

**SENATE . . . . . No. 00827**

The Commonwealth of Massachusetts

PRESENTED BY:

***Mark C. Montigny***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the commercial exploitation of people.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Steven A. Baddour</i>	<i>First Essex</i>
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>

<i>Katherine M. Clark</i>	<i>Middlesex and Essex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Martha Coakley</i>	<i>One Ashburton Place</i> <input type="checkbox"/> <i>Boston, MA 02108 -1518</i> <input type="checkbox"/>
<i>Samuel Sutter</i>	<i>Massachusetts District Attorneys Association</i> <input type="checkbox"/> <i>One Bulfinch Place, Suite 202</i> <input type="checkbox"/> <i>Boston, MA 02114</i> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<i>Ayanna Pressley</i>	<i>1 City Hall Square, Suite 550</i> <input type="checkbox"/> <i>Boston, MA 02201-2043</i> <input type="checkbox"/> <input type="checkbox"/>
<i>Daniel F. Conley</i>	<i>1 Bulfinch Pl # 300</i> <input type="checkbox"/> <i>Boston, MA 02114</i> <input type="checkbox"/>
<i>Jonathan W. Blodgett</i>	<i>Ten Federal Street</i> <input type="checkbox"/> <i>Salem, MA 01970</i> <input type="checkbox"/>
<i>Gerard T. Leone</i>	<i>15 Commonwealth Ave.</i> <input type="checkbox"/> <i>Woburn, MA 01801</i> <input type="checkbox"/> <input type="checkbox"/>
<i>David F. Capeless</i>	<i>7 North Street</i> <input type="checkbox"/> <i>PO Box 1969</i> <input type="checkbox"/> <i>Pittsfield, MA 01202</i> <input type="checkbox"/>
<i>Timothy J. Cruz</i>	<i>32 Belmont Street</i> <input type="checkbox"/> <i>PO Box 1665</i> <input type="checkbox"/> <i>Brockton, MA 02301</i> <input type="checkbox"/>
<i>David E. Sullivan</i>	<i>One Gleason Plaza</i> <input type="checkbox"/> <i>Northampton, MA 01060</i>

*Mark G. Mastroianni*

*Hall of Justice*

*50 State Street*

*Springfield, MA 01103*

*Joseph Early*

*225 Main Street, Room G-301*

*Worcester*

*Michael W. Morrissey*

*45 Shawmut Rd*

*Canton, MA 02021*

**SENATE . . . . . No. 00827**

By Mr. Montigny, petition (accompanied by bill, Senate, No. 827) of Mark C. Montigny, Russell Holmes, Alice Hanlon Peisch and other members of the General Court for legislation relative to the commercial exploitation of people [Joint Committee on the Judiciary].

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 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  
7 threat to convey or publish any fact or purported fact tending to subject any person to  
8 embarrassment, contempt, defamation, hatred, ridicule or worry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



100 representatives of the U.S. Attorneys' offices and of federal law enforcement agencies operating  
101 within the state, including the Federal Bureau of Investigation, U.S. Immigration and Customs  
102 Enforcement, and the U.S. Department of Labor, to be members of the task force.

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

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

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

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

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

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

138 (c) Whoever pays, agrees to pay, or offers to pay any person with the intent to engage  
139 in sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay, or agrees  
140 that a third person be paid in return for aiding a person who intends to engage in sexual conduct  
141 with a child under the age of 18, shall be punished by imprisonment in the state prison for not  
142 more than 10 years, or in the house of correction for not more than 2 ½ years, whether such

143 sexual conduct occurs or not; provided, however, that a prosecution commenced under the  
144 provisions of this section shall not be continued without a finding or placed on file.