

HOUSE No. 2850

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

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 relative to the commercial exploitation of people.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Eugene L. O'Flaherty</i>	<i>2nd Suffolk</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Geraldine M. Creedon</i>	<i>11th Plymouth</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>John Hart, Jr.</i>	
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>

<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>William N. Brownsberger</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Jennifer L. Flanagan</i>	
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Steven A. Baddour</i>	
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Barry R. Finegold</i>	
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Attorney General Martha Coakley</i>	<i>One Ashburton Place, Boston, MA</i>

HOUSE No. 2850

By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 2850) of Eugene L. O'Flaherty and others relative to the commercial exploitation of people. The Judiciary.

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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An Act relative to the commercial exploitation of people.

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 265 of the General Laws, as appearing in the 2008 Official
2 Edition, and so amended by Chapter 256 of the Acts of 2010, is hereby further amended by
3 adding at the end thereof the following 5 new sections:-

4 Section 49. As used sections 50 through 51 inclusive, the following words shall, unless
5 the context clearly requires otherwise, have the following meanings:

6 “Blackmail”, is to be given its ordinary meaning and includes but is not limited to a threat
7 to

8 convey or publish any fact or purported fact tending to subject any person to
9 embarrassment,

10 contempt, defamation, hatred, ridicule or worry.

11 “Commercial sexual activity”, any sex act on account of which anything of value is
12 given, promised to, or received by any person.

13 “Financial harm” includes, but shall not be limited to, extortion as defined by section 25
14 of chapter 265, a violation of section 49 of chapter 271, or employment contracts that violate the
15 Statute of Frauds as defined by chapter 259.

16 "Forced labor or services", labor or services that are performed or provided by another
17 person and are obtained or maintained through an actor's: (a) causing or threatening to cause
18 serious harm to any person; (b) physically restraining or threatening to physically restrain
19 another person; (c) abusing or threatening to abuse the law or legal process; (d) knowingly
20 destroying, concealing, removing, confiscating or possessing any actual or purported passport or
21 other immigration document, or any other actual or purported government identification
22 document, of another person; (e) blackmail; or (f) causing or threatening to cause financial harm
23 to any person.

24 “Labor”, work of economic or financial value.

25 "Services", an ongoing relationship between a person and the actor in which the person
26 performs activities under the supervision of or for the benefit of the actor. Commercial sexual
27 activity and sexually-explicit performances are forms of “services” under sections 50 and 51
28 inclusive. Nothing in this provision should be construed to legitimize or legalize prostitution.

29 “Sexually-explicit performance”, an unlawful live or public act or show intended to
30 arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

31 Section 50. (a) Whoever knowingly subjects or attempts to subject, or whoever
32 knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to
33 recruit, entice, harbor, transport, provide, or obtain by any means, another person to engage in
34 commercial sexual activity, sexually-explicit performance, or the production of unlawful

35 pornography in violation of chapter 272, or causes or attempts to cause a person to engage in
36 commercial sexual activity, sexually-explicit performance, or the production of unlawful
37 pornography in violation of chapter 272, is guilty of the crime of trafficking of persons for sexual
38 servitude and shall be punished by imprisonment in the state prison for not more than 20 years;
39 provided, however, that a prosecution commenced under the provisions of this section shall not
40 be continued without a finding or placed on file.

41 (b) Whoever commits the crime of trafficking of persons for sexual servitude upon a
42 person under 18 years of age shall be punished by imprisonment in the state prison for life or for
43 any term of years; provided, however, that a prosecution commenced under the provisions of this
44 section shall not be continued without a finding or placed on file.

45 Section 51. Whoever knowingly: (a) subjects or attempts to subjects another person to
46 forced labor services, or whoever knowingly recruits, entices, harbors, transports, provides, or
47 obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any
48 means, another person, intending or knowing that the person will be subjected to forced labor or
49 services; or (b) benefits, financially or by receiving anything of value, from participation in a
50 venture which has engaged in an act described in violation of sections 50 through 51, inclusive,
51 is guilty of trafficking of persons for forced labor or services and shall be punished by
52 imprisonment in the state prison for not more than 15 years; provided, however, that a
53 prosecution commenced under the provisions of this section shall not be continued without a
54 finding or placed on file. A corporation committing trafficking of persons for forced labor
55 services shall be punished by a fine of not more than \$250,000.

56 (c) Whoever commits the crime of trafficking of persons for forced labor services upon a
57 person under 18 years of age shall be punished by imprisonment in the state prison for life or any
58 term of years; provided, however, that a prosecution commenced under the provisions of this
59 section shall not be continued without a finding or placed on file.

60 Section 52. Whoever, after having been convicted of a crime under sections 50 or 51 of
61 this chapter, commits a second or subsequent crime under sections 50 or 51 of this chapter, shall
62 be punished by imprisonment in the state prison for life or for any term of years, but not less than
63 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or
64 suspended, nor shall any person convicted under this section be eligible for probation, parole,
65 work release, or furlough or receive any deduction from his sentence for good conduct until he
66 shall have served 10 years of such sentence. Prosecutions commenced under this section shall
67 neither be continued without a finding nor placed on file.

68 In any prosecution commenced pursuant to this section, introduction into evidence of a
69 prior adjudication or conviction or a prior finding of sufficient facts by either certified attested
70 copies of original court papers, or certified attested copies of the defendant's biographical and
71 informational data from records of the department of probation, any jail or house of correction or
72 the department of correction, shall be prima facie evidence that the defendant before the court
73 has been convicted previously by a court of the commonwealth or any other jurisdiction. Such
74 documentation shall be self-authenticating and admissible, after the commonwealth has
75 established the defendant's guilt on the primary offense, as evidence in any court of the
76 commonwealth to prove the defendant's commission of any prior conviction described therein.
77 The commonwealth shall not be required to introduce any additional corroborating evidence or
78 live witness testimony to establish the validity of such prior conviction.

79 Section 53. All money seized as a result of a violation of sections 50 through 51 of this
80 chapter, shall be subject to forfeiture to the commonwealth and shall be made available by the
81 court to any victim who is ordered restitution by the court pursuant to section 3 of chapter 258B.

82 SECTION 2. Chapter 12 of the General Laws, as appearing in the 2008 Official Edition,
83 is hereby amended by adding at the end thereof the following new section:-

84 Section 11M. There shall be an inter-agency task force to address all aspects of human
85 trafficking, including sex trafficking and labor trafficking. The task force and shall consist of ____
86 members: 1 of whom shall be the attorney general or her designee who shall chair the task force;
87 1 of whom shall be the President of the Massachusetts District Attorneys Association or his
88 designee; 1 of whom shall be the executive director of the Massachusetts Office for Victim
89 Assistance or his designee; 1 of whom shall be the Director of the Department of Labor or his
90 designee; 1 of whom shall be the Commissioner of the Department of Children and Families or
91 his designee; 1 of whom shall be the Director of the Office for Refugees and Immigrants or his
92 designee; 1 of whom shall be the Secretary of the Executive Office of Public Safety and Security
93 or his designee; 1 of whom shall be the President of the Massachusetts Chiefs of Police
94 Association or his designee; 1 of whom shall be the Commissioner of the Office of the
95 Commissioner of Probation or his designee; 1 of whom shall be the Colonel of the Massachusetts
96 State Police or his designee; 2 of whom shall be the Chairmen of the Joint Committee on the
97 Judiciary; 1 of whom shall be an academic researcher dedicated to the subject of human
98 trafficking; 2 representatives appointed by the attorney general from non-governmental
99 organizations that specialize in human trafficking, including those devoted to child services and
100 runaway services, who shall serve a term of eighteen months. The attorney general shall invite
101 representatives of the U.S. Attorneys' offices and of federal law enforcement agencies operating

102 within the state, including the Federal Bureau of Investigation, U.S. Immigration and Customs
103 Enforcement, and the U.S. Department of Labor, to be members of the task force.

104 (B) The task force shall: coordinate the collection and sharing of human trafficking data
105 among government agencies, which data collection shall respect the privacy of victims of human
106 trafficking; coordinate strategies and make recommendations for law enforcement to share
107 information for the purposes of detecting individuals and groups engaged in human trafficking;
108 review and recommend policies and procedures to enable state government to work with non-
109 governmental organizations and other elements of civil society to prevent human trafficking and
110 to protect and provide assistance to victims of trafficking; identify and review the existing
111 services and facilities that meet the needs of victims of human trafficking that include, but are
112 not limited to, health and mental health services, housing, education and job training, legal
113 services, and victim compensation; recommend a system that would coordinate such services and
114 assess the need for additional services; evaluate various approaches used by state and local
115 governments to increase public awareness of human trafficking; develop strategies to address the
116 demand side of human trafficking; review the General Laws to determine if they need to be
117 amended in order to address human trafficking; and submit a report of its findings and
118 recommendations to the clerks of the Senate and the House of Representatives who shall forward
119 the same to the Chairs of the Joint Committee on the Judiciary 18 months from the effective date
120 of this Act. The task force shall determine if subsequent reports are necessary in order to
121 properly address human trafficking.

122 SECTION 3. The General Laws, as appearing in the 2008 Official Edition, are hereby
123 amended by striking out section 8 of chapter 272 and inserting, in place thereof, the following
124 new section:-

125 Section 8. Whoever solicits or receives compensation for soliciting for a prostitute shall
126 be punished by imprisonment in a house of correction for not more than 2 ½ years, or by a fine
127 of not more than \$5,000, or by both such imprisonment and fine.

128 SECTION 4. The General Laws, as appearing in the 2008 Official Edition, are hereby
129 amended by striking out section 53A of chapter 272 and inserting, in place thereof, the following
130 new section:-

131 Section 53A. (a)Whoever engages, agrees to engage, or offers to engage in sexual
132 conduct with another person in return for a fee, or shall be punished by imprisonment in the
133 house of correction for not more than 1 year or by a fine of not more than \$500 or by both such
134 imprisonment and fine, whether such sexual conduct occurs or not.

135 (b) Whoever pays, agrees to pay, or offers to pay another person to engage in sexual
136 conduct, or to agree to engage in sexual conduct with another natural person, shall be punished
137 by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more
138 than \$5,000 or by both such imprisonment and fine, whether such sexual conduct occurs or not.

139 (c) Whoever pays, agrees to pay, or offers to pay any person with the intent to engage in
140 sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay, or agrees that
141 a third person be paid in return for aiding a person who intends to engage in sexual conduct with
142 a child under the age of 18, shall be punished by imprisonment in the state prison for not more
143 than 10 years, or in the house of correction for not more than 2 ½ years, whether such sexual
144 conduct occurs or not; provided, however, that a prosecution commenced under the provisions of
145 this section shall not be continued without a finding or placed on file.