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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (D) the legal consequence to the defendant; and

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

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

40 (A) health care professionals;

41 (B) psychologists;

42 (C) licensed social workers or counselors;

43 (D) former prostitutes;

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

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

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

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

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

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

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

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

64 (ii) 1/3 shall be transferred to the Human Trafficking Trust Fund established in section
65 66A of chapter 10; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

139 (b) The training shall focus on:

140 (i) human trafficking offenses;

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

144 (iii) methods for prosecuting human traffickers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

200 'If you or someone you know is being forced to engage in any activity and cannot leave,
201 whether it is commercial sex, housework, farm work or any other activity, call the National
202 Human Trafficking Resource Center Hotline at 1-888-3373-7888 to access help and services.
203 Victims of human trafficking are protected under state and federal laws. The hotline is available
204 24 hours a day, 7 days a week, toll-free, operated by a nonprofit, nongovernmental organization.
205 It is anonymous and confidential, accessible in 170 languages, able to provide help, referral to
206 services, training and general information.'

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

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

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

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

214 (iii) entities licensed as massage parlors;

215 (iv) job recruitment centers;

216 (v) hospitals; and

217 (vi) emergency care providers.