

SENATE No. 992

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 laws combatting human trafficking and protecting survivors of modern-day slavery.

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>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/29/2019</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/24/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/24/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/24/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/28/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/28/2019</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/29/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/31/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/31/2019</i>

<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/1/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>5/20/2019</i>

SENATE No. 992

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 992) of Mark C. Montigny, Patricia A. Haddad, Michael O. Moore, Danielle W. Gregoire and other members of the General Court for legislation to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2598 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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
8 the 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
13 participation in the partnership; and (v) exchange information about effective practices for
14 abolishing human trafficking including, but not limited to, identifying private and nonprofit
15 resources that may be available to support the work of the partnership and promote efforts to
16 abolish human trafficking.

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

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

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

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

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

30 Section 105. (a) Law enforcement agencies, prosecutors, public defenders, juvenile
31 detention center employees providing direct services and others providing direct services in the
32 juvenile justice system and criminal justice system shall be trained in identifying and responding
33 to human trafficking. The executive office public safety and security shall offer training that
34 shall include information on: (i) human trafficking offenses; (ii) methods used in identifying
35 victims of human trafficking who may be United States citizens or foreign national citizens,
36 including preliminary interview techniques and appropriate questioning methods; (iii)
37 prosecuting human traffickers; (iv) increasing effective collaboration between the courts,
38 nongovernmental organizations and other relevant social service organizations to assist in the
39 investigation and prosecution of human trafficking cases; (v) protecting the rights of victims of
40 human trafficking, including, but not limited to, specific consideration of human rights and
41 female and minor victims; (vi) interacting with victims of human trafficking as victims of crime
42 rather than criminals; and (vi) promoting the safety of victims of human trafficking. The training
43 shall include information on the screening of individuals who may be victims of human
44 trafficking and data collection protocols under section 35A of chapter 22C. The executive office
45 of public safety and security shall collaborate with nongovernmental organizations and other
46 relevant organizations in the preparation and presentation of the training required pursuant to this
47 section. Nothing in this section shall preclude alternative training programs approved by the
48 attorney general.

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

51 (c) The executive office of education shall implement mandatory educational training for
52 educators in kindergarten to grade 12, inclusive. The training shall include information to assist

53 educators in identifying victims of human trafficking and providing appropriate support to
54 victims of human trafficking. The training may be incorporated into professional development
55 modules. The executive office of education may collaborate with public or nongovernmental
56 organizations to provide training and may use previously developed courses. The executive
57 office of education shall also develop a parent guide and teacher training material on internet
58 safety and methods of preventing the exploitation of minors over the internet.

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

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

76 available to victims of human trafficking and how to access such services, including information
77 on relevant hotlines including the National Human Trafficking Resource Center Hotline.

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

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

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

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

93 (e) The executive office of health and human services, in collaboration with the executive
94 office of public safety and security and the office of the attorney general, shall establish and
95 maintain an independent website to disseminate information regarding human trafficking, human
96 trafficking crime statistics and resources for victims of human trafficking. Information available

97 through the website shall not include the names, locations or other identifying information of
98 victims of human trafficking.

99 Section 107. The secretary of health and human services shall file an annual report not
100 later than January 1 with the joint committee on children, families and persons with disabilities,
101 the senate and house committees on ways and means and the senate and house committees on
102 rules outlining the adequacy and limitations of current services to meet the safety, support,
103 housing, health, education and quality of life needs of human trafficking victims. The report shall
104 identify specialized needs of victims under the age of 18 including, but not limited to, the needs
105 or current efforts to provide specialized foster care, other suitable housing arrangements and
106 services to safe guard children. The report shall also identify current resources available at safe
107 house facilities including the number of beds, resources located on site and number of victims
108 served.

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

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

114 (b) Public awareness campaign advertisements shall be displayed in a conspicuous
115 location visible to the public and employees in: (i) adult entertainment facilities and other
116 businesses primarily dedicated to adult entertainment or sex-related products; (ii) facilities
117 determined to be a nuisance for prostitution under section 4 of chapter 139; (iii) facilities
118 licensed as massage establishments and facilities providing bodyworks and related therapies; (iv)

119 nail salons; (v) job recruitment centers; (vi) facilities operating as foreign transmittal agencies
120 under chapter 169; (vii) hospitals; and (viii) emergency care providers.

121 (c) An employer who violates subsection (b) shall be punished by a fine of not more than
122 \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.

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

124 SECTION 4. Section 66A of chapter 10 of the General Laws, as appearing in the 2016
125 Official Edition, is hereby amended by striking out, in line 3, the word “proceeds” and inserting
126 in place thereof the following words:- all revenues received under section 6O of chapter 62,
127 proceeds.

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

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

140 (b) The crime reporting unit shall analyze and summarize reports of human trafficking
141 data received by the unit. The crime reporting unit shall produce a report summarizing the data
142 collected from law enforcement agencies, which shall be submitted annually to the governor,
143 attorney general, the joint committee on public safety and homeland security, the joint committee
144 on the judiciary, the senate and house committees on rules, and the senate and house committees
145 on ways and means. The report shall not include the names, locations or other identifying
146 information of victims of human trafficking. The annual report shall be a public record and shall
147 be available on the executive office of public safety and security's website.

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

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

162 (e) The attorney general shall report on human trafficking data to the crime reporting
163 unit. Data provided to the crime reporting unit shall include, but not be limited to: (i) the number
164 of prosecutions and convictions of human trafficking crimes, including prosecutions and
165 convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of individuals
166 prosecuted for and convicted of violations under said sections 50 and 51 of said chapter 265,
167 including nationality, age, gender and place of origin; (iii) the characteristics of victims of human
168 trafficking, including nationality, age, gender and place of origin; and (iv) the number of human
169 trafficking prosecutions and convictions originating in each municipality under the attorney
170 general's jurisdiction.

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

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

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

182 Section 6O. A person filing an individual or a joint return may voluntarily contribute all
183 or part of a refund to which the person is entitled, or may voluntarily add an amount on to an

184 amount due, to be credited to the Victims of Human Trafficking Trust Fund established in
185 section 66A of chapter 10.

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

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

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

197 Section 17. Upon application or renewal for a license to operate a commercial motor
198 vehicle, the registrar shall provide the applicant with materials regarding the recognition and
199 prevention of human trafficking. The registrar shall also post the materials online in a
200 conspicuous manner alongside driver manuals and resources on the registry website. The
201 registrar may collaborate with organizations that specialize in the recognition and prevention of
202 human trafficking including, but not limited to, Truckers Against Trafficking or its successor
203 organization.

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

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

209 Section 6C. A person, corporation, partnership or other legal entity licensed as an
210 innholder shall provide human trafficking awareness training to each person in its employ at the
211 time of hire. The training shall include, but not be limited to: (i) the definition of human
212 trafficking and commercial exploitation of children; (ii) recognition of potential victims of
213 human trafficking; (iii) activities commonly associated with human trafficking; and (iv) how to
214 appropriately respond to a known or suspected case of human trafficking. The training program
215 shall be approved by the licensing authority and may be developed by a non-profit or lodging
216 association organization familiar with human trafficking-related issues in the hospitality
217 industry. An innholder shall annually certify to the licensing authority that each employee of the
218 innholder’s establishment has received training required by this section. An innholder that fails
219 to provide training required by this section shall be punished by a fine of not less than \$1,000 per
220 day that the violation occurs.

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

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

227 SECTION 12. Section 59 of chapter 265 of the General Laws, as so appearing in the
228 2018 Official Edition, as most recently amended by section 132 of the Acts of 2018, is hereby
229 amended by inserting after the word “under” in the first instance the following words:-
230 subsection (1) of section 30 or section 30A of chapter 266, or under

231 SECTION 13. Chapter 276 of the General Laws is hereby amended by inserting after
232 section 87A the following section:-

233 Section 87B. (a) First offender commercial sexual exploitation prevention programs may
234 be established and certified, subject to appropriation. A court and the district attorney may, after
235 arraignment, prior to the disposition of a defendant and with the approval of the district attorney,
236 divert the defendant charged with a first offense of subsection (b) of section 53A of chapter 272
237 to a first offender commercial sexual exploitation prevention program. The court shall continue
238 the matter while the defendant fulfills the requirements of the program and shall retain
239 jurisdiction pending the defendant’s successful completion of the program. The district attorney
240 may at any time petition to remove the defendant from the program if the defendant fails to
241 fulfill the requirement of the program. If the court finds that the defendant has failed to
242 substantially comply with the requirements of the program, the court may restore the criminal
243 complaint to the docket for trial or further proceedings in accordance with the regular course of
244 such proceedings.

245 (b) The court shall determine if the defendant is eligible to participate in the first offender
246 commercial sexual exploitation prevention program established pursuant to this section. The
247 defendant shall not be eligible if the court determines that: (i) the defendant was convicted or
248 admitted to sufficient facts of a previous violation of subsection (b) or (c) of section 53A of
249 chapter 272 or a similar offense under the laws of another state; (ii) the defendant was previously
250 admitted to a first offender commercial sexual exploitation prevention program under this
251 section; (iii) the defendant has previously been charged with a violation of subsection (b) or (c)
252 of said section 53A of said chapter 272 or a similar offense under the laws of another state and is
253 awaiting adjudication of such offense; (iv) the defendant has been charged with, convicted of or
254 admitted to sufficient facts of a violation of section 50 or 51 of chapter 265; or (v) the defendant
255 is a registered sex offender under chapter 6 or the laws of another jurisdiction.

256 (c) A first offender commercial sexual exploitation prevention program shall, at a
257 minimum: (i) provide each participant with information, counseling and services relating to: (A)
258 the negative impact of commercial sex and sex trafficking on victims; (B) the negative impact of
259 commercial sex and sex trafficking on communities; (C) the health risks involved in commercial
260 sexual exploitation, including the risk of sexually transmitted diseases and issues relating to
261 mental health, substance abuse and sexual addiction; (D) the legal consequence to the defendant;
262 and (E) classroom instruction related to the prevention of commercial sexual exploitation and
263 organized crime and the sex industry; (ii) employ persons or solicit volunteers that may include,
264 but shall not be limited to, health care professionals, psychologists, licensed social workers or
265 counselors, survivors of commercial sexual exploitation, members of a neighborhood association
266 or community that is adversely affected by the commercial sex trade or trafficking of persons or
267 employees of a nongovernmental organization specializing in advocacy on laws related to sex

268 trafficking or human trafficking or in providing services to victims of those offenses; (iii) allow
269 a participant to withdraw from the program at any time before a trial on the merits has been
270 initiated; and (iv) certify to the court that the defendant has successfully completed the
271 requirements of the program, has failed to complete the program or has withdrawn from the
272 program.

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

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

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

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

294 SECTION 14. Said chapter 276 is hereby further amended by inserting after section
295 100U the following section:-

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

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

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

316 SECTION 15. The secretary of health and human services shall file the initial report
317 required under section 107 of chapter 6A of the General Laws not later than 180 days after the
318 effective date of this act.