

HOUSE No. 03470

The Commonwealth of Massachusetts

PRESENTED BY:

Brian S. Dempsey

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: _____

HOUSE No. 03470

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill relative to the commercial exploitation of people (House, No. 3469) ought to pass with an amendment substituting a bill with the same title (House, No. 3470).

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 most recently amended by section 119 of
2 chapter 256 of the acts of 2010, is hereby further amended by inserting after section 48 the
3 following 5 sections:-

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

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

8 “Financial harm”, a detrimental position in relation to wealth, property or other monetary
9 benefits that occurs as a result of another person’s illegal act including, but not limited to,
10 extortion as defined by section 25 of chapter 265, a violation of section 49 of chapter 271 or
11 illegal employment contracts.

12 "Forced services", services performed or provided by a person that are obtained or maintained by
13 another person: (i) causing or threatening to cause serious harm to any person; (ii) physically
14 restraining or threatening to physically restrain another person; (iii) abusing or threatening to
15 abuse the law or legal process; (iv) knowingly destroying, concealing, removing, confiscating or
16 possessing any actual or purported passport or other immigration document, or any other actual
17 or purported government identification document, of another person; (v) use of extortion as
18 defined by section 25 of chapter 265; or (vi) causing or threatening to cause financial harm to
19 any person.

20 "Services", acts performed by a person under the supervision of or for the benefit of another,
21 including, but not limited to, commercial sexual activity and sexually-explicit performances.

22 "Sexually-explicit performance", an unlawful live or public act or show intended to arouse or
23 satisfy the sexual desires or appeal to the prurient interests of patrons.

24 Section 50. (a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices,
25 harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor,
26 transport, provide or obtain by any means, another person to engage in commercial sexual
27 activity, sexually-explicit performance or the production of unlawful pornography in violation of
28 chapter 272, or causes or attempts to cause a person to engage in commercial sexual activity,
29 sexually-explicit performance or the production of unlawful pornography in violation of chapter
30 272; or (ii) benefits, financially or by receiving anything of value, from participation in a venture
31 which has engaged in an act described herein, is guilty of the crime of trafficking of persons for
32 sexual servitude and shall be punished by imprisonment in the state prison for not more than 15
33 years or by a fine of not more than \$25,000, or both; provided, however, that a prosecution

34 commenced under the provisions of this section shall not be continued without a finding or
35 placed on file.

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

40 Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced
41 services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to
42 recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or
43 knowing that the person will be subjected to forced services; or (ii) benefits, financially or by
44 receiving anything of value, from participation in a venture which has engaged in an act
45 described herein, is guilty of trafficking of persons for forced services and shall be punished by
46 imprisonment in the state prison for not more than 15 years or by a fine of not more than
47 \$25,000, or both; provided, however, that a prosecution commenced under the provisions of this
48 section shall not be continued without a finding or placed on file. A business entity that commits
49 trafficking of persons for forced labor services shall be punished by a fine of not more than
50 \$500,000.

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

55 Section 52. (a) Whoever, after having been convicted of a violation of section 50 or 51, commits
56 a second or subsequent offense under said sections shall be punished by imprisonment in the
57 state prison for life or for any term of years. Prosecutions commenced under this section shall not
58 be continued without a finding nor placed on file.

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

70 Section 53. All money seized as a result of a violation of section 50 or 51 shall be subject to
71 forfeiture to the commonwealth and shall be made available by the court to any victim who is
72 ordered restitution by the court pursuant to section 3 of chapter 258B.

73 SECTION 2. Chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is
74 hereby amended by striking out section 8 and inserting in place thereof the following new
75 section:-

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

79 SECTION 3. Said chapter 272 of the General Laws, as so appearing, is hereby amended by
80 striking out section 53A and inserting in place thereof the following new section:-

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

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

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

96 SECTION 4. (a) There shall be an interagency task force to address all aspects of human
97 trafficking, including sex trafficking and labor trafficking. The task force shall consist of 19

98 members: 1 of whom shall be the attorney general or the attorney general's designee who shall
99 serve as chair ; 1 of whom shall be the president of the Massachusetts district attorneys
100 association or the president's designee; 1 of whom shall be the executive director of the
101 Massachusetts office for victim assistance or the director's designee; 1 of whom shall be the
102 director of the department of labor standards or the director's designee; 1 of whom shall be the
103 commissioner of the department of children and families or the commissioner's designee; 1 of
104 whom shall be the director of the office for refugees and immigrants or the director's designee; 1
105 of whom shall be the secretary of the executive office of public safety and security or the
106 secretary's designee; 1 of whom shall be the president of the Massachusetts chiefs of police
107 association or the president's designee; 1 of whom shall be the commissioner of the office of
108 probation or the commissioner's designee; 1 of whom shall be the colonel of the Massachusetts
109 state police or the colonel's designee; 1 of whom shall be the chief of the Massachusetts Bay
110 transportation authority transit police or the chief's designee; 1 of whom shall be the director of
111 the division of professional licensure or the director's designee; 1 of whom shall be the
112 commissioner of the Boston police department or the commissioner's designee; 2 of whom shall
113 be the chairs of the joint committee on the judiciary or such chairs designees; 1 of whom shall be
114 an academic researcher dedicated to the subject of human trafficking; and 3 of whom shall be
115 appointed by the attorney general from non-governmental organizations that specialize in human
116 trafficking, including, but not limited to, those who work in the following areas: child and
117 runaway services, sexually exploited adults and labor, who shall serve a term of 18 months. In
118 addition to the designated members of the task force, the attorney general shall invite
119 representatives of the U.S. Attorneys' offices and of federal law enforcement agencies operating

120 within the state, including the Federal Bureau of Investigation, U.S. Immigration and Customs
121 Enforcement, and the U.S. Department of Labor, to participate on the task force.

122 (b) The task force shall: (i) coordinate the collection and sharing of human trafficking data
123 among government agencies; provided, however that such data collection shall respect the
124 privacy of victims of human trafficking; coordinate strategies and make recommendations for
125 law enforcement to share information for the purposes of detecting individuals and groups
126 engaged in human trafficking; (ii) review and recommend policies and procedures to enable state
127 government to work with non-governmental organizations and other elements of civil society to
128 prevent human trafficking and to protect and provide assistance to victims of trafficking; (iii)
129 identify and review the existing services and facilities that meet the needs of victims of human
130 trafficking that include, but are not limited to, health and mental health services, housing,
131 education and job training, legal services, and victim compensation; (iv) recommend a system
132 that would coordinate such services and assess the need for additional services; (v) evaluate
133 various approaches used by state and local governments to increase public awareness of human
134 trafficking; (vi) develop strategies to address the demand side of human trafficking; (vii) review
135 the General Laws to determine if they need to be further amended in order to address human
136 trafficking; and (viii) submit a report of its findings and recommendations to the clerks of the
137 senate and the house of representatives who shall forward the same to the chairs of the joint
138 committee on the judiciary 18 months from the effective date of this act. The task force shall
139 determine if subsequent reports are necessary in order to properly address human trafficking.