SENATE DOCKET, NO. 725 FILED ON: 1/15/2015

SENATE . . . . . No. 872

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 to strengthen the anti-human trafficking law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*
Jason M. Lewis	*Fifth Middlesex*
James B. Eldridge	*Middlesex and Worcester*
Jennifer L. Flanagan	*Worcester and Middlesex*
Diana DiZoglio	*14th Essex*
Kay Khan	*11th Middlesex*
Richard J. Ross	*Norfolk, Bristol and Middlesex*
Denise Provost	*27th Middlesex*
Carlos Gonzalez	*10th Hampden*

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 872) of Mark C. Montigny, Jason M. Lewis, James B. Eldridge, Jennifer L. Flanagan and other members of the General Court for legislation to strengthen the Anti-Human Trafficking Law. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *769* OF 2013-2014.]

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. Section 12 of chapter 120 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the figure '265', in line 19, the following words:- ; or trafficking of persons for sexual servitude in violation of subsection (a) of section 50 of said chapter 265; or trafficking of persons for sexual servitude upon a person under 18 years of age in violation of subsection (b) of said section 50 of said chapter 265."; and

SECTION 2. The first paragraph of section 90A of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words 'or section twenty-six' and inserting in place thereof the following words:- , section 26 or section 50."; and

SECTION 3. Said chapter 276 is hereby further amended by inserting after section 87A the following section:-

Section 87B . (a) Subject to appropriation, a court may, prior to the disposition of a defendant, divert the defendant charged with a first offense of section 8 or subsection (a) or (b) of section 53A of chapter 272 to a first offender prostitution solicitation program. The court shall continue the matter while the defendant fulfills the requirements of the program and retain jurisdiction pending the defendant's successful completion of the program.

(b) The court shall determine if the defendant is eligible to participate in the first offender prostitution prevention program established pursuant to this section. The defendant shall not be eligible if the court determines that:

(i) the defendant was convicted or admitted to sufficient facts to a previous violation of section 8 or 53A of chapter 272 or a similar offense under the laws of another state;

(ii) the defendant was previously admitted to a first offender prostitution prevention program under this section;

(iii) the defendant has been charged with a violation of section said section 8 or 53A of said chapter 272 or a similar offense under the laws of another state and is awaiting adjudication of such offense;

(iv) the defendant has been charged with, convicted of or admitted to sufficient facts to a violation of section 50 or 51 of chapter 265; or

(v) the defendant is a registered sex offender under chapter 6 or under the laws of another jurisdiction.

(c) A first offender prostitution solicitation program shall, at a minimum:

(i) provide each participant with information, counseling and services relating to:

(A) the negative impact of commercial sex and sex trafficking on victims;

(B) the negative impact of commercial sex and sex trafficking on communities;

(C) the health risks involved in prostitution, including the risk of sexually transmitted diseases and issues relating to mental health, substance abuse and sexual addiction;

(D) the legal consequence to the defendant; and

(E) classroom instruction related to the prevention of prostitution and organized crime and the sex industry;

(ii) employ persons or solicit volunteers that may include, but shall not be limited to:

(A) health care professionals;

(B) psychologists;

(C) licensed social workers or counselors;

(D) former prostitutes;

(E) members of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or

(F) employees of a nongovernmental organization specializing in advocacy on laws related to sex trafficking or human trafficking or in providing services to victims of those offenses;

(iii) establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which such defendant reside;

(iv) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated; and

(v) certify to the court that the defendant has successfully completed the requirements of the program, has failed to complete the program or has withdrawn from the program.

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

(e) The court shall assess a fee of $750 for participation in the first offender prostitution solicitation program. The court shall not waive the fee but may reduce the fee based on a determination by probation that the defendant cannot pay the entire fee. The fee shall be distributed as follows:

(i) 1/3 shall be transferred to the nonprofit organization certified by the commissioner of probation to conduct the program;

(ii) 1/3 shall be transferred to the Human Trafficking Trust Fund established in section 66A of chapter 10; and

(iii) 1/3 shall be transferred to the police department responsible for the arrest of the defendant.

(f) The commissioner of probation shall, in consultation with the chair of the anti-human trafficking task force, review each organization that operates a first offender prostitution

solicitation program and shall certify that the program is operating under the requirements of subsection (c). The commissioner shall notify the administrative office of the trial court of all programs receiving such certification. Only programs certified by the commissioner shall qualify to operate a program under this section. The commissioner, at the commissioner's discretion, may decertify a program for good cause at any time and the commissioner shall notify the administrative office of the trial court of such decertification."; and

SECTION 4. Subject to appropriation, the executive office of health and human services shall establish a pilot program supporting existing and creating new human trafficking safe houses to meet the unique needs of adult human trafficking victims. The department of youth services, in consultation with the department of children and families, shall establish a pilot program supporting existing and creating new human trafficking safe houses to meet the unique needs of child human trafficking victims. Under the pilot programs, the executive office of health and human services and the department of youth services shall develop and issue requests for proposals for the support and establishment of safe houses. Safe houses shall use the comprehensive services model which shall include, but not be limited to, intake assessment, intensive case management administered by trauma-trained-staff, shelter and housing, sustenance, healthcare, mental health services, dentistry, interpreter or translator services, substance abuse treatment, training on human rights and services, literacy training, job training, life skills, employment assistance, transportation, 24-hour response, 24-hour security on the premises and legal services. Such services shall take into account the age, gender and special needs of the victims and the victim's dependent children, if any.

SECTION 5. (a) The executive office of public safety and security and the executive office of health and human services shall, in cooperation with other appropriate authorities: (i)

coordinate the collection and sharing of human trafficking data among government agencies; provided, however, that such data shall respect the privacy of victims of human trafficking; and (ii) coordinate strategies and make recommendations for law enforcement to share information for the purposes of detecting individuals and groups engaged in human trafficking. The executive offices shall also periodically publish statistical data on human trafficking. The executive offices shall also establish a human trafficking definition for data collection purposes and establish screening tools and guidelines to assist in identifying victims.

(b) The executive office of public safety and security and the executive office of health of human services shall elicit the cooperation and assistance of other government agencies, non-governmental organizations, and other non-government organizations as appropriate to assist in the data collection required under paragraph (a) of this section.

(c) district attorney's in each county of the commonwealth shall designate a human trafficking case coordinator who shall be responsible to make best efforts to collect information and submit to the executive office of public safety and executive office of health and human services in quarterly intervals relevant information to tracking progress on human trafficking, including but not limited to:

(i) numbers of investigations, arrests, prosecutions and successful convictions of human traffickers and those committing human trafficking-related crimes;

(ii) the estimated number and characteristics of persons engaged in violations of human trafficking offenses and the number of persons who purchase or receive commercial sex acts or sexually-explicit performances, labor or services performed by victims of human trafficking;

(iii) statistics on the number and characteristics of victims of human trafficking, including nationality, age, method of recruitment and city, state and country of origin;

(iv) human trafficking routes and patterns if transportation took place; and

(v) social and economic factors that contribute to and foster the demand for all forms of exploitation of persons that leads to human trafficking.

(d) The executive office of public safety, in conjunction with the executive office of health and human services, shall establish and maintain a web portal to disseminate information regarding human trafficking violations and a clearinghouse of information for victims of human trafficking.

(e) Subject to appropriation, the executive office of public safety and security, in conjunction with the executive office of health and human services, shall support usage of the National Human Trafficking Resource Center Hotline, 1-888-373-7888, and its text number, BeFree or 233733, to report crimes of human trafficking and to provide confidential information to:

(i) provide a call referral map for the National Human Trafficking Resource Center Hotline;

(ii) maintain regular coordination among the referral providers on the map; and

(iii) develop and issue requests for proposals to support the hotline-related activities of the providers on the map.

SECTION 6. (a) The executive office of public safety and security shall provide mandatory training for law enforcement agencies, prosecutors, public defenders, judges, juvenile

detention center staff and others involved in the juvenile justice system and criminal justice system and to any other relevant officials in addressing human trafficking. Training shall include screening and data collection protocols.

(b) The training shall focus on:

(i) human trafficking offenses;

(ii) methods used in identifying United States citizen and foreign national victims of human trafficking, including preliminary interview techniques and appropriate questioning methods;

(iii) methods for prosecuting human traffickers;

(iv) methods for increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case;

(v) methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and special needs of women and minor victims;

(vi) the necessity of treating victims of human trafficking as crime victims rather than criminals; and

(vii) methods for promoting the safety of victims of human trafficking.

(c) The executive office of public safety and security shall seek the input and participation of appropriate nongovernmental organizations and other relevant organizations in the preparation and presentation of the training required pursuant to this section.

(d) The executive office of education shall develop and implement mandatory educational training for educators in kindergarten through grade 12 which would assist in identifying human trafficking victims and the appropriate actions to be undertaken when such victims have been identified. The executive office shall also develop a parent guide and teacher training material on internet safety and methods of preventing the exploitation of minors over the internet.

(e) The department of public health shall develop and implement mandatory training for all health care professionals who are mandated reporters to assist in identifying human trafficking victims and the appropriate actions to be undertaken when such victims have been identified.

SECTION 7. (a) The executive office of health and human services, in cooperation with executive office of public safety and security and any other appropriate governmental agencies and nongovernmental organizations, shall prepare public awareness programs designed to educate potential victims of human trafficking and their families on the risks of victimization. The public awareness programs shall include, but not be limited to:

(i) information about the risks of becoming a victim of human trafficking, including information about common recruitment techniques, use of debt bondage and other coercive tactics, risk of maltreatment, rape, exposure to HIV/AIDS and other sexually-transmitted diseases and the psychological harm related to victimization in human trafficking cases;

(ii) information about the risks of engaging in commercial sex and possible punishment;

(iii) information about victims' rights under state and federal laws;

(iv) methods for reporting suspected recruitment activities, including information on relevant hotlines; and

(v) information on the types of services available to victims of human trafficking and how to access such services, including information on relevant hotlines, such as the National Human Trafficking Resource Center hotline.

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

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

(d) Programs and materials described in this section shall preserve the privacy of the victim and the victim’s family.

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

SECTION 8. (a) The executive office of public safety and security shall create a public awareness sign poster of not less than 8.5 x 11 inches in size that states:

'If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work or any other activity, call the National Human Trafficking Resource Center Hotline at 1-888-3373-7888 to access help and services. Victims of human trafficking are protected under state and federal laws. The hotline is available 24 hours a day, 7 days a week, toll-free, operated by a nonprofit, nongovernmental organization. It is anonymous and confidential, accessible in 170 languages, able to provide help, referral to services, training and general information.'

(b) The Massachusetts Department of Transportation shall display public awareness signs in every transportation station, rest area and welcome center that is open to the public.

(c) A public awareness sign shall be displayed at the following locations in a place that is clearly conspicuous and visible to employees:

(i) adult entertainment facilities and any other sexually-oriented business;

(ii) entities found to be a nuisance for prostitution under section 4 of chapter 139 of the General Laws;

(iii) entities licensed as massage parlors;

(iv) job recruitment centers;

(v) hospitals; and

(vi) emergency care providers.