

SENATE No. 1098

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>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/26/2021</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>3/1/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/1/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/8/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>4/14/2021</i>

SENATE No. 1098

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1098) of Mark C. Montigny, Michael F. Rush, Michael J. Barrett, Christopher Hendricks 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. 992 OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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, as appearing in the 2018 Official Edition, is
2 hereby amended by adding the following section:-

3 Section 220. (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.

(c) The corporations and other private entities that participate in the partnership shall: (i) adopt a zero tolerance policy toward human trafficking; (ii) ensure that the employees of the corporation or entity comply with the policy adopted pursuant to clause (i); (iii) participate in public awareness and education campaigns; (iv) enhance awareness of and encourage participation in the partnership; and (v) exchange information about effective practices for abolishing human trafficking including, but not limited to, identifying private and nonprofit resources that may be available to support the work of the partnership and promote efforts to abolish human trafficking.

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

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

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

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

SECTION 2. Chapter 6A of the General Laws, as so appearing, is hereby amended by adding the following 3 sections:-

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

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

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

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

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

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

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

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

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

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

(b) Public awareness campaign advertisements shall be displayed in a conspicuous location visible to the public and employees in: (i) adult entertainment facilities and other businesses primarily dedicated to adult entertainment or sex-related products; (ii) facilities determined to be a nuisance for prostitution under section 4 of chapter 139; (iii) facilities licensed as massage establishments and facilities providing bodywork 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 so appearing, is hereby
125 amended by striking out, in line 3, the word “proceeds” and inserting in place thereof the
126 following words:- all revenues received under section 6O of chapter 62, proceeds.

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

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

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

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

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

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

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

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

SECTION 6. Chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after section 6N the following section:-

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

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

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

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

194 SECTION 7. Chapter 90F of the General Laws, as so appearing, is hereby amended by
195 adding the following section:-

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

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

SECTION 9. Chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after section 6B the following section:-

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

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

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

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

SECTION 13. Chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after section 87B the following section:-

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

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

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

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

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

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

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

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

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

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

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

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

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