

SENATE No. 2598

The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court
(2017-2018)
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SENATE, Thursday, July 12, 2018

The committee on Rules, to whom was referred the petitions (accompanied by bill, Senate, No. 905) of Mark C. Montigny, Patricia A. Haddad, Sal N. DiDomenico, Richard J. Ross and other members of the General Court for legislation to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery; and (accompanied by bill, Senate, No. 906) Mark C. Montigny, Patricia A. Haddad, Sal N. DiDomenico, James M. Cantwell and other members of the General Court for legislation to enhance the lives of survivors of human trafficking,- reports the accompanying bill (Senate, No. 2598).

For the committee,
Mark C. Montigny

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery.

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 6 of the General Laws is hereby amended by adding the following
2 section:-

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

5 (b) There shall be a human trafficking prevention business partnership. The partnership
6 shall engage participating corporations and other private entities in voluntary efforts to prevent
7 and combat human trafficking. The governor or the governor’s designee shall serve as chair of the
8 partnership.

9 (c) The corporations and other private entities that participate in the partnership shall: (i)
10 adopt a zero tolerance policy toward human trafficking; (ii) ensure that the employees of the
11 corporation or entity comply with the policy adopted pursuant to clause (i); (iii) participate in
12 public awareness and education campaigns; (iv) enhance awareness of and encourage participation
13 in the partnership; and (v) exchange information about effective practices for abolishing human

14 trafficking including, but not limited to, identifying private and nonprofit resources that may be
15 available to support the work of the partnership and promote efforts to abolish human trafficking.

16 (d) The governor or the governor's designee shall work collaboratively to promote the
17 partnership with other state agencies including, but not limited to, the executive office of labor and
18 workforce development, the executive office of health and human services and the executive office
19 of public safety and security.

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

23 (f) Nothing in this section shall limit any existing partnerships to prevent or combat human
24 trafficking, including, but not limited to, existing programs through the office of the attorney
25 general.

26 (g) Nothing in this section shall limit any laws related to human trafficking.

27 SECTION 2. Chapter 6A of the General Laws is hereby amended by adding the following
28 3 sections:-

29 Section 105. (a) Law enforcement agencies, prosecutors, public defenders, juvenile
30 detention center employees providing direct services and others providing direct services in the
31 juvenile justice system and criminal justice system shall be trained in identifying and responding
32 to human trafficking. The executive office public safety and security shall offer training that shall
33 include information on: (i) human trafficking offenses; (ii) methods used in identifying victims of
34 human trafficking who may be United States citizens or foreign national citizens, including

35 preliminary interview techniques and appropriate questioning methods; (iii) prosecuting human
36 traffickers; (iv) increasing effective collaboration between the courts, nongovernmental
37 organizations and other relevant social service organizations to assist in the investigation and
38 prosecution of human trafficking cases; (v) protecting the rights of victims of human trafficking,
39 including, but not limited to, specific consideration of human rights and female and minor victims;
40 (vi) interacting with victims of human trafficking as victims of crime rather than criminals; and
41 (vi) promoting the safety of victims of human trafficking. The training shall include information
42 on the screening of individuals who may be victims of human trafficking and data collection
43 protocols under section 35A of chapter 22C. The executive office of public safety and security
44 shall collaborate with nongovernmental organizations and other relevant organizations in the
45 preparation and presentation of the training required pursuant to this section. Nothing in this
46 section shall preclude alternative training programs approved by the attorney general.

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

49 (c) The executive office of education shall implement mandatory educational training for
50 educators in kindergarten to grade 12, inclusive. The training shall include information to assist
51 educators in identifying victims of human trafficking and providing appropriate support to victims
52 of human trafficking. The training may be incorporated into professional development modules.
53 The executive office of education may collaborate with public or nongovernmental organizations
54 to provide training and may use previously developed courses. The executive office of education
55 shall also develop a parent guide and teacher training material on internet safety and methods of
56 preventing the exploitation of minors over the internet.

57 (d) The department of public health shall implement mandatory training at hospitals
58 licensed pursuant to chapter 111 for mandated reporters, as defined by section 21 of chapter 119,
59 working in such a facility to assist in identifying human trafficking victims and the appropriate
60 actions to be undertaken when such victims have been identified. The department may collaborate
61 with public or nongovernmental organizations to provide training and may use previously
62 developed courses.

63 Section 106. (a) The executive office of health and human services, in cooperation with the
64 executive office of public safety and security, other appropriate agencies and nongovernmental
65 organizations, shall, subject to appropriation, prepare public awareness programs to educate
66 potential victims of human trafficking and their families on the risks of victimization. The public
67 awareness programs shall include, but not be limited to: (i) information about the risks of becoming
68 a victim of human trafficking that uses best practices to prevent stigmatization of victims and
69 includes information about common recruitment techniques, use of debt bondage and other
70 coercive tactics, risk of maltreatment, rape, exposure to HIV/AIDS and other sexually-transmitted
71 diseases and psychological harm related to victimization in human trafficking cases; (ii)
72 information about victims' rights under federal and state laws; (iii) methods for reporting suspected
73 recruitment activities; and (iv) information on the types of services available to victims of human
74 trafficking and how to access such services, including information on relevant hotlines including
75 the National Human Trafficking Resource Center Hotline.

76 (b) The executive office of health and human services, in cooperation with other
77 appropriate agencies and nongovernmental organizations, shall prepare and disseminate general
78 public awareness materials to educate the public on the extent of human trafficking of both United

79 States citizens and foreign nationals within the United States to discourage the demand that fosters
80 the exploitation of persons and that leads to human trafficking.

81 General public awareness materials may include: (i) information on the impact of human
82 trafficking on individual victims, whether United States citizens or foreign nationals; (ii) aggregate
83 information on human trafficking worldwide and domestically; and (iii) warnings of the criminal
84 consequences of engaging in human trafficking. The materials may include pamphlets, brochures,
85 posters and advertisements in mass media and any other appropriate media.

86 (c) Programs and materials described in this section shall preserve the privacy of victims
87 and their family members.

88 (d) All public awareness programs shall be evaluated periodically to ensure their
89 effectiveness.

90 (e) The executive office of health and human services, in collaboration with the executive
91 office of public safety and security and the office of the attorney general, shall establish and
92 maintain an independent website to disseminate information regarding human trafficking, human
93 trafficking crime statistics and resources for victims of human trafficking. Information available
94 through the website shall not include the names, locations or other identifying information of
95 victims of human trafficking.

96 Section 107. The secretary of health and human services shall file an annual report not later
97 than January 1 with the joint committee on children, families and persons with disabilities, the
98 senate and house committees on ways and means and the senate and house committees on rules
99 outlining the adequacy and limitations of current services to meet the safety, support, housing,
100 health, education and quality of life needs of human trafficking victims. The report shall identify

101 specialized needs of victims under the age of 18 including, but not limited to, the needs or current
102 efforts to provide specialized foster care, other suitable housing arrangements and services to safe
103 guard children. The report shall also identify current resources available at safe house facilities
104 including the number of beds, resources located on site and number of victims served.

105 SECTION 3. Chapter 6C of the General Laws is hereby amended by adding the following
106 section:-

107 Section 77. (a) The department shall display public awareness signs that contain the
108 National Human Trafficking Resource Center Hotline, or a successor hotline, in every
109 transportation station, rest area and welcome center that is open to the public.

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

117 (c) An employer who violates subsection (b) shall be punished by a fine of not more than
118 \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.

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

120 SECTION 4. Section 66A of chapter 10 of the General Laws, as appearing in the 2016
121 Official Edition, is hereby amended by striking out, in line 3, the word “proceeds” and inserting in
122 place thereof the following words:- all revenues received under section 60 of chapter 62, proceeds.

123 SECTION 5. Chapter 22C of the General Laws is hereby amended by inserting after section
124 35 the following section:-

125 SECTION 35A. (a) The colonel shall promulgate regulations relative to the collection of
126 human trafficking crime data. The regulations shall include, but not be limited to: (i) the
127 responsibilities of the crime reporting unit, as defined in section 32 of chapter 22C, for the
128 collection, analysis, classification, reporting and retention of human trafficking crime data in a
129 central repository; (ii) the procedures necessary to ensure effective data-gathering, preservation
130 and protection of confidential information, including, but not limited to, victims’ private and
131 identifying information, and the disclosure of information as required by this section; (iii) the
132 procedures for reporting data on a standardized form to the crime reporting unit by law
133 enforcement agencies; and (iv) the procedures for assessing the credibility and accuracy of reports
134 of human trafficking from law enforcement agencies.

135 (b) The crime reporting unit shall analyze and summarize reports of human trafficking data
136 received by the unit. The crime reporting unit shall produce a report summarizing the data collected
137 from law enforcement agencies, which shall be submitted annually to the governor, attorney
138 general, the joint committee on public safety and homeland security, the joint committee on the
139 judiciary, the senate and house committees on rules, and the senate and house committees on ways
140 and means. The report shall not include the names, locations or other identifying information of

141 victims of human trafficking. The annual report shall be a public record and shall be available on
142 the executive office of public safety and security's website.

143 (c) The crime reporting unit shall make data collected on human trafficking under this
144 section available to federal, state and municipal agencies including, but not limited to, law
145 enforcement agencies. Data collected on human trafficking under this section shall be made
146 available to the public. The disclosed information shall not include the names, addresses or other
147 identifying information of victims of human trafficking.

148 (d) The district attorney for each county shall report on human trafficking data to the crime
149 reporting unit. Data provided to the crime reporting unit shall include, but not be limited to: (i) the
150 number of prosecutions and convictions of human trafficking crimes, including prosecutions and
151 convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of individuals
152 prosecuted for and convicted of violations under said sections 50 and 51 of said chapter 265,
153 including nationality, age, gender and place of origin; (iii) the characteristics of victims of human
154 trafficking, including nationality, age, gender and place of origin; and (iv) the number of human
155 trafficking prosecutions and convictions originating in each municipality under the district
156 attorney's jurisdiction.

157 (e) The attorney general shall report on human trafficking data to the crime reporting unit.
158 Data provided to the crime reporting unit shall include, but not be limited to: (i) the number of
159 prosecutions and convictions of human trafficking crimes, including prosecutions and convictions
160 under sections 50 and 51 of chapter 265; (ii) the characteristics of individuals prosecuted for and
161 convicted of violations under said sections 50 and 51 of said chapter 265, including nationality,
162 age, gender and place of origin; (iii) the characteristics of victims of human trafficking, including

163 nationality, age, gender and place of origin; and (iv) the number of human trafficking prosecutions
164 and convictions originating in each municipality under the attorney general's jurisdiction.

165 (f) All state, county, municipal and campus police departments and other law enforcement
166 agencies that report crime statistics to the executive office of public safety and security shall
167 include statistics on the crimes of trafficking of persons for sexual servitude under section 50 of
168 chapter 265 and trafficking of persons for forced service under section 51 of said chapter 265 to
169 ensure compliance with reporting standards established by the Federal Bureau of Investigation's
170 Uniform Crime Reporting Program. Said data shall be reported to the crime reporting unit.

171 (g) The executive office of public safety and security shall prescribe a standardized form
172 for data collection under subsections (d), (e), and (f).

173 SECTION 6. Chapter 62 of the General Laws is hereby amended by inserting after section
174 6N the following section:-

175 Section 6O. A person filing an individual or a joint return may voluntarily contribute all
176 or part of a refund to which the person is entitled, or may voluntarily add an amount on to an
177 amount due, to be credited to the Victims of Human Trafficking Trust Fund established in section
178 66A of chapter 10.

179 A contribution under this section may be made with respect to any taxable year at the time
180 of filing a return of the tax established by this chapter for such taxable year. The commissioner
181 shall prescribe the manner in which the contribution shall be made on the face of the return required
182 by section 5 of chapter 62C; provided, however, that the commissioner shall assure that taxpayers
183 filing such a form are made clearly aware of their ability to make the contributions provided for
184 by this section.

185 The commissioner shall annually report the total amount designated under this section to
186 the state treasurer, who shall credit such amount to the Victims of Human Trafficking Trust Fund.

187 SECTION 7. Chapter 90F of the General Laws is hereby amended by adding the following
188 section:-

189 Section 17. Upon application or renewal for a license to operate a commercial motor
190 vehicle, the registrar shall provide the applicant with materials regarding the recognition and
191 prevention of human trafficking. The registrar shall also post the materials online in a conspicuous
192 manner alongside driver manuals and resources. The registrar may collaborate with organizations
193 that specialize in the recognition and prevention of human trafficking including, but not limited to,
194 Truckers Against Trafficking or its successor organization.

195 SECTION 8. Section 90A of chapter 127 of the General Laws, as appearing in the 2016
196 Official Edition, is hereby amended by striking out, in line 13, the words “or section twenty-six”
197 and inserting in place thereof the following words:- , section 26 or section 50.

198 SECTION 9. Chapter 140 of the General Laws is hereby amended by inserting after section
199 6B the following section:-

200 Section 6C. A person, corporation, partnership or other legal entity licensed as an innholder
201 shall provide human trafficking awareness training to each person in its employ at the time of hire.
202 The training shall include, but not be limited to: (i) the definition of human trafficking and
203 commercial exploitation of children; (ii) recognition of potential victims of human trafficking; (iii)
204 activities commonly associated with human trafficking; and (iv) how to appropriately respond to
205 a known or suspected case of human trafficking. The training program shall be approved by the
206 licensing authority and may be developed by a non-profit or lodging association organization

207 familiar with human trafficking-related issues in the hospitality industry. An innholder shall
208 annually certify to the licensing authority that each employee of the innholder's establishment has
209 received training required by this section. An innholder that fails to provide training required by
210 this section shall be punished by a fine of not less than \$1,000 per day that the violation occurs.

211 SECTION 10. Section 4D of chapter 260 of the General Laws, as appearing in the 2016 Official
212 Edition, is hereby amended by striking out, in lines 11 and 14, the figure "3" and inserting in place
213 thereof the following figure:- 10.

214 SECTION 11. Section 57 of chapter 265 of the General Laws, as so appearing, is hereby
215 amended by striking out, in line 5, the words "section 53A" and inserting in place thereof the
216 following words:- sections 8, 26 or 53A.

217 SECTION 12. Chapter 276 of the General Laws is hereby amended by inserting after
218 section 87A the following section:-

219 Section 87B. (a) First offender commercial sexual exploitation prevention programs may
220 be established and certified, subject to appropriation. A court and the district attorney may, after
221 arraignment, prior to the disposition of a defendant and with the approval of the district attorney,
222 divert the defendant charged with a first offense of subsection (b) or (c) of section 53A of chapter
223 272 to a first offender commercial sexual exploitation prevention program. The court shall
224 continue the matter while the defendant fulfills the requirements of the program and shall retain
225 jurisdiction pending the defendant's successful completion of the program. The district attorney
226 may at any time petition to remove the defendant from the program if the defendant fails to fulfill
227 the requirement of the program. If the court finds that the defendant has failed to substantially

228 comply with the requirements of the program, the court may restore the criminal complaint to the
229 docket for trial or further proceedings in accordance with the regular course of such proceedings.

230 (b) The court shall determine if the defendant is eligible to participate in the first offender
231 commercial sexual exploitation prevention program established pursuant to this section. The
232 defendant shall not be eligible if the court determines that: (i) the defendant was convicted or
233 admitted to sufficient facts of a previous violation of subsection (b) or (c) of section 53A of chapter
234 272 or a similar offense under the laws of another state; (ii) the defendant was previously admitted
235 to a first offender commercial sexual exploitation prevention program under this section; (iii) the
236 defendant has previously been charged with a violation of subsection (b) or (c) of said section 53A
237 of said chapter 272 or a similar offense under the laws of another state and is awaiting adjudication
238 of such offense; (iv) the defendant has been charged with, convicted of or admitted to sufficient
239 facts of a violation of section 50 or 51 of chapter 265; or (v) the defendant is a registered sex
240 offender under chapter 6 or the laws of another jurisdiction.

241 (c) A first offender commercial sexual exploitation prevention program shall, at a
242 minimum: (i) provide each participant with information, counseling and services relating to: (A)
243 the negative impact of commercial sex and sex trafficking on victims; (B) the negative impact of
244 commercial sex and sex trafficking on communities; (C) the health risks involved in commercial
245 sexual exploitation, including the risk of sexually transmitted diseases and issues relating to mental
246 health, substance abuse and sexual addiction; (D) the legal consequence to the defendant; and (E)
247 classroom instruction related to the prevention of commercial sexual exploitation and organized
248 crime and the sex industry; (ii) employ persons or solicit volunteers that may include, but shall
249 not be limited to, health care professionals, psychologists, licensed social workers or counselors,
250 survivors of commercial sexual exploitation, members of a neighborhood association or

251 community that is adversely affected by the commercial sex trade or trafficking of persons or
252 employees of a nongovernmental organization specializing in advocacy on laws related to sex
253 trafficking or human trafficking or in providing services to victims of those offenses; (iii) allow a
254 participant to withdraw from the program at any time before a trial on the merits has been initiated;
255 and (iv) certify to the court that the defendant has successfully completed the requirements of the
256 program, has failed to complete the program or has withdrawn from the program.

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

259 (e) The court shall determine and assess an appropriate fee for participation in the first
260 offender commercial sexual exploitation prevention program. The court shall not waive the fee but
261 may reduce the fee based on a determination by the court that the defendant cannot pay the entire
262 fee. The fee shall be distributed as follows: (i) $\frac{1}{3}$ shall be transferred to the nonprofit organization
263 certified by the commissioner of probation to conduct the program; (ii) $\frac{1}{3}$ shall be transferred to
264 the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10; and (iii)
265 $\frac{1}{3}$ shall be transferred to the state or municipal law enforcement agency responsible for the arrest
266 of the defendant to be used for human trafficking investigations and prevention and to fund
267 mandatory training for law enforcement agencies, prosecutors, public defenders, juvenile detention
268 center employees providing direct services to victims of human trafficking and others providing
269 direct services in the juvenile justice system and criminal justice system.

270 (f) The commissioner of probation shall review each organization that operates a first
271 offender commercial sexual exploitation prevention program and shall certify that the program is
272 operating under the requirements of subsection (c). The commissioner shall notify the

273 administrative office of the trial court and the district attorney of all programs receiving such
274 certification. Only programs certified by the commissioner shall be qualified to operate a program
275 under this section. The commissioner may decertify a program for good cause and the
276 commissioner shall notify the administrative office of the trial court of decertification.

277 SECTION 13. Said chapter 276 is hereby further amended by inserting after section 100U
278 the following section:-

279 Section 100V. (a) In a case in which a plea of not guilty has been entered by a court
280 pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed; (ii)
281 the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is made
282 by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the defendant,
283 seal the court appearance and disposition recorded and the clerk and the probation officers of the
284 courts in which the proceedings occurred or were initiated shall seal the records of the proceedings
285 in their files. Sealed records shall not operate to disqualify a person in any examination,
286 appointment, or application for public employment in the service of the commonwealth or of any
287 political subdivision.

288 (b) An application for employment used by an employer that seeks information concerning
289 prior arrests, convictions or adjudications of delinquency of the applicant shall include, in addition
290 to the statement required under section 100A, the following statement: "An applicant for
291 employment with a sealed record on file with the commissioner of probation may answer 'no
292 record' with respect to an inquiry herein relative to prior arrests or criminal court appearances."
293 The attorney general may enforce this section by a suit in equity commenced in the superior court.
294 Notwithstanding this section or any other general or special law to the contrary, the commissioner

295 of probation or the clerk of courts in any district court, superior court, juvenile court or the Boston
296 municipal court, in response to inquiries by authorized persons other than by a law enforcement
297 agency or a court, shall, in the case of a sealed record, report that no record exists.

298 SECTION 14. The secretary of health and human services shall file the initial report
299 required under section 107 of chapter 6A of the General Laws not later than 180 days after the
300 effective date of this act.