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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, June 30, 2011.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

The Senator from Norfolk, Bristol and Middlesex, Mr. Ross, then led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Baddour for the purpose of an introduction. Mr. Baddour then introduced, in the Senate Gallery, Louise Meyers. Louise works for Community Voices and is a leading advocate in protecting children. She was accompanied by her children; Allie, Kirsten and Keera. The Senate welcomed them with applause and they withdrew from the Gallery.

Petitions.

Petitions were severally presented and referred, as follows:

By Mr. Brewer, a petition (accompanied by bill, Senate No. 1947) of Stephen M. Brewer and Todd M. Smola (by vote of the town) for legislation relative to town elections in the town of Sturbridge [Local approval received];

Under Senate Rule 20, to the committee on Election Laws.

By Mr. Pacheco, a petition (accompanied by bill, Senate No. 1948) of Marc R. Pacheco, Thomas J. Calter and William M. Straus (by vote of the town) for legislation to require the authorization by a town meeting vote of certain contracts made by the town of Middleborough regarding the sale by the town of water or wastewater [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate No. 1949) of Marc R. Pacheco, Thomas J. Calter and William M. Straus (by vote of the town) for legislation to authorize the board of selectmen of the town of Middleborough to impose reasonable fees for the employment of outside consultants in connection with the review of earth removal applications [Local approval received];

Severally, under Senate Rule 20, to the committee on Municipalities and Regional Government.

Severally sent to the House for concurrence.

Reports of a Committee.

By Mr. Keenan, for the committee on Mental Health and Substance Abuse, on petition, a Bill relative to juvenile mental health (Senate, No. 978);

By the same Senator, for the same committee, on petition, a Bill relative to adult day health services (Senate, No. 979);

By the same Senator, for the same committee, on petition, a Bill authorizing the Department of Mental Health to establish teen drop in centers (Senate, No. 981);

By the same Senator, for the same committee, on petition, a Bill relative to behavioral health emergency services (Senate, No. 982); and

By the same Senator, for the same committee, on petition, a Bill to improve access to child and adolescent mental health services

(Senate, No. 988);

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

PAPERS FROM THE HOUSE

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 3531) of Thomas P. Conroy and Susan C. Fargo (by vote of the town) for legislation that the town of Lincoln be authorized to place a ballot question before the voters relative to changing an existing license for the sale of wines and malt beverages to be drunk on the premises;

Petition (accompanied by bill, House, No. 3532) of Thomas P. Conroy and Susan C. Fargo (by vote of the town) for legislation that the town of Lincoln be authorized to place a ballot question before the voters relative to granting an additional license for the sale of wines and malt beverages not to be drunk on the premises;

Petition (accompanied by bill, House, No. 3533) of Thomas P. Conroy and Susan C. Fargo (by vote of the town) for legislation that the town of Lincoln be authorized to place a ballot question before the voters relative to granting an additional license for the sale of wines and malt beverages to be drunk on the premises to The Groves; and

Petition (accompanied by bill, House, No. 3561) of David Paul Linsky, Alice Hanlon Peisch and Karen E. Spilka (by vote of the town) for legislation that the town of Natick be authorized to grant certain licenses for the sale of wines and malt beverages to be drunk on the premises;

Severally, to the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 3560) of David J. Vieira and Timothy R. Madden (by vote of the town) for legislation that the town of Falmouth be authorized to approve the application of local option room occupancy excise to seasonal rental and timeshare rental properties in said town;

To the committee on Revenue.

Petition (accompanied by bill, House, No. 3534) Stephen Kulik and Stanley C. Rosenberg (by vote of the town) for legislation to authorize the town of Wendell to adopt by-laws or rules and regulations to permit alternative energy, heating and sanitation systems for use in owner-occupied residential dwelling units;

To the committee on Telecommunications, Utilities and Energy.

Ms. Flanagan in the Chair, a Bill authorizing the city of Medford to utilize surplus funds from its water enterprise account and for relief from certain provisions of Section thirty-three B of Chapter forty-four of the General Laws (House, No. 3562-- on House, No. 3529) [Local approval received on House, No. 3529],-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Ross, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Resolutions.

The President in the Chair, the following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:-

Resolutions (filed by Mr. Baddour) "recognizing the achievements of the Honorable Mary McCauley-Manzi, Associate Justice of the Essex County Probate and Family Court, on the occasion of her retirement."

Reports of Committees.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for James Dupont, an employee of the Department of Revenue (Senate, No. 1910),-- **ought to pass, with an amendment striking out the fourth sentence and inserting in place thereof the following sentence:**

"Whenever James Dupont terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank."; and by striking out the emergency preamble and insert in place thereof the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of revenue, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

There being no objection, the rules were suspended, on motion of Mr. Downing, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 1910, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Gale D. Candaras, Brian Ashe, Corey Atkins, James M. Cantwell and other members of the General Court for legislation relative to the punishment for the exploitation of emergency or major disaster victims.

The rules were suspended, on motion of Ms. Candaras and the report was considered forthwith. Joint Rule 12 was

suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the House for concurrence.

PAPER FROM THE HOUSE

A petition (accompanied by bill, House, No. 3564) of Cleon H. Turner, Sarah K. Peake and Timothy R. Madden for legislation relative to vegetation control and no-spray agreements with municipalities and water districts,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.**

Orders of the Day.

The Orders of the Day were considered as follows, to wit:

The House Bill relative to the exploitation of people (House, No. 3483),-- **was read a second time.**

Pending the question on adoption of the Ways and Means new text (Senate, No. 1950) and pending the main question on ordering the bill to a third reading, Mr. Timilty moved to amend the proposed new text, in section 6, by inserting after the words "Massachusetts police training committee;" the following:- "the director of the division of professional licensure;"

The amendment was adopted.

Ms. Creem moved to amend the proposed new text by inserting at the end thereof the following new section:

"SECTION __: Section 1. Said chapter 119 of the General Laws, as so appearing, is hereby further amended by adding the following new section:--Section 39DD. (a) For the purposes of this section, the term "dependent on the court" shall mean subject to the jurisdiction of the court for the findings, orders, and referrals enumerated in this section but shall not constitute a finding of legal incompetence.

(b) The divisions of the probate and family court department shall hear petitions of persons, who have attained the age of 18 but remain under the age of 21, seeking a determination that, as a result of abuse, neglect, or abandonment that the petitioner suffered as a child, it is in the best interest of the petitioner not to return to the petitioner's or the petitioner's parent's previous country of nationality or country of last habitual residence.

(c) Upon reviewing the petition and any supporting affidavits, the court shall issue findings of fact which (1) declare the petitioner dependent upon the court as defined in this section; (2) determine whether the petitioner suffered as a child from abuse, neglect or abandonment as those terms are defined in 110 CMR 2.00, chapter 119 or in section 3 of chapter 210 of the General Laws; (3) determine whether reunification with one or both parents is not viable due to the abuse, neglect, or abandonment; and (4) determine whether as a result of the abuse, neglect or abandonment, it is not in the petitioner's best interest to be returned to the petitioner's or the petitioner's parent's previous country of nationality or country of last habitual residence.

The health and safety of the petitioner shall be of paramount, but not exclusive, concern in the above determinations. When considering the health and safety of the petitioner, the court shall consider whether the petitioner's present or past living conditions will adversely affect his physical, mental, moral or emotional health.

(d) The petitioner under this section may also request orders necessary to protect against further abuse, including, but not limited to, filing a complaint for an abuse prevention order as set out in chapter 209A of the General Laws.

(e) The court may refer the petitioner to a probation officer for assistance and such officer shall have the authority to make referrals to an appropriate public or private organization or person for psychiatric, psychological, educational, occupational, medical, dental or social services. The petitioner may not be compelled to participate in the referrals.

(f) The court shall hear the petition and issue the findings of fact under this section before the petitioner attains the age of 21.

(g) Nothing in this section shall be construed to prevent the divisions of the probate and family court department or the juvenile court department from issuing similar findings of fact to those in subsection (c) in any proceedings related to a child."

The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik, Ross and Montigny moved to amend the proposed new text in section 32 in chapter 265 of the General Laws by striking in section 50(a), in line 413, the term "15" and inserting in place thereof the following term:- "20"; in chapter 265 of the General Laws by striking in section 51(a), in line 435, the term "15" and inserting in place thereof the following term:- "20"; and in chapter 265 of the General Laws by striking in section 53, in line 474, the term "10" and inserting in place thereof the following term:- "15".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 35 – nays 1*) [**Yeas and Nays No. 43**]:

YEAS

Baddour, Steven A.	Knapik, Michael R.
Brewer, Stephen M.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	Murray, Therese

DiDomenico, Sal N.	Pacheco, Marc R.
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Spilka, Karen E.
Hart, John A., Jr.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 35.
Kennedy, Thomas P.	

NAYS

Eldridge, James B. —1.

PAIRED.

YEAS.

NAYS.

Berry, Frederick E.

Creem, Cynthia Stone
(*present*)

ABSENT OR NOT VOTING

Fargo, Susan C.

Rush, Michael F.— 2 .

The yeas and nays having been completed at eight minutes past two o'clock P.M., the amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the proposed new text in section 32 in chapter 265 of the General Laws by inserting in section 53 after the first sentence the following sentences:- “Whoever commits the crime of organ trafficking upon a person under 18 years of age shall be punished by imprisonment in the state prison for a term of years not less than 5 years. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from such sentence for good conduct until having served 5 years of such sentence.”

After remarks, the amendment was adopted.

Messrs. Tarr, Hedlund, Knapik, Ross and Montigny move to amend the proposed new text in section 24 in chapter 233 by inserting after section 20M the following new section:-

“Section 20N. At each stage of an investigation and prosecution of an offense involving a human trafficking victim, as defined by section 1 of chapter 265A, the names and identifying information of the victim and the victim's family shall be withheld from public inspection. Once a complaint is filed or an indictment returned, the court shall order that any identifying information of such a victim and family member shall be kept confidential and the court shall impound or redact the names and identifying information of the victim and the victim's family in any such proceeding, unless such victim provides written consent to the court to disclose that information in those records.”; and

In chapter 265 of the General Laws by inserting after section 58 the following 2 new sections:-

“Section __. Whoever publishes, disseminates or otherwise discloses the location of any human trafficking victim with the intent that such victim suffers bodily injury thereby shall be punished in the state prison for not less than 3 years nor more than 5 years. Whoever violates this section and thereby causes bodily injury to such victim shall be punished by imprisonment in the state prison for not less than 5 years nor more than 10 years, or thereby causes serious bodily injury to such victim shall be punished by imprisonment in the state prison for not less than 10 years nor more than 20 years, or thereby causes the death of such victim shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years.

Section __. Whoever maliciously publishes, disseminates or otherwise discloses the name of any human trafficking victim who's identity has been the subject of a confidentially order under section 20N of chapter 233, knowing that such victim's name was the subject of such order, shall be punished in the house of correction for not more than 2 ½ years and by a \$1,000 fine.”

The amendment was *rejected*.

Ms. Creem moved to amend the proposed new text by striking out, in Section 32 of the bill, lines 405 through 469, and inserting in place thereof the following text:-

“Section 50. (a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage

in commercial sexual activity, a sexually explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually explicit performance or the production of unlawful pornography in violation of said chapter 272; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not more than 15 years, and by a fine of not more than \$25,000. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years. No prosecution commenced under this section shall be continued without a finding or placed on file.

(c) A business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than \$1,000,000. A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred or where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venture in trafficking of persons for sexual servitude shall be civilly liable for an offense under this section.

Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment in the state prison for not more than 15 years, and by a fine of not more than \$25,000. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) A business entity that commits trafficking of persons for forced labor services shall be punished by a fine of not more than \$1,000,000. A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred or where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venture in trafficking of person for forced labor or services shall be civilly liable for an offense under this section.

(c) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years. No prosecution commenced under this section shall be continued without a finding or placed on file.

Section 52. Whoever, after having been convicted or adjudicated delinquent of a violation of section 50 or 51, commits a second or subsequent violation of either section 50 or 51, shall be punished by imprisonment in the state prison for life or for any term of years. No prosecution commenced under this section shall be continued without a finding or placed on file.”; and by striking out section 35 of the bill.

The amendment was rejected.

Ms. Creem moved to amend the proposed new text by striking out, in Section 32 of the bill, lines 405 through 450, and inserting in place thereof the following text:-

“Section 50. (a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually explicit performance or the production of unlawful pornography in violation of said chapter 272; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not more than 15 years, and by a fine of not more than \$25,000. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years. No prosecution commenced under this section shall be continued without a finding or placed on file.

(c) A business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than \$1,000,000. A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred or where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venture in trafficking of persons for sexual servitude shall be civilly liable for an offense under this section.

Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment in the state prison for not more than 15 years, and by a fine of not more than \$25,000. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) A business entity that commits trafficking of persons for forced labor services shall be punished by a fine of not more than \$1,000,000. A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred or where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venture in trafficking of person for forced labor or services shall be civilly liable for an offense under this section.

(c) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years. No prosecution commenced under this section shall be continued without a finding or placed on file.”; and by striking out section 35 of the bill.
The amendment was *rejected*.

Ms. Creem moved to amend the proposed new text in Section 32 by inserting in line 387 the following:-

“‘Coercion or duress’, the use of: (i) inflicting or or threatening to inflict serious harm to any person; (ii) physical restraint or threatening to physically restrain another person; (iii) abuse of or threatening to abuse the law or legal process; (iv) the destruction, concealment, removal, confiscation or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; (v) extortion as defined by section 25; or (vi) causing or threatening to cause financial harm to any person to induce another to do something against his will.”; and

By striking lines 405 to 418 inclusive and inserting in place the following:-

“Section 50. (a) Whoever (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means , or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of said chapter 272, knowing or having reason to know that such person’s participation in such sexual activity, sexually-explicit performance or production of pornography is the product of coercion or duress; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not more than 15 years, but not less than 5 years, and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.”

The amendment was *rejected*.

Mr. McGee moved that the proposed new text be amended, in Section 11, at lines 168 to 169, by striking out “and subject to appropriation, ”; and in said Section 11, at lines 178-181, by striking out the words “Subject to appropriation, sexually exploited children shall have access to an advocate as defined in section 21. The advocate or a member of the multidisciplinary service team established under section 51D may accompany the child to all 181 court appearances and may serve as a liaison between the service providers and the court.” and inserting in place therefor the following language:- “Sexually exploited children shall have access to an advocate as defined in section 21. The advocate or a member of the multidisciplinary service team established under section 51D shall accompany the child to all 181 court appearances and may serve as a liaison between the service providers and the court.”

After remarks, the amendment was adopted.

Ms. Spilka moved to amend the proposed new text in Section 8, at line 137, by adding after the words “sexually exploited children” the following: “or children who are otherwise human trafficking victims,”; in Section 12, at line 239, by adding at the end thereof the following: “(v) being a human trafficking victim as defined by section 20M of chapter 233.”; in Section 14, at line 246, by adding after the words “sexually exploited child” the following: “or a child who is otherwise a human trafficking victim; in Section 15, at line 250, by adding after the words “sexually exploited child” the following: “or a child who is otherwise a human trafficking victim”; in Section 16, at line 253, by adding after the words “sexually exploited child” the following: “or a child who is otherwise a human trafficking victim” and at line 255, by adding after the words “sexually exploited children” the following: “or children who are otherwise human trafficking victims,”; and in Section 17, at line 264, by adding after the word “exploited” the following: “or is otherwise a human trafficking victim”.

After remarks, the amendment was adopted.

Mr. Tarr moved to amend the proposed new text in Section 6 in chapter 12 of the General Laws by inserting in section 11N after subsection 14 the following subsections:-

“(15) examine additional tools needed to prohibit the use of United States currency in facilitating human trafficking, focusing on income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt, including but not limited to the enactment of state statutes in the nature of federal law codified at 18 U.S.C. 1962.

(16) issue an annual report outlining the task force’s findings pursuant to clauses (1) to (15), inclusive.”

After remarks, the amendment was adopted.

Messrs. Montigny and Tarr moved to amend the proposed new text in section 33, by striking subsection and inserting in place thereof the following subsections:-

“(9) examine the costs associated with establishing a safe house pilot program for adult and child victims of human trafficking, and identify public and private funding sources that may be used to develop and implement a safe house pilot program;

(10) examine cost-effective notices, announcements or advertisements that may be displayed in public places, such as airports, train stations, bus stations, hotels, massage parlors, spas, strip clubs and other sexually-oriented businesses, providing information relating to services for human trafficking victims;

(11) develop a strategy and relevant methodologies for training providers in health and human services in the recognition of signs

and circumstances indicating that an individual is the victim of human trafficking, and the appropriate steps to report them to the appropriate law enforcement personnel or agencies;

(12) develop and promulgate materials that may be used by school administrators and educators in the identification of human trafficking victims, and the appropriate actions to be undertaken when such victims are identified, and to educate school officials as to the scope and magnitude of human trafficking in the nation and the commonwealth;

(13) identify strategies for the facilitation and development of public-private partnerships to assist in the identification, prosecution and eradication of human trafficking;

(14) examine, in conjunction with the Department of Elementary and Secondary Education, the feasibility of conceptualizing, developing, and disseminating health curricula on the unique aspects of commercial exploitation related to the internet, internet safety curriculum about the dangers of human trafficking and how to prevent it, and developing a parent guide and teacher training material on internet safety and methods of preventing the exploitation of minors over the internet.”

The amendment was adopted.

There being no objection, during consideration of the Orders of the Day, the following matters were severally considered:

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (both of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Authorizing the city of Marlborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 3344, amended); and

Authorizing the city of Medford to utilize surplus funds from its water enterprise account and for relief from certain provisions of Section 33B of Chapter 44 of the General Laws (see House, No. 3562).

Recess.

There being no objection, at twelve minute before three o'clock P.M., the President declared a recess subject to the call of the Chair; and, at three minutes past four o'clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

The Orders of the Day were further considered as follows, to wit:

The House Bill relative to the exploitation of people (House, No. 3483),-- **was considered, the main question being on ordering the bill to a third reading with the Ways and Means new text (Senate, No. 1950) pending.**

Mr. Montigny, Ms. Creem and Mr. Tarr moved to amend the proposed new text by inserting after the words “ by a fine of”, in line 649, the following words:-

“not less than \$1,000 and”; in line 659, by striking out the figure “\$500” and inserting in place thereof the following figure:- “\$1,000”; by inserting after section 35 the following section:-

"SECTION 35A. Chapter 276 of the General Laws is hereby amended by inserting after section 87A, the following section:-

Section 87B. (a) Subject to appropriation, a court may, prior to the disposition of a defendant, divert said defendant charged with a first offense of sections 8 or subsection (a) or (b) of section 53A of chapter 272 to a first offender prostitution solicitation program. The court shall continue the matter while the defendant fulfills the requirements of the program and retain jurisdiction pending the defendant's completion of the program.

(b) The court shall determine if the defendant is eligible to participate in the first offender prostitution prevention program established under this section. The defendant shall not be eligible if the court determines that;

(1) the defendant was convicted, admitted sufficient facts to a previous violation of sections 8 or 53A of chapter 272 or a similar offense under the laws of another state.;

(2) the defendant was previously admitted to a first offender prostitution prevention program under this section;

(3) the defendant has been charged with a violation of sections 8 or 53A of chapter 272 or a similar offense under the laws of another state and is awaiting adjudication of said offense;

(4) the defendant has been charged with, convicted or admitted sufficient facts to a violation of section 50 or 51 of chapter 265; or (5) the defendant is a registered sex offender under chapter 6 or under the laws of another jurisdiction.

(c) A first offender prostitution solicitation program established under this section shall, at a minimum:

(1) provide each participant with information, counseling, and services relating to:

(i) the negative impact of commercial sex and sex trafficking on victims;

(ii) the negative impact of commercial sex and sex trafficking on communities;

(iii) health risk involved in prostitution including the risk of sexually; transmitted diseases, and issues relating to mental health, substance abuse and sexual addiction;

(iv) the legal consequence to the defendant; and

(v) classroom instruction related to the prevention of prostitution and issues organized crimes and the sex industry;

(2) employ persons or solicit volunteers that may include, but not be limited to:

- (i) health care professionals;
- (ii) psychologists;
- (iii) licensed social worker or counselors;
- (iv) former prostitutes;
- (v) members of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or
- (vi) employees of a nongovernmental organization specializing in advocacy or laws related to sex trafficking or human trafficking or in providing services to victims of those offenses;
- (3) establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which the defendants reside;
- (4) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated; and
- (5) certify to the court that the defendant has successfully completed the requirements of the program or has failed to complete or has withdrawn from the program.
- (d) Upon successful completion of the program the court shall dismiss the charge against the defendant. Upon dismissal the court may ordered the record of the defendant sealed.
- (e) The court shall assess a fee of \$750 for participation in the first offender prostitution solicitation program. The court shall not waive the fee but may reduce the fee based on a determination by probation that the defendant cannot pay the entire fee. The fee shall be distributed as follows:
 - (1) One-third of the fee shall be transferred to the non-profit organization certified by the commissioner of probation to conduct said program;
 - (2) One-third shall be transferred to the Human Trafficking Trust Fund established in section 66A of chapter 10; and
 - (3) One-third shall be transferred to the police department that was responsible for the arrest of the defendant.
- (f) The commissioner of probation shall, in consultation with the chairs of the Anti-Human Trafficking Task Force, review each organization that operates a first offender prostitution solicitation program in the commonwealth, and shall certify that the program is operating under the requirements in subsection (c). The commissioner shall notify the administrative office of the trial court of all programs receiving said certification. Only programs certified by the commissioner shall qualify to operate a program under this section. The commissioner, at the commissioner's discretion, may decertify a program for good cause at any time and the commissioner shall notify the administrative office of the trial court of said decertification."; and

By adding the following 2 sections:-

"SECTION 40. The commissioner of probation, in consultation with the administrative office of the trial court, shall, not more than 180 days after the release of the Anti-Human Trafficking Task Force's annual report, certify to the commissioner of administration and the house and senate committee on ways and means the minimum amount of funds necessary in a fiscal year to operate not less than 3 first offender prostitution solicitation programs in the commonwealth; provided, however, that such programs, and the costs of certification and oversight incurred by the commissioner of probation, be funded by the \$750 fee contained in section 87B of chapter 276 of the General Laws.

SECTION 41. The attorney general shall provide written notice to the commissioner of probation on the release of the Anti-Human Trafficking Task Force's annual report."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at seven minutes past four o'clock P.M., on motion of Mr. Montigny, as follows, to wit (*yeas 36 – nays 0*) [**Yeas and Nays No. 44**]:

YEAS

Baddour, Steven A.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Clark, Katherine M.	Montigny, Mark C.
Creem, Cynthia Stone	Moore, Michael O.
DiDomenico, Sal N.	Moore, Richard T.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E
Hedlund, Robert L.	Tolman, Steven A.

Jehlen, Patricia D. Welch, James T.
Joyce, Brian A. Wolf, Daniel A. — **36.**

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F.— **3 .**
Chang-Diaz, Sonia

The yeas and nays having been completed at thirteen minutes past four o'clock P.M., the amendment was adopted.

Mr. McGee moved to amend the proposed new text in Section 11, by striking out the proposed section 39L of chapter 119 of the General Laws and inserting in place thereof the following section:-

“Section 39L. (a) In any juvenile delinquency or criminal proceeding against a sexually exploited child alleging that such juvenile or such defendant violated section 53 of chapter 272 or subsection (a) of section 53A of said chapter 272, any person, including the juvenile, may file a care and protection petition on behalf of such child, including a petition for emergency commitment pursuant to section 24 or a parent or a police officer may file a child in need of services petition pursuant to section 39E.

(b) The court may appoint a guardian ad litem and shall hold a hearing on such petition. The necessary findings of fact to support the court's decision shall be reduced to writing and made part of the court record.

(c) Upon a motion by a party to the juvenile delinquency or criminal proceeding or by a guardian ad litem, unless the district attorney or the attorney general objects, and upon a finding that a child alleged to be a juvenile delinquent by reason of violating section 53 of chapter 272 or subsection (a) of section 53A of said chapter 272 is a child in need of care and protection or a child in need of services, the court shall place the child on pretrial probation pursuant to section 87 of chapter 276. The conditions of such probation shall include, but not be limited to, requiring the child to substantially comply with all lawful orders of the court, including orders relating to any care and protection or child in need of services proceeding, and the child shall also comply with the guidance and services of the department or any designated non-governmental service provider. The court may restore the delinquency complaint to the docket for trial or further proceedings in accordance with the regular course of such proceedings.”

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik, Ross and Montigny moved to amend the proposed new text by inserting after section 31 the following section:

-"SECTION 31A. Chapter 265 of the General Laws is hereby amended by inserting after section 26C the following section:-
Section 26D. (a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite.

(b) As used in this section, the term "electronic communication" shall include but is not limited to any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

(c) Anyone who, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50, 51, 52, or 53 of chapter 265 or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in a state prison for not more than 5 years, a fine of not less than \$2,500, or both.

Whoever, after having been convicted or adjudicated delinquent of a violation of this section, commits a second or subsequent violation, shall be punished by imprisonment in the state prison for not less than 5 years, a fine of not less than \$10,000, or both. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough, or receive any deduction from the sentence for good conduct until that person has served 5 years of such sentence.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes before five o'clock P.M., on motion of Mr. Ross, as follows, to wit (*yeas 36 – nays 0*) [**Yeas and Nays No. 45**]:

YEAS

Baddour, Steven A.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Clark, Katherine M.	Montigny, Mark C.
Creem, Cynthia Stone	Moore, Michael O.
DiDomenico, Sal N.	Moore, Richard T.

Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 36.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E.	Rush, Michael F.— 3 .
Chang-Diaz, Sonia	

The yeas and nays having been completed at nineteen minutes before five o'clock P.M., the amendment was adopted.

Mr. Brewer moved to amend the proposed new text in section 1, by striking out the words "subsection (a) of";

In section 3, by striking out the words "trafficking of persons for sexual servitude under subsection (a) of section 50 of chapter 265; trafficking of persons for sexual servitude upon a person under 18 years of age under subsection (b) of said section 50 of said chapter 265" and inserting in place thereof the following words:- "trafficking of persons for sexual servitude under section 50 of chapter 265";

In section 6, in lines 67 and 68 by striking out the words "co-chaired by the attorney general and the secretary of health and human services or their designees" and inserting in place thereof the following words:- "which shall be chaired by the attorney general or a designee";

In section 24, by striking out in lines 312 to 314, inclusive the words "and who consults a human trafficking victims' caseworker for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by such violation.";

By striking out section 26 and inserting in place thereof the following section:-

"SECTION 26. Section 3 of chapter 258B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following clause:-

(w) for human trafficking victims, who have been certified to receive criminal record offender information under section 178A of chapter 6, to be provided a copy of an incident or a police report relative to the prosecution of the case, subject to paragraphs (a) to (s), inclusive, of clause twenty-sixth of section 7 of chapter 4; provided however, that no charge shall be assessed to such victim for such report.";

In section 32, in proposed section 50 of chapter 265 by striking out subsection (b) and inserting in place thereof the following subsection:-

"(b) Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence."; and

In section 32, in proposed section 51 of chapter 265 by striking out subsection (c), and inserting in place thereof the following subsection:-

"(c) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence."

The amendment was adopted.

The pending Ways and Means amendment, as amended, was then adopted.

The bill (House, No. 3483) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at thirteen minutes before five o'clock P.M., on motion of Ms. Flanagan, as follows, to wit (*yeas 37 – nays 0*) [Yeas and Nays No. 46]:

YEAS

Baddour, Steven A.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Moore, Richard T.
DiDomenico, Sal N.	Murray, Therese
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 37.
Keenan, John F.	

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E.	Rush, Michael F.— 3 .
Chang-Diaz, Sonia	

**The yeas and nays having been completed at five minutes before five o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment [For text of Senate amendment, see Senate, No. 1951].
Sent to the House for concurrence in the amendment.**

Order Adopted.

On motion of Mr. Baddour,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at twelve o'clock noon in a full formal session without a calendar.

Adjournment in Memory of Stephen Donnelly

The Senator from Middlesex, Mr. Donnelly, requested that when the Senate adjourns today, it adjourn in memory of Stephen E. Donnelly of Burlington.

Steve was born in Cambridge, the son of the late Albert and Enes Donnelly. He grew up and was educated in Cambridge and Arlington. Steve was a great athlete at Arlington High School playing on the baseball team and captain of the hockey team. He would later share his love of sports with his sons as both a hockey coach and baseball coach for 15 years. He also umpired little League Baseball games after his sons were older. Over the years he was a faithful fan of the Patriots, the Red Sox, and the Bruins.

Steve served in the Air Force for 4 years during the Vietnam War. He was the recipient of the National Defense Service Medal, Good Conduct Medal, Vietnam Service Medal, Republic of Vietnam Service Medal, and the Air Force Longevity Service Award.

Stephen E. Donnelly passed away after a long battle with cancer at his home with his family at his side on Sunday morning, June 12, 2011. He was 63 years old. Steve was the husband of Sheila and the loving father of Stephen E. Jr. of Billerica, Michael & his wife Kerrie of Chelmsford, and Jillian Patt and her husband Robert of Woburn. He was looking forward to seeing the birth of his first grandchild in the upcoming weeks.

Accordingly, as a mark of respect to the memory of Stephen Donnelly, at two minutes before five o'clock P.M., on motion of Mr. Baddour, the Senate adjourned to meet again tomorrow at twelve o'clock noon.