SENATE . . . . . No. 2461

Senate, July 23, 2016 -- Text of the Senate Bill to strengthen the anti-human trafficking law (Senate, No. 2461) (being the text of Senate, No. 2444, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to strengthen the anti-human trafficking law.

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 13 of the General Laws is hereby amended by adding the following 2 sections:-

Section 109. (a) There shall be a board of registration in bodywork therapy consisting of 7 members who are residents of the commonwealth appointed by the governor, 3 of whom shall be licensed bodywork therapists engaged in the practice of bodywork therapy in the commonwealth for not fewer than 5 years immediately preceding appointment or, in the case of initial appointments, who are able to provide proof of: (i) not fewer than 500 hours of bodywork therapy for compensation; (ii) authorization to practice bodywork therapy issued by a municipal board of health within the commonwealth within the preceding 2 years; or (iii) a passing grade on an examination administered by a national organization or board accredited by the National Commission of Certifying Agencies; 1 of whom shall be a health agent, board member or other health professional employed by or elected to a municipal board of health within the commonwealth; 1 of whom shall be an individual engaged in the operation of an accredited

14 bodywork therapy education program; and 2 of whom shall be consumers of bodywork therapy.
15 Board members shall be subject to chapter 268A.

16 (b) Board members shall be appointed for a term of 3 years; provided, however, that of
17 the members first appointed to the board, 3 shall serve for a term of 3 years, 2 shall serve for a
18 term of 2 years and 2 shall serve for a term of 1 year. Upon expiration of their terms members of
19 the board shall continue to hold office until the appointment of a successor. A member may be
20 removed by the governor for cause. Upon the death, resignation or removal for cause of any
21 member of the board, the governor shall fill the vacancy for the remainder of that member's
22 term.

23 (c) The board shall at its first meeting and annually thereafter elect from among its
24 members, by majority vote, a chairman and vice-chairman. The board shall meet at least once
25 every 3 months and may hold additional meetings as necessary for the discharge of its duties.
26 Members shall receive no compensation but shall be entitled to reasonable travel expenses. The
27 members of the board shall be public employees for the purposes of chapter 258 for all acts or
28 omissions within the scope of their duties as board members.

29 Section 110. The board shall have the following powers and duties: (i) to administer and
30 enforce sections 265 to 272, inclusive, of chapter 112; (ii) to adopt rules and regulations
31 governing the licensure of bodywork therapists, the practice of bodywork therapy and the
32 operation of bodywork therapy establishments and schools to promote the public health, welfare
33 and safety of the citizens of the commonwealth; (iii) to establish standards of professional and
34 ethical conduct; (iv) to establish standards for continuing education reflecting acceptable national
35 standards; (v) to investigate complaints, conduct inspections, review billing and treatment

36 records and set and administer penalties as defined in sections 61 to 65F, inclusive, and sections
37 265 to 272, inclusive, of chapter 112 for fraudulent, deceptive or professionally incompetent and
38 unsafe practices and for violations of rules and regulations promulgated by the board; and (vi) to
39 make available to the public a list of licensed bodywork therapists.

40 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the
41 following 9 sections:-

42 Section 265. As used in this section and sections 266 to 272, inclusive, the following
43 words shall have the following meanings:-

44 "Board", the board of registration of bodywork therapy established in section 109 of
45 chapter 13.

46 "Licensed bodywork establishment", an office, clinic, spa, salon or other establishment
47 licensed by the board to offer bodywork services.

48 "Bodywork" or "bodywork therapy", the use of touch, words or directed movement to
49 deepen awareness of patterns of movement in the body, or the affectation of the human energy
50 system or acupoints or Qi meridians of the human body including, but not be limited to: the
51 Feldenkrais method; reflexology; the Trager approach; Ayurvedic therapies; Rolf structural
52 integration; polarity or polarity therapy; polarity therapy bodywork; Asian bodywork therapy;
53 acupressure; Jin Shin Do; Qi Gong; Tui Na; Shiatsu; body-mind centering;Reiki and
54 Bowenwork; provided, however, that bodywork or bodywork therapy shall not include massage
55 as that term is defined in section 227; and provided, further, that bodywork therapy shall not
56 include diagnosis of illness or disease, the prescription of drugs or medicines, spinal or other
57 joint manipulations, electrical stimulation, application of ultrasound or any services or

58 procedures for which a license to practice medicine, chiropractic, acupuncture, massage therapy,
59 occupational therapy, physical therapy or podiatry is required by law.

60 “Bodywork therapist” or “bodywork practitioner”, a person licensed by the board that
61 instructs or administers bodywork or bodywork therapy for compensation.

62 Section 266. (a) No person shall advertise or be otherwise characterized as a bodywork
63 therapist or practice bodywork or bodywork therapy unless that person holds a valid license
64 issued in accordance with this chapter; provided, however, that a student of bodywork therapy
65 enrolled in a nationally accredited bodywork therapy program may engage in a required clinical
66 component of the student’s course of study under the guidance of a licensed bodywork therapist
67 and for no compensation.

68 (b) The following individuals shall be exempt from the licensure requirements of this
69 section: (i) a person duly licensed, registered or certified in another state, territory, the District
70 of Columbia or a foreign country who is temporarily in the commonwealth to teach a course
71 related to bodywork therapy or to consult with a person licensed as a bodywork therapist under
72 this chapter; (ii) a person providing bodywork therapy to a member of that person's immediate
73 family for which the person receives no compensation; (iii) a person who holds a professional
74 license, certificate or registrationunder the General Laws who performs services within the scope
75 of practice authorized by the license, certificate or registration but does not hold themselves out
76 to be a bodywork therapist; and (iv) a person, duly licensed, registered or certified in another
77 state, territory, the District of Columbia, or a foreign country, who is incidentally in the
78 commonwealth to provide service as part of an emergency response team working in conjunction
79 with disaster relief officials..

80 Section 267. (a) An applicant for licensure as a bodywork therapist shall submit an
81 application on a form furnished by the board. The information included in the application shall
82 be attested to and signed by the applicant. Each application shall be accompanied by payment of
83 the fee prescribed by the executive office of administration and finance under section 3B of
84 chapter 7. Upon submission of a completed application to the board and the payment of the
85 required fees, the board may issue a license to practice as a bodywork therapist to an applicant
86 who: (i) is 18 years of age or older; (ii) is of good moral character as determined by the board;
87 (iii) has obtained a high school diploma or its equivalent; (iv) has submitted 2 professional letters
88 of reference including at least 1 letter from an employer or licensed professional in the field of
89 bodywork therapy or a similar field as defined by the board; (v) has successfully completed a
90 course of study consisting of at least 500 classroom hours or an equivalent number of credit
91 hours of supervised instruction in a nationally accredited bodywork therapy program; (vi) has not
92 been convicted in any jurisdiction of a sexually-related crime or a crime involving moral
93 turpitude during the 10 years immediately preceding the date of application; (vii) provides proof
94 of professional liability coverage; and (viii) demonstrates professional competence as determined
95 by the board.

96 (b) The director of the division of professional licensure shall determine the renewal
97 cycle and renewal period for bodywork therapy licenses. Each person licensed in accordance
98 with these sections may apply to the board for renewal of a license on or before the expiration
99 date, as determined by the director, unless the license was revoked, suspended or canceled earlier
100 by the board as a result of a disciplinary proceeding instituted pursuant to this chapter.
101 Applications for renewal shall be made on forms furnished by the board and accompanied by

102 payment of a renewal fee, as prescribed by the executive office of administration and finance
103 under section 3B of chapter 7, which fee shall not be less than $100.

104 (c) As a condition of renewal of a license each licensed bodywork therapist shall furnish
105 the board with satisfactory proof that the licensee: (i) has not been convicted in any jurisdiction
106 of a sexually-related crime or a crime involving moral turpitude during the term of licensure; (ii)
107 carries adequate professional liability coverage as determined by the board; and (iii) has
108 completed the required number of relevant continuing education hours on the practice of
109 bodywork therapy and business practices as determined by the board. The board shall issue a
110 renewal license upon satisfactory proof of compliance with the licensing requirements. The
111 board may provide for the late renewal of a license which has lapsed and may require payment of
112 a late fee. All licensing and application fees collected pursuant to sections 265 to 272, inclusive,
113 shall be deposited into the trust fund established in section 35V of chapter 10.

114 (d) Every person receiving a license from the board shall conspicuously display the
115 license in the licensee's place of business.

116 Section 268. The board may provide reciprocal licenses for registered, certified or
117 licensed bodywork therapists from other jurisdictions if the standards of registration, certification
118 or licensure in their jurisdictions are reasonably equivalent to those set forth in section 267. The
119 board shall promulgate regulations to implement this section. The fee for a reciprocal license
120 shall be prescribed by the executive office of administration and finance under section 3B of
121 chapter 7 and shall not be less than $100. An applicant shall not be granted reciprocity if the
122 applicant's license to practice has been revoked or suspended in another jurisdiction. The board,
123 subject to a vote of the majority of its members, may revoke a license if the license, certificate

124 orregistration issued by another state or territory of the United States, the District of Columbia
125 or a foreign state or nation has been revoked, cancelled, suspended, or otherwise acted against, or
126 if the holder has been disciplined in that jurisdiction where the basis for the action would
127 constitute a basis for disciplinary action in the commonwealth.

128 Section 269. The board may grant a license to an individual who: (i) submits a
129 completed application and pays the necessary fee prescribed by the executive office of
130 administration and finance under section 3B of chapter 7; (ii) is of good moral character as
131 determined by the board; (iii) provides proof of professional liability coverage; and (iv) submits
132 documentation in a form determined by the board that the individual: (A) previously provided at
133 least 500 hours of bodywork therapy for compensation to individuals other than immediate
134 family members; (B) has been authorized by a municipal board of health in the commonwealth
135 to practice bodywork therapy within 2 years of the date of application; or (C) received a passing
136 grade on a board-approved examination administered by a national organization or national
137 board accredited by the National Commission of Certifying Agencies or the Institute for
138 Credentialing Excellence.

139 Section 270. (a) The board shall conduct inspections and investigate all complaints filed
140 relating to the proper practice of bodywork therapy and any violation of sections 265 to 272,
141 inclusive, or any rule or regulation of the board. Complaints may be brought by any person or
142 municipality, or the board may initiate a complaint.

143 (b) The board shall be under the supervision of the division of professional licensure and
144 shall have the authority conferred under sections 61 to 65F, inclusive. For the purposes of this
145 section and sections 61 to 65F, inclusive, conduct which places into question the holder's

146 competence to practice bodywork therapy shall include, but not be limited to: (i) committing
147 fraud or misrepresentation in obtaining a license; (ii) criminal conduct resulting in a conviction,
148 guilty plea or plea of nolo contendere or an admission of sufficient facts; (iii) violating a rule or
149 regulation of the board; (iv) failing to cooperate with the board or its agents in the conduct of an
150 inspection or investigation; (v) failing to fulfill any continuing education requirements set out by
151 the board; or (vi) violating an ethical standard which in the board's determination renders the
152 person unfit to practice as a bodywork therapist including, but not limited to, inappropriate
153 conduct or touching in the practice of bodywork therapy, offering medical opinion or diagnosis
154 or negligence in the course of professional practice.

155 (c) The board may issue an order to a licensee directing the licensee to cease and desist
156 from unethical or unprofessional conduct if the board finds, after the opportunity for a hearing,
157 that the licensee has engaged in such conduct.

158 (d) A bodywork therapist whose license to practice is suspended for more than 1 year as
159 the result of professional misconduct related to insurance fraud during the course of the
160 licensee's practice shall not own, operate, practice in or be employed by another bodywork
161 therapist, massage therapist, physical therapist or chiropractor in any capacity during the course
162 of the suspension and until the license is reinstated by the board. A second occurrence of
163 professional misconduct related to insurance fraud during the course of a licensee's practice shall
164 result in the permanent revocation of the license. The licensee shall be barred from owning,
165 operating, practicing or being employed in a business that provides bodywork therapy, massage
166 therapy, physical therapy or chiropractic care.

167 (e) Nothing in this section shall limit the board's authority to impose sanctions by consent
168 agreement that are considered reasonable and appropriate by the board. Any person aggrieved by
169 a disciplinary action taken by the board under this chapter may file a petition for judicial review
170 under section 64.

171 Section 271. Every person licensed by the board to practice bodywork therapy shall
172 conspicuously display the license in the licensee's place of business.

173 Section 272. (a) Only persons duly licensed under this chapter shall be designated as
174 bodywork therapists and entitled to use the term "bodywork" or "bodywork therapy" when
175 advertising or printing promotional material. Any person who uses the term "bodywork" in a
176 professional title without being authorized to do so may be the subject of disciplinary action by
177 the board under section 65A.

178 (b) Any person who: (i) knowingly aids and abets another person in the use of the term
179 "bodywork" as part of a professional title when the person using the term is not authorized to do
180 so; or (ii) knowingly employs unlicensed individuals in the operation of a bodywork therapy
181 business may be the subject of a disciplinary proceeding before the board.

182 (c) It shall be a violation of this chapter for a person to advertise: (i) as a bodywork
183 therapist or a bodywork therapy business unless each person employed as part of the business,
184 and acting as a bodywork therapist, holds a valid license under this chapter; (ii) licensed
185 bodywork therapy services with escort or dating services; (iii) as specializing in particular
186 bodywork therapy services without an appropriate showing of competency as determined by the
187 board; or (iv) services not recognized as bodywork therapy by the board or explicitly prohibited
188 under section 265. The term "advertise" as used in this section shall include, but not be limited

189 to: (A) providing a card, sign or device to another; (B) causing, permitting, or allowing a sign or
190 marking on or in a building, vehicle or structure; (C) causing the placement of an advertisement
191 in a newspaper, magazine or on television; or (D) listing or causing the placement of an
192 advertisement in a directory under a classification or heading that includes the word "bodywork".

193 Section 273. A city or town may adopt ordinances or by-laws relative to health and
194 safety of the practice of bodywork therapy not inconsistent with sections 265 to 272, inclusive;
195 provided, however, that local ordinances pertaining to bodywork therapy in effect prior to the
196 effective date of sections 265 to 272, inclusive, of the General Laws and that are consistent with
197 and that may exceed the requirements of those sections may remain in effect.

198 SECTION 3. Section 269 of said chapter 112 is hereby repealed.

199 SECTION 4. Section 12 of chapter 120 of the General Laws, as appearing in the 2014
200 Official Edition, is hereby amended by inserting after the figure "265", in line 19, the following
201 words:- ; or trafficking of persons for sexual servitude in violation of subsection (a) of section 50
202 of said chapter 265; or trafficking of persons for sexual servitude upon a person under 18 years
203 of age in violation of subsection (b) of said section 50 of said chapter 265.

204 SECTION 5. Section 90A of chapter 127 of the General Laws, as so appearing, is hereby
205 amended by striking out, in line 13, the words "or section twenty-six" and inserting in place
206 thereof the following words:- , section 26 or section 50.

207 SECTION 6. Chapter 140 of the General Laws is hereby amended by adding the
208 following section:-

209 Section 207. State police or members of the police department of a town may, upon
210 appropriate legal process, enter and inspect any premises in a town where bodywork or
211 bodywork therapy services are provided under chapter 112.

212 SECTION 7. Section 4D of chapter 260 of the General Laws, as appearing in 2014
213 Official Edition, is hereby amended by striking out, in lines 11 and 14, the figure "3" and
214 inserting in place thereof the following figure:- 10.

215 SECTION 7A. Section 50 of chapter 265 is hereby amended by adding the following
216 subsection:-

217 (e) Upon the release of a person convicted of trafficking of persons for sexual servitude
218 in violation of subsection (a) of section 50 of said chapter 265; or trafficking of persons for
219 sexual servitude upon a person under 18 years of age in violation of subsection (b) of said
220 section 50 of said chapter 265, the department of corrections or the county sheriff shall notify the
221 chief of police of the city or town of which the person will reside and the chief of police of the
222 city or town where the offense occurred.

223 SECTION 8. Section 57 of chapter 265 of the General Laws, as so appearing, is hereby
224 amended by striking out, in line 5, the words "section 53A" and inserting in place thereof the
225 following words:- sections 8, 26 or 53A.

226 SECTION 9. Said chapter 265 is hereby further amended by adding the following
227 section:-

228 Section 59. (a) At any time after the entry of a judgment of disposition on an indictment
229 or criminal or delinquency complaint for an offense, excluding a felony offense, the court in

230 which it was entered shall, upon motion of the defendant, vacate any conviction, adjudication of
231 delinquency, or continuance without a finding and permit the defendant to withdraw any plea of
232 guilty, plea of nolo contendere, plea of delinquent, or factual admission tendered in association
233 with one or more pleas upon a finding by the court, established by a preponderance of the
234 evidence, that the defendant's participation in the offense was a result of having been a victim of
235 human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons
236 under 22 U.S.C. 7102.

237 (b) For the purposes of this subsection, "official documentation" shall mean a document
238 issued by a local, state or federal government agency in the agency's official capacity.

239 Except as provided in this section, the defendant shall have the burden of establishing by
240 a preponderance of the evidence that the defendant's participation in the offense was the result of
241 having been a victim of human trafficking. If the conviction, adjudication of delinquency, or
242 continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or
243 common nightwalking or common streetwalking under section 53 of chapter 272, official
244 documentation of the defendant's status as a victim of human trafficking or trafficking in persons
245 at the time of the offense shall create a rebuttable presumption that the defendant's participation
246 in the offense was a result of having been a victim of human trafficking or trafficking in persons;
247 provided, however, that such documentation shall not be required for granting a motion under
248 this section.

249 (c) In determining whether the defendant's participation in the offense was a result of
250 having been a victim of human trafficking, the court may consider any evidence it deems
251 appropriate in determining whether the person was a victim of human trafficking.

252 (d) The rules concerning the admissibility of evidence at criminal trials shall not apply to
253 the presentation and consideration of evidence at a hearing conducted pursuant to this section.
254 The court may, in its discretion, consider any evidence it deems relevant, including, but not
255 limited to, hearsay evidence.

256 (e) Where a child under the age of 18 was adjudicated delinquent for an offense under
257 sections 8, 26, 53 or 53A of chapter 272, based on allegations of prostitution, there shall be an
258 irrebuttable presumption that the child's participation in the offense was a result of having been a
259 victim of human trafficking or trafficking in persons.

260 (f) A motion pursuant to this section may be heard by the justice that originally heard the
261 matter or any sitting justice of the court that originally heard the matter.

262 (g) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a
263 finding, the court shall enter a plea of not guilty, except if the vacated conviction, adjudication of
264 delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of
265 chapter 272 or for common nightwalking or common streetwalking under section 53 of chapter
266 272, in which case the court shall dismiss the indictment or criminal or delinquency complaint
267 with prejudice. Upon vacatur of a conviction, adjudication of delinquency, or continuance
268 without a finding and the entrance of a plea of not guilty pursuant to this section, it shall be an
269 affirmative defense to the charges against the defendant that the defendant's participation in the
270 offense was a result of having been a victim of human trafficking or trafficking in persons.

271 (h) The chief justice of the trial court shall prescribe the form in which a motion may be
272 filed under this section.

273 (i) A conviction, adjudication of delinquency, or continuance without a finding vacated
274 under this section shall be deemed to have been vacated on the merits.

275 SECTION 10. Chapter 276 is hereby amended by inserting after section 87A the
276 following section:-

277 Section 87B. (a) First offender commercial sexual exploitation prevention programs may
278 be established and certified subject to appropriation. A court and the district attorney may after
279 arraignment and prior to the disposition of a defendant and with the approval of the district
280 attorney divert the defendant charged with a first offense of subsection (b) or (c) of section 53A
281 of chapter 272 to a first offender commercial sexual exploitation prevention program. The court
282 shall continue the matter while the defendant fulfills the requirements of the program and shall
283 retain jurisdiction pending the defendant's successful completion of the program.

284 (b) The court shall determine if the defendant is eligible to participate in the first offender
285 commercial sexual exploitation prevention program established pursuant to this section. The
286 defendant shall not be eligible if the court determines that: (i) the defendant was convicted or
287 admitted to sufficient facts of a previous violation of subsection (b) or (c) of section 53A of
288 chapter 272 or a similar offense under the laws of another state; (ii) the defendant was previously
289 admitted to a first offender commercial sexual exploitation prevention program under this
290 section; (iii) the defendant has previously been charged with a violation of said subsection (b) or
291 (c) of section 53A of said chapter 272 or a similar offense under the laws of another state and is
292 awaiting adjudication of such offense; (iv) the defendant has been charged with, convicted of or
293 admitted to sufficient facts of a violation of section 50 or 51 of chapter 265; or (v) the defendant
294 is a registered sex offender under chapter 6 or under the laws of another jurisdiction.

295 (c) A first offender commercial sexual exploitation prevention program shall, at a
296 minimum: (i) provide each participant with information, counseling and services relating to: (A)
297 the negative impact of commercial sex and sex trafficking on victims; (B) the negative impact of
298 commercial sex and sex trafficking on communities; (C) the health risks involved in commercial
299 sexual exploitation, including the risk of sexually transmitted diseases and issues relating to
300 mental health, substance abuse and sexual addiction; (D) the legal consequence to the defendant;
301 and (E) classroom instruction related to the prevention of commercial sexual exploitation and
302 organized crime and the sex industry; (ii) employ persons or solicit volunteers that may include,
303 but shall not be limited to, health care professionals, psychologists, licensed social workers or
304 counselors, survivors of commercial sexual exploitation, members of a neighborhood association
305 or community that is adversely affected by the commercial sex trade or trafficking of persons or
306 employees of a nongovernmental organization specializing in advocacy on laws related to sex
307 trafficking or human trafficking or in providing services to victims of those offenses; (iii)
308 establish and publish local procedures to promote maximum participation of eligible defendants
309 in programs established in the county or municipality in which defendants reside; (iv) allow a
310 participant to withdraw from the program at any time before a trial on the merits has been
311 initiated; and (v) certify to the court that the defendant has successfully completed the
312 requirements of the program, has failed to complete the program or has withdrawn from the
313 program.

314 (d) Upon successful completion of the program, the court may dismiss the charge against
315 the defendant. Upon dismissal, the court may order the record of the defendant sealed.

316 (e) The court shall assess a fee of not less than $900 for participation in the first offender
317 commercial sexual exploitation prevention program. The court shall not waive the fee but may,

318 under section 100C of chapter 276 and its prevailing procedure and authority, reduce the fee
319 based on a determination by the court that the defendant cannot pay the entire fee. The fee shall
320 be distributed as follows: (i) 1/3 shall be transferred to the nonprofit organization certified by the
321 commissioner of probation to conduct the program; (ii) 1/3 shall be transferred to the Victims of
322 Human Trafficking Trust Fund established in section 66A of chapter 10; and (iii) 1/3 shall be
323 transferred to the state or municipal law enforcement agency responsible for the arrest of the
324 defendant which shall be used for human trafficking investigations and prevention and to fund
325 mandatory training for law enforcement agencies, prosecutors, public defenders, juvenile
326 detention center employees providing direct services to victims of human trafficking and others
327 providing direct services in the juvenile justice system and criminal justice system.

328 (f) The commissioner of probation shall, in consultation with the chair of the anti-human
329 trafficking task force, review each organization that operates a first offender commercial sexual
330 exploitation prevention program and shall certify that the program is operating under the
331 requirements of subsection (c). The commissioner shall notify the administrative office of the
332 trial court and the district attorney of all programs receiving such certification. Only programs
333 certified by the commissioner shall be qualified to operate a program under this section. The
334 commissioner, at the commissioner's discretion, may decertify a program for good cause and the
335 commissioner shall notify the administrative office of the trial court of decertification.

336 SECTION 11. Said chapter 276 is hereby further amended by inserting after section
337 100D the following section:-

338 Section 100E. (a) In any case wherein a plea of not guilty has been entered by a court
339 pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed;

340 (ii) the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is
341 made by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the
342 defendant, seal said court appearance and disposition recorded, and the clerk and the probation
343 officers of the courts in which the proceedings occurred or were initiated shall likewise seal the
344 records of the proceedings in their files. Sealed records shall not operate to disqualify a person in
345 any examination, appointment, or application for public employment in the service of the
346 commonwealth or of any political subdivision.

347 (b) An application for employment used by an employer which seeks information
348 concerning prior arrests or convictions or adjudications of delinquency of the applicant shall
349 include in addition to the statement required under section 100A the following statement: "An
350 applicant for employment with a sealed record on file with the commissioner of probation may
351 answer 'no record' with respect to an inquiry herein relative to prior arrests or criminal court
352 appearances." The attorney general may enforce the provisions of this section by a suit in equity
353 commenced in the superior court. Notwithstanding this section or any other general or special
354 law to the contrary, the commissioner of probation or the clerk of courts in any district court,
355 superior court, juvenile court, or the Boston municipal court, in response to inquiries by
356 authorized persons other than by a law enforcement agency or a court, shall in the case of a
357 sealed record report that no record exists.

358 SECTION 12. (a) All state, county, municipal and campus police departments and other
359 law enforcement agencies that report crime statistics to the executive office of public safety and
360 security shall include statistics on the crimes of trafficking of persons for sexual servitude under
361 section 50 of chapter 265 and trafficking of persons for forced service under section 51 of said

362 chapter 265 to ensure compliance with reporting standards established by the Federal Bureau of
363 Investigation Uniform Crime Reporting Program.

364 (b) The executive office of public safety and security shall promulgate regulations
365 relative to the collection of human trafficking crime data. Said regulations shall include, but not
366 be limited to: (i) the responsibilities of the crime reporting unit, as defined by section 32 of
367 chapter 22C, for the collection, analysis, classification reporting and retention of human
368 trafficking crime data in a central repository; (ii) the procedures necessary to ensure effective
369 data-gathering, preservation and protection of confidential information including, but not limited
370 to, victims' private and identifying information, and the disclosure of information as required by
371 this section; (iii) the procedures for reporting data on a standardized form to the crime reporting
372 unit by law enforcement agencies; and (iv) the procedures for assessing the credibility and
373 accuracy of reports of human trafficking from law enforcement agencies.

374 (c) The crime reporting unit shall analyze and summarize reports of human trafficking
375 data received by the unit. The crime reporting unit shall produce a report summarizing the data
376 collected from law enforcement agencies which shall be submitted annually to the governor,
377 attorney general, the senate and house chairs of the joint committee on public safety, the senate
378 and house chairs of the joint committee on the judiciary, the senate and house chairs of the
379 committee on rules and the chairs of the senate and house committees on ways and means. The
380 report shall not include the names, locations or other identifying information of victims of human
381 trafficking. The annual report shall be a public record and shall be available on the executive
382 office of public safety and security's website.

383 (d) The crime reporting unit shall make data collected on human trafficking under this
384 section available to federal, state and municipal agencies including, but not limited to, law
385 enforcement agencies. Data collected on human trafficking under this section shall be made
386 available to the public. The disclosed information shall not include the names, addresses or other
387 identifying information of victims of human trafficking.

388 (e) The district attorney for each county shall report on human trafficking data to the
389 crime reporting unit. Data provided to the crime reporting unit shall include, but not be limited
390 to: (i) the number of prosecutions and convictions of human trafficking crimes, including
391 prosecutions and convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of
392 individuals prosecuted for and convicted of violations under sections 50 and 51 of chapter 265,
393 including nationality, age, gender, and place of origin; (iii) the characteristics of victims of
394 human trafficking, including nationality, age, gender, and place of origin; (iv) the number of
395 human trafficking prosecutions and convictions originating in each municipality under the
396 district attorney's jurisdiction.

397 (f) The attorney general shall report on human trafficking data to the crime reporting unit.
398 Data provided to the crime reporting unit shall include, but not be limited to: (i) the number of
399 prosecutions and convictions of human trafficking crimes, including prosecutions and
400 convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of individuals
401 prosecuted for and convicted of violations under sections 50 and 51 of chapter 265, including
402 nationality, age, gender, and place of origin; (iii) the characteristics of victims of human
403 trafficking, including nationality, age, gender, and place of origin; (iv) the number of human
404 trafficking prosecutions and convictions originating in each municipality under the attorney
405 general’s jurisdiction.

406 (g) The executive office of public safety and security shall prescribe a standardized form
407 for data collection under (e) and (f).

408 SECTION 13. The executive office of public safety and security, in conjunction with the
409 executive office of health and human services and the office of the attorney general, shall
410 establish and maintain an independent website to disseminate information regarding human
411 trafficking, human trafficking crime statistics and resources for victims of human trafficking.
412 Information available through the website shall not include the names, locations or other
413 identifying information of victims of human trafficking.

414 SECTION 14. (a) Law enforcement agencies, prosecutors, public defenders, juvenile
415 detention center employees providing direct services and others providing direct services in the
416 juvenile justice system and criminal justice system shall be trained in identifying and responding
417 to human trafficking. The executive office public safety and security shall provide the training
418 which shall include information on: (i) human trafficking offenses; (ii) methods used in
419 identifying victims of human trafficking who may be United States citizens or foreign national
420 citizens, including preliminary interview techniques and appropriate questioning methods; (iii)
421 prosecuting human traffickers; (iv) increasing effective collaboration between the courts,
422 nongovernmental organizations and other relevant social service organizations to assist in the
423 investigation and prosecution of human trafficking cases; (v) protecting the rights of victims of
424 human trafficking, including but not limited to specific consideration of human rights, female
425 and minor victims; (vi) interacting with victims of human trafficking as crime victims rather than
426 criminals; and (vi) promoting the safety of victims of human trafficking. The training shall
427 include information on the screening of individuals who may be victims of human trafficking
428 and data collection protocols under section 12.

429 (b) The administrative office of the trial court shall provide mandatory training for
430 judges, clerk-magistrates and court personnel.

431 (c) The executive office of public safety and security shall collaborate with
432 nongovernmental organizations and other relevant organizations in the preparation and
433 presentation of the training required pursuant to this section.

434 (d) The executive office of education shall implement mandatory educational training for
435 educators in kindergarten through grade 12. The training shall include information to assist
436 educators in identifying victims of human trafficking and providing appropriate support to
437 victims of human trafficking. The training shall be incorporated into professional development
438 modules. The executive office of education may collaborate with public or nongovernmental
439 organizations to provide training and may use previously developed courses. The executive
440 office of education shall also develop a parent guide and teacher training material on internet
441 safety and methods of preventing the exploitation of minors over the internet.

442 (e) The department of public health shall implement mandatory training for all health
443 care professionals who are mandated reporters to assist in identifying human trafficking victims
444 and the appropriate actions to be undertaken when such victims have been identified. The
445 department may collaborate with public or nongovernmental organizations to provide training
446 and may use previously developed courses.

447 SECTION 15. (a) The executive office of health and human services, in cooperation with
448 the executive office of public safety and security, other agencies and nongovernmental
449 organizations shall, subject to appropriation, prepare public awareness programs designed to
450 educate potential victims of human trafficking and their families on the risks of victimization.

451 The public awareness programs shall include, but not be limited to: (i) information about the
452 risks of becoming a victim of human trafficking that uses best practices to prevent stigmatization
453 of victims and includes information about common recruitment techniques, use of debt bondage
454 and other coercive tactics, risk of maltreatment, rape, exposure to HIV/AIDS and other sexually-
455 transmitted diseases and psychological harm related to victimization in human trafficking cases;
456 (ii) information about victims' rights under federal and state laws; (iii) methods for reporting
457 suspected recruitment activities; and (iv) information on the types of services available to victims
458 of human trafficking and how to access such services, including information on relevant hotlines,
459 such as the National Human Trafficking Resource Center hotline.

460 (b) The executive office of health and human services, in cooperation with other
461 appropriate government agencies and nongovernmental organizations, shall prepare and
462 disseminate general public awareness materials to educate the public on the extent of human
463 trafficking of both United States citizens and foreign nationals within the United States, to
464 discourage the demand that fosters the exploitation of persons and that leads to human
465 trafficking.

466 (c) General public awareness materials may include information on the impact of human
467 trafficking on individual victims, whether United States citizens or foreign nationals; aggregate
468 information on human trafficking worldwide and domestically; and warnings of the criminal
469 consequences of engaging in human trafficking. Such materials may include pamphlets,
470 brochures, posters, advertisements in mass media and any other appropriate media.

471 (d) Programs and materials described in this section shall preserve the privacy of victims
472 and their family members.

473 (e) All public awareness programs shall be evaluated periodically to ensure their
474 effectiveness.

475 SECTION 16. (a) The Massachusetts Department of Transportation shall display public
476 awareness signs that contain the National Human Trafficking Resource Center hotline, or its
477 successor, in every transportation station, rest area and welcome center that is open to the public.

478 (b) Public awareness campaign advertisements shall be displayed in a conspicuous
479 location visible to the public and employees in the following facilities: (i) adult entertainment
480 facilities and other businesses primarily dedicated to adult entertainment or sex-related products;
481 (ii) facilities determined to be a nuisance for prostitution under section 4 of chapter 139; (iii)
482 facilities licensed as massage parlors and facilities providing bodyworks and related therapies;
483 (iv) nail salons; (v) job recruitment centers; (vi) facilities operating as foreign transmittal
484 agencies under chapter 169; (vii) hospitals; and (viii) emergency care providers.

485 (c) An employer who violates subsection (b) shall be punished by a fine of not more than
486 $500 for a first offense and a fine of not more than $1,000 for a second or subsequent offense.

487 (d) The attorney general shall promulgate rules and regulations to enforce subsection (b).

488 SECTION 17. The secretary of health and human services shall file an annual report not
489 later than January 1 with the senate and house chairs of the joint committee on children, families
490 and persons with disabilities, the chairs of the senate and house committees on ways and means
491 and the chairs of the senate and house committees on rules outlining the adequacy and
492 limitations of current services to meet the safety, support, housing, health, education and quality
493 of life needs of human trafficking victims. The report shall identify specialized needs of victims
494 under the age of 18 including, but not limited to, the needs or current efforts to provide

495 specialized foster care or other suitable housing arrangements. The report shall also identify
496 current resources available at safe house facilities, including the number of beds, resources
497 located on site, and number of victims served. The initial report shall be filed no later than
498 January 31, 2017.

499 SECTION 18. Chapter 6 of the General Laws, as appearing in the 2014 Official Edition,
500 is hereby amended by adding the following section:-

501 Section 219. (a) For purposes of this section, “partnership” shall mean the human
502 trafficking prevention business partnership.

503 (b) There shall be a human trafficking prevention business partnership. The partnership
504 shall engage participating corporations and other private entities in voluntary efforts to prevent
505 and combat human trafficking. The governor, or the governor's designee, shall serve as chair of
506 the partnership.

507 (c) Participating corporations in the partnership shall: (i) adopt a zero tolerance policy
508 toward human trafficking; (ii) ensure that the corporation's or entity's employees comply with the
509 policy adopted under clause (i); (iii) participate in public awareness and education campaigns;
510 (iv) enhance awareness of and encourage participation in the partnership; and (v) exchange
511 information about effective practices for abolishing human trafficking including, but not limited
512 to, identifying private and nonprofit resources that may be available to support the work of the
513 partnership and promote efforts to abolish human trafficking.

514 (d) The governor, or his designee, shall work collaboratively to promote the partnership
515 with other state agencies, including but not limited to the executive office of labor and workforce

516 development, the executive office of health and human services, and the executive office of
517 public safety and security.

518 (e) The chair of the partnership shall present a certificate of recognition to participating
519 corporations and private entities to recognize the corporation's or entity's contributions and
520 commitment to abolishing human trafficking.

521 (g) Nothing in this section shall be construed as limiting any laws currently in effect
522 related to human trafficking.

523 SECTION 19. Section 3 shall take effect on July 1, 2018.

524 SECTION 20. Unless otherwise provided, this act shall take effect on January, 1, 2017.