

SENATE No. 907

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 prevent human trafficking and sexual exploitation in bodyworks establishments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/3/2017</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/20/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/23/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/27/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/1/2017</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>2/1/2017</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	<i>2/1/2017</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>2/2/2017</i>
<i>Kate D. Campanale</i>	<i>17th Worcester</i>	<i>2/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/3/2017</i>

SENATE No. 907

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 907) of Mark C. Montigny, Patricia A. Haddad, Sal N. DiDomenico, Richard J. Ross and other members of the General Court for legislation to prevent human trafficking and sexual exploitation in bodyworks establishments. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to prevent human trafficking and sexual exploitation in bodyworks establishments.

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

3 Section 109. (a) There shall be a board of registration in bodywork therapy consisting of
4 7 members who are residents of the commonwealth appointed by the governor, 3 of whom shall
5 be licensed bodywork therapists engaged in the practice of bodywork therapy in the
6 commonwealth for not fewer than 5 years immediately preceding appointment or, in the case of
7 initial appointments, who are able to provide proof of: (i) not fewer than 500 hours of bodywork
8 therapy for compensation; (ii) authorization to practice bodywork therapy issued by a municipal
9 board of health within the commonwealth within the preceding 2 years; or (iii) not fewer than 40
10 hours of bodywork therapy performed within a licensed healthcare facility; 1 of whom shall be a
11 health agent, board member or other health professional employed by or elected to a municipal
12 board of health within the commonwealth; 1 of whom shall be an individual engaged in the

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

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

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

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

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

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

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

43 “Board”, the board of registration of bodywork therapy established in section 109 of
44 chapter 13.

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

47 “Bodywork” or “bodywork therapy”, the use of touch, words or directed movement to
48 deepen awareness of patterns of movement in the body, or the affectation of the human energy
49 system or acupoints or Qi meridians of the human body including, but not be limited to: the
50 Feldenkrais method; reflexology; the Trager approach; Ayurvedic therapies; Rolf structural
51 integration; polarity or polarity therapy; polarity therapy bodywork; Asian bodywork therapy;
52 acupressure; Jin Shin Do; Qi Gong; Tui Na; Shiatsu; body-mind centering and Bowenwork;
53 provided, however, that bodywork or bodywork therapy shall not include massage as that term is
54 defined in section 227, nor the practice or instruction in yoga or Reiki; and provided, further, that
55 bodywork therapy shall not include diagnosis of illness or disease, the prescription of drugs or
56 medicines, spinal or other joint manipulations, electrical stimulation, application of ultrasound or

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

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

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

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

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

94 (b) The director of the division of professional licensure shall determine the renewal
95 cycle and renewal period for bodywork therapy licenses. Each person licensed in accordance
96 with these sections may apply to the board for renewal of a license on or before the expiration
97 date, as determined by the director, unless the license was revoked, suspended or canceled earlier
98 by the board as a result of a disciplinary proceeding instituted pursuant to this chapter.
99 Applications for renewal shall be made on forms furnished by the board and accompanied by
100 payment of a renewal fee, as prescribed by the executive office of administration and finance
101 under section 3B of chapter 7, which fee shall not be less than \$100.

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

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

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

124 the holder has been disciplined in that jurisdiction where the basis for the action would constitute
125 a basis for disciplinary action in the commonwealth.

126 Section 269. The board may grant a license to an individual who: (i) submits a
127 completed application and pays the necessary fee prescribed by the executive office of
128 administration and finance under section 3B of chapter 7; (ii) is 18 years of age or older; (iii) is
129 of good moral character as determined by the board; (iv) has obtained a high school diploma or
130 its equivalent; (v) has submitted 2 professional letters of reference including at least 1 letter from
131 an employer; (vi) provides proof of adequate professional liability coverage; (vii) has not been
132 convicted in any jurisdiction of a sexually-related crime or a crime involving moral turpitude
133 during the 10 years immediately preceding the date of application; and (viii) submits
134 documentation in a form determined by the board that the individual: (A) previously provided at
135 least 500 hours of bodywork therapy for compensation to individuals other than immediate
136 family members; (B) has been authorized by a municipal board of health in the commonwealth
137 to practice bodywork therapy within 2 years of the date of application; or (C) previously
138 provided at least 40 hours of bodywork therapy within a licensed healthcare facility.

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 agreements that are considered reasonable and appropriate by the board. Any person aggrieved
169 by a disciplinary action taken by the board under this chapter may file a petition for judicial
170 review 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. Chapter 140 of the General Laws is hereby amended by adding the
200 following section:-

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

204 SECTION 5. Section 3 shall take effect on March 1, 2019.

205 SECTION 6. Unless otherwise provided, this act shall take effect on September 1, 2017.