

SENATE No. 827

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 relative to the commercial exploitation of people.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark C. Montigny</i>	
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Karen E. Spilka</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Jennifer L. Flanagan</i>	
<i>Michael O. Moore</i>	
<i>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Bruce E. Tarr</i>	
<i>William N. Brownsberger</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Steven A. Baddour</i>	
<i>Richard T. Moore</i>	
<i>James E. Timilty</i>	
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>

<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Martha Coakley</i>	<i>One Ashburton Place Boston, MA 02108 - 1518</i>
<i>Samuel Sutter</i>	<i>Massachusetts District Attorneys Association One Bulfinch Place, Suite 202 Boston, MA 02114</i>
<i>Ayanna Pressley</i>	<i>1 City Hall Square, Suite 550 Boston, MA 02201-2043</i>
<i>Daniel F. Conley</i>	<i>1 Bulfinch Pl # 300 Boston, MA 02114</i>
<i>Jonathan W. Blodgett</i>	<i>Ten Federal Street Salem, MA 01970</i>
<i>Gerard T. Leone</i>	<i>15 Commonwealth Ave. Woburn, MA 01801</i>
<i>David F. Capeless</i>	<i>7 North Street PO Box 1969 Pittsfield, MA 01202</i>
<i>Timothy J. Cruz</i>	<i>32 Belmont Street PO Box 1665 Brockton, MA 02301</i>
<i>David E. Sullivan</i>	<i>One Gleason Plaza Northampton, MA 01060</i>
<i>Mark G. Mastroianni</i>	<i>Hall of Justice 50 State Street Springfield, MA 01103</i>
<i>Joseph Early</i>	<i>225 Main Street, Room G-301 Worcester</i>
<i>Michael W. Morrissey</i>	<i>45 Shawmut Rd Canton, MA 02021</i>

SENATE No. 827

By Mr. Montigny, petition (accompanied by bill, Senate, No. 827) of Mark C. Montigny, Russell Holmes, Alice Hanlon Peisch and other members of the General Court for legislation relative to the commercial exploitation of people [Joint Committee on the Judiciary].

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 appearing in the 2008
2 Official Edition, and so amended by Chapter 256 of the Acts of 2010, is hereby further amended
3 by adding at the end thereof the following 5 new sections:-

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

6 “Blackmail”, is to be given its ordinary meaning and includes but is not limited
7 to a threat to convey or publish any fact or purported fact tending to subject any person to
8 embarrassment, contempt, defamation, hatred, ridicule or worry.

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

“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 employment contracts that violate the Statute of Frauds as defined by chapter 259.

"Forced labor or services", labor or services that are performed or provided by another person and are obtained or maintained through an actor's: (a) causing or threatening to cause serious harm to any person; (b) physically restraining or threatening to physically restrain another person; (c) abusing or threatening to abuse the law or legal process; (d) 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; (e) blackmail; or (f) causing or threatening to cause financial harm to any person.

“Labor”, work of economic or financial value.

"Services", an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of “services” under sections 50 and 51 inclusive. Nothing in this provision should be construed to legitimize or legalize prostitution.

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

Section 50. (a) Whoever knowingly subjects or attempts to subject, or whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person to engage in commercial sexual activity, sexually-explicit performance, or the production of

unlawful pornography in violation of chapter 272, or causes or attempts to cause a person to engage in commercial sexual activity, sexually-explicit performance, or the production of unlawful pornography in violation of chapter 272, is guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not more than 20 years; provided, however, that a prosecution commenced under the provisions of this section shall not be continued without a finding or placed on file.

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

Section 51. Whoever knowingly: (a) subjects or attempts to subjects another person to forced labor services, or whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (b) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of sections 50 through 51, inclusive, is guilty of trafficking of persons for forced labor or services and shall be punished by imprisonment in the state prison for not more than 15 years; provided, however, that a prosecution commenced under the provisions of this section shall not be continued without a finding or placed on file. A corporation committing trafficking of persons for forced labor services shall be punished by a fine of not more than \$250,000.

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

Section 52. Whoever, after having been convicted of a crime under sections 50 or 51 of this chapter, commits a second or subsequent crime under sections 50 or 51 of this chapter, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior conviction described therein. The commonwealth shall not be required to introduce any additional

corroborating evidence or live witness testimony to establish the validity of such prior conviction.

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

SECTION 2. Chapter 12 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding at the end thereof the following new section:-

Section 11M. There shall be an inter-agency task force to address all aspects of human trafficking, including sex trafficking and labor trafficking. The task force and shall consist of ____ members: 1 of whom shall be the attorney general or her designee who shall chair the task force; 1 of whom shall be the President of the Massachusetts District Attorneys Association or his designee; 1 of whom shall be the executive director of the Massachusetts Office for Victim Assistance or his designee; 1 of whom shall be the Director of the Department of Labor or his designee; 1 of whom shall be the Commissioner of the Department of Children and Families or his designee; 1 of whom shall be the Director of the Office for Refugees and Immigrants or his designee; 1 of whom shall be the Secretary of the Executive Office of Public Safety and Security or his designee; 1 of whom shall be the President of the Massachusetts Chiefs of Police Association or his designee; 1 of whom shall be the Commissioner of the Office of the Commissioner of Probation or his designee; 1 of whom shall be the Colonel of the Massachusetts State Police or his designee; 2 of whom shall be the Chairmen of the Joint Committee on the Judiciary; 1 of whom shall be an academic researcher dedicated to the subject

of human trafficking; 2 representatives appointed by the attorney general from non-governmental organizations that specialize in human trafficking, including those devoted to child services and runaway services, who shall serve a term of eighteen months. The attorney general shall invite representatives of the U.S. Attorneys' offices and of federal law enforcement agencies operating within the state, including the Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement, and the U.S. Department of Labor, to be members of the task force.

The task force shall: coordinate the collection and sharing of human trafficking data among government agencies, which data collection shall respect the privacy of victims of human trafficking; coordinate strategies and make recommendations for law enforcement to share information for the purposes of detecting individuals and groups engaged in human trafficking; review and recommend policies and procedures to enable state government to work with non-governmental organizations and other elements of civil society to prevent human trafficking and to protect and provide assistance to victims of trafficking; identify and review the existing services and facilities that meet the needs of victims of human trafficking that include, but are not limited to, health and mental health services, housing, education and job training, legal services, and victim compensation; recommend a system that would coordinate such services and assess the need for additional services; evaluate various approaches used by state and local governments to increase public awareness of human trafficking; develop strategies to address the demand side of human trafficking; review the General Laws to determine if they need to be amended in order to address human trafficking; and submit a report of its findings and recommendations to the clerks of the Senate and the House of Representatives who shall forward the same to the Chairs of the Joint Committee on the Judiciary 18 months from the effective date

of this Act. The task force shall determine if subsequent reports are necessary in order to properly address human trafficking.

SECTION 3. The General Laws, as appearing in the 2008 Official Edition, are hereby amended by striking out section 8 of chapter 272 and inserting, in place thereof, the following new section:-

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

SECTION 4. The General Laws, as appearing in the 2008 Official Edition, are hereby amended by striking out section 53A of chapter 272 and inserting, in place thereof, the following new section:-

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

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

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