

HOUSE No. 02850

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 passage 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>First Suffolk</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>Second Suffolk and Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Ruth B. Balse</i>	<i>12th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</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>First Essex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</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. 02850

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 Edition, and so
2 amended by Chapter 256 of the Acts of 2010, is hereby further amended by adding at the end
3 thereof the following 5 new sections:-
- 4 Section 49. As used sections 50 through 51 inclusive, the following words shall, unless the
5 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 to
7 convey or publish any fact or purported fact tending to subject any person to embarrassment,
8 contempt, defamation, hatred, ridicule or worry.
- 9 “Commercial sexual activity”, any sex act on account of which anything of value is given,
10 promised to, or received by any person.

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

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

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

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

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

28 Section 50. (a) Whoever knowingly subjects or attempts to subject, or whoever knowingly
29 recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit,
30 entice, harbor, transport, provide, or obtain by any means, another person to engage in
31 commercial sexual activity, sexually-explicit performance, or the production of unlawful
32 pornography in violation of chapter 272, or causes or attempts to cause a person to engage in

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

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

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

53 (c) Whoever commits the crime of trafficking of persons for forced labor services upon a person
54 under 18 years of age shall be punished by imprisonment in the state prison for life or any term

55 of years; provided, however, that a prosecution commenced under the provisions of this section
56 shall not be continued without a finding or placed on file.

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

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

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

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

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

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

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

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

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

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

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

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

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