

HOUSE 3483:

**AN ACT RELATIVE TO THE COMMERCIAL
EXPLOITATION OF PEOPLE***

(Summary reflects new text)

SPONSORS:

Representatives O'Flaherty, Story, Benson and others; Senators Hart, Flanagan, Baddour, Finegold; Attorney General Coakley

**LEGISLATIVE
HISTORY:**

06/06/11 H3470, published as amended
06/06/11 House passed to be engrossed
06/09/11 Senate read and referred to Senate Ways and Means

**EXISTING LAWS
AFFECTED:**

G.L. c. 6, § 178C; G.L. c. 9A, § 1; G.L. c. 10; G.L. c. 12; G.L. c. 22C, § 37; G.L. c. 119; G.L. c. 119, § 21, 51A, 51B, 51D, 55B, 58; G.L. c. 120, § 12; G.L. c. 127, § 90A, 133E, 152; G.L. c. 233; G.L. c. 233, § 21B; G.L. c. 258B, § 3; G.L. c. 260; G.L. c. 260, § 4C; G.L. c. 265; G.L. c. 265, § 13L, 24A, 24C; G.L. c. 272, § 8, 53A; G.L. c. 276, § 87; G.L. c. 277, § 63; G.L. c. 278, § 16D

**PROPOSED
LEGISLATION:**

- Establishes criminal penalties for sex trafficking, forced labor and organ trafficking.
- Establishes a mandatory minimum of 5 years for persons convicted of a first offense of sex trafficking or trafficking in forced labor, and a mandatory minimum of 10 years for persons convicted of a second or subsequent offense.
- Increases the penalty for soliciting a prostitute, and increases the penalty for soliciting sex from a person under 18.
- Allows a court to fine a business up to \$1 million for participating in sex trafficking or trafficking in forced labor; businesses may also be found civilly liable.
- Excludes from admissibility the sexual history of an alleged human trafficking victim, and extends the availability of free police reports to human trafficking victims.
- Allows defendants who are victims of human trafficking and charged with prostitution to establish a defense of duress or coercion.

* The report of the Committee will also be based on **S 1921, An Act Relating to Anti-Human Trafficking and Protection (Montigny)**. Senator Montigny's bill will be attached to H 3483 and released from the Committee pending the results of the poll. S 1921 will become part of the papers of H 3483.

- Establishes an Anti-Human Trafficking Task Force, comprised of state officials, law enforcement, victims' services organizations and trafficking victims. The task force shall investigate and study rates of human trafficking, prevention, treatment of victims and other necessary programs or services that might protect victims or potential victims of human trafficking.
- Establishes the Victims of Human Trafficking Trust Fund, supported by fines and proceeds of asset forfeitures, to fund services for victims of human trafficking. The fund shall be administered by the Victim and Witness Assistance Board.
- Allows a court to provide money seized by law enforcement as restitution for victims of human trafficking.
- Establishes a forfeiture process that may be used by police, the district attorneys and the Attorney General to seize assets, such as vehicles and real estate; the proceeds from the sale of such assets would be shared by law enforcement and the newly-established fund.
- Directs the Attorney General's Office, with funding from the newly-established trust fund, to prepare and make available educational or informational materials on human trafficking to employers who may encounter human trafficking victims.
- Establishes a "safe harbor provision" that allows the commonwealth, defendant or court to request a hearing to determine whether a child arrested for being a common nightwalker or prostitute should instead receive services through a child in need of services or care and protection proceeding.
- Amends the definition of "child in need of services" to include children who are violating laws prohibiting prostitution.
- Establishes a definition for "sexually exploited children"; requires DCF, to the extent funds are available, to provide an advocate and services to sexually exploited children.
- Requires DCF to immediately report to the district attorneys and the police any child the department believes to be a sexually exploited child.
- Directs DCF, subject to appropriation, to provide services such as counseling, to child human trafficking victims.

- Protects communications between human trafficking victims and their caseworkers from disclosure or discovery without prior consent; allows limited disclosure for providing exculpatory evidence for the defense.
- Amends the mandated reporting law so that mandated reporters, such as doctors, social workers, teachers and probation officers, must report to DCF when they have reasonable cause to believe that a child is sexually exploited.
- Establishes a process for victims of sex trafficking or trafficking in forced labor to bring civil actions.
- Authorizes state and local law enforcement to document human trafficking victims' participation in ongoing investigations to the federal government, so that such victims and their families can qualify for an appropriate visa to remain in the country.
- Requires that law enforcement and the courts withhold sex trafficking victims' names.
- Requires persons convicted of sex trafficking to register with the Sex Offender Registry Board.
- Requires the Department of Correction and the Department of Youth Services to notify law enforcement of the release of convicted sex traffickers.

**AGENCY
COMMENTS:**

The committee redraft incorporates comments from the Department of Children and Families regarding services for sexually exploited children.

The Attorney General's Office supports establishing the crimes of sex trafficking, and trafficking in forced labor, and increasing the criminal penalties for persons who pay for prostitutes.

ESTIMATED COST:

This legislation will not have direct costs to the commonwealth. There may be indirect costs in the form of increased investigation, prosecution and incarceration of persons convicted of the newly established crimes.

Some prosecutorial, investigative and publication costs will be supported by funds collected by the Victims of Human Trafficking Trust Fund, and by the seizure of property related to human trafficking.