enforcement agency, which shall reconsider the denial of the LEA within 5 business days of the  
532 receipt of additional evidence.

533 (iv) Law enforcement agencies that demonstrate a consistent pattern  
534 of failing to meet the time limits established in paragraphs (d)( i ) and (d)(iii) shall be prohibited  
535 from retaining or receiving assets or the proceeds from assets forfeited under section 14 of this  
536 chapter. The attorney general and the secretary of health and human services shall jointly  
537 determine whether a law enforcement agency has demonstrated a consistent pattern of failing to  
538 meet the above mentioned time limits and shall consider reports from human trafficking case  
539 workers and other victim service providers as evidence. The attorney general and the secretary  
540 of health and human services shall jointly determine whether a law enforcement agency has  
541 made sufficient progress in meeting the above mentioned time limits in order to allow such law  
542 enforcement agency to retain or receive assets or the proceeds from assets forfeited under section  
543 14 of this chapter. The attorney general and the secretary of health and human services shall  
544 consider reports from human trafficking case workers and other victim service providers as  
545 evidence in making their determination.

546 Section 19. Subject to appropriation, the executive office of health and human  
547 services shall hereby established a pilot program creating a human trafficking safe house  
548 specifically to meet the unique needs of adult human trafficking victims, and the department of  
549 social services in consultation with the department of youth services shall hereby establish a pilot

550 program creating a human trafficking safe house specifically to meet the unique needs of child  
551 human trafficking victims. The safe houses shall each provide specialized support services to  
552 adult or child human trafficking victims that will take into account the age, gender, linguistic  
553 capabilities, and special needs of the victims and the victim's dependent children, if any. The  
554 safe houses shall also provide 24 hour security on the premises, multilingual trauma trained case  
555 management staff, access to healthcare and mental health services, and access to employment  
556 and educational services.

557           Section 20. Subject to appropriation, the department of social services in  
558 consultation with the department of youth services shall provide child human trafficking victims  
559 with age-appropriate resources and services including, but not limited to, information about their  
560 rights, privacy protections, shelter, and psychological counseling. Such services shall include a  
561 coordinated multidisciplinary plan by government and non-governmental agencies to minimize  
562 the number of child interviews, enhance the provision of services, and best meet the needs of the  
563 child.

564           Section 21. (a) There is hereby established an Anti-Human Trafficking Task Force, co-  
565 chaired by the attorney general and the secretary of health and human services or their designees.  
566 The task force shall:

567                           (1) collect and organize data on the nature and extent of human  
568 trafficking in the commonwealth including the harms and consequences to human trafficking  
569 victims;

570                           (2) identify available federal, state, and local programs and licensing  
571 bodies that could provide services, benefits or licenses to human trafficking victims including,

572 but not limited to, health care, mental health, human services, housing or shelter services,  
573 education, legal assistance, job training or preparation, interpreting services, English-as-a-  
574 second-language classes, voluntary repatriation, and victim's compensation, and examine how to  
575 move human trafficking victims quickly through the system in order to provide them with timely  
576 services;

577 (3) evaluate approaches to increase public awareness of human  
578 trafficking, and offer recommendations for programs and educational and training opportunities  
579 for law enforcement and social service providers, including, but not limited to, methods used to  
580 identify human trafficking victims including preliminary interviewing and questioning  
581 techniques, methods of protecting the special needs of women and child human trafficking  
582 victims, developments in state and federal laws regarding human trafficking, and methods to  
583 increase effective collaboration between state and local agencies, law enforcement, social service  
584 providers and non-governmental organizations;

585 (4) examine collaborative models between government and  
586 nongovernmental organizations for protecting human trafficking victims;

587 (5) measure and evaluate the progress of the state in preventing  
588 human trafficking, protecting and providing assistance to human trafficking victims, and  
589 prosecuting persons engaged in human trafficking;

590 (6) analyze existing state laws and regulations, including the  
591 effectiveness of existing victim-witness assistance laws, regulations and services and  
592 confidentiality laws, for their adequacy in addressing human trafficking and, if the analysis

593 determines that those statutes are inadequate, recommend revisions to those statutes or the  
594 enactment of new statutes that specifically address human trafficking;

595 (7) consult with governmental and nongovernmental organizations in  
596 developing recommendations to strengthen state and local efforts to prevent human trafficking,  
597 to protect and assist human trafficking victims, and to prosecute human traffickers; and

598 (8) issue an annual report outlining the task force's findings from  
599 paragraph (1) to (7), inclusive.

600 (b) The office of the attorney general and the executive office of health and  
601 human services shall provide staff and support for the task force, including, but not limited to,  
602 publication and dissemination of the annual report required by this section and posting the report  
603 on their websites, to the extent resources are available.

604 (c) The task force shall be comprised of the following members or their  
605 designees:

606 (1) the secretary of the executive office of economic development;

607 (2) the colonel of the state police;

608 (3) a representative of the Massachusetts police chiefs association;

609 (4) a representative of the Massachusetts district attorney's  
610 association;

611 (5) the commissioner of the Boston police department;

612 (6) a representative of the Massachusetts police training committee,  
613 formerly the Massachusetts criminal justice training counsel;

614 (7) a representative from the Interjurisdictional Anti-Human  
615 Trafficking Task Force;

616 (8) a representative of the Massachusetts Office of Victim  
617 Assistance;

618 (9) a representative from the Massachusetts office of the child  
619 advocate;

620 (10) a representative of the Trafficking Victims Outreach and  
621 Services network;

622 (11) a representative of the Massachusetts Immigrant and Refugee  
623 Advocacy Coalition;

624 (12) a representative of Jane Doe, Inc.;

625 (13) a representative of the Massachusetts Children's Alliance;

626 (14) a representative of a coalition dedicated to prevention of and  
627 intervention in the trafficking of children;

628 (15) a senator appointed by the senate president;

629 (16) a senator appointed by the senate minority leader;

630 (17) a representative appointed by the speaker of the house;



631 (18) a representative appointed by the house minority leader;

632 (19) 2 survivors of human trafficking, one domestic and one  
633 international, appointed by the governor;

634 (20) 2 human trafficking attorneys, one who works with adults and  
635 one who works with children, appointed by the governor;

636 (21) 2 human trafficking caseworkers, one who works with adults  
637 and one who works with children, appointed by the governor;

638 (22) a medical professional appointed by the governor;

639 (23) 2 mental health professionals, one who works with adults and  
640 one who works with children, appointed by the governor;

641 (24) a university researcher with a background in human trafficking  
642 appointed by the governor;

643 (25) a person with a background in child and runaway services  
644 appointed by the governor; and

645 (26) a representative from the Massachusetts Commission on the  
646 Status of Women appointed by the governor.

647 Section 21. (a) Subject to appropriation, the office of the attorney general shall  
648 provide educational or informational materials to state and local employers and their employees  
649 who, through the dispatch of their duties, may encounter individuals who either identify  
650 themselves as or are suspected of being human trafficking victims, to provide such victims with

651 information and resources concerning human trafficking laws that are available to protect human  
652 trafficking victims and services available to such victims.

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

660 SECTION 10. Section 63 of chapter 277 of the General Laws, as so  
661 appearing, is hereby amended by inserting after the word "sixty-five", in lines 4 and 5 and in line  
662 21, each time it appears, the following words:-, or section 2, section 3, section 4, section 5,  
663 section 6 or section 7 of chapter 265A.