

HOUSE No. 1761

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia and Mary S. Keefe

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 adoption of the accompanying bill:

An Act to strengthen justice and support for sex trade survivors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/16/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/23/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/23/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/24/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/25/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/26/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/19/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/2/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>3/2/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/2/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>3/6/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/15/2021</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>3/16/2021</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>3/17/2021</i>

<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/18/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/21/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/23/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>3/25/2021</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>3/25/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>4/5/2021</i>

HOUSE No. 1761

By Representatives Malia of Boston and Keefe of Worcester, a petition (accompanied by bill, House, No. 1761) of Elizabeth A. Malia, Mary S. Keefe and others relative to prostitution justice and support for sex trade survivors. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to strengthen justice and support for sex trade survivors.

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. Section 7 of chapter 4, as appearing in the 2018 Official Edition, is hereby
2 amended by inserting after the sixty-first definition the following definitions:-

3 Sixty-second, “prostituted person” shall mean any person who has been subjected to
4 prostitution because such person: (i) is the victim of the crime of sexual servitude pursuant to
5 section 50 of chapter 265 or is the victim of the crime of sex trafficking as defined in 22 United
6 States Code 7105; (ii) engages, agrees to engage or offers to engage in sexual conduct with
7 another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272 as
8 appearing in the 2018 Official Edition, or in exchange for food, shelter, clothing, education or
9 care; (iii) is a victim of the crime, whether or not prosecuted, of inducing a minor into
10 prostitution under by section 4A of chapter 272; or (iv) engages in common night walking or
11 common streetwalking under section 53 of chapter 272 as enacted prior to as appearing in the
12 2018 Official Edition.

13 Sixty-third, “survivor-of-prostitution-led exit programming” shall mean exit
14 programming founded and led by one or more prostituted person(s) that provides exit
15 programming designed to address the barriers, complexities, and challenges of exiting the sex
16 trade.

17 SECTION 2. Section 8 of chapter 272 of the General Laws is hereby amended by
18 striking out section 8, as so appearing, and inserting in place thereof the following section:-

19 Section 8. Whoever solicits or receives compensation for soliciting for a prostitute,
20 except a prostituted person who is solicited, shall be punished by imprisonment in a house of
21 correction for not more than 2 and one-half years, or by a fine assessed as described in this
22 section, or by both such imprisonment and fine. The fine assessed shall be set on a sliding scale
23 as follows: (i) not less than \$500 and not more than \$1,000, provided that the person’s gross
24 income, as defined by the U.S. Tax Code, is less than \$12,760; (ii) not less than \$1,000 and not
25 more than \$2,000, provided that the person’s gross income is less than \$35,977; (iii) not less than
26 \$2,000 and not more than \$3,500, provided that the person’s gross income is less \$158,002; and
27 (iv) not less than \$3,500 and not more than \$5,000, provided that the person’s gross income is
28 greater than or equal to \$158,002.

29 All monies collected as fines for violation of this section shall be transmitted monthly by
30 the courts to the state treasurer who shall then allocate the funds to the Massachusetts Office for
31 Victim Assistance who shall, in turn, allocate the funds to survivor-of-prostitution-led exit
32 programming.

33 SECTION 3. Section 53 of chapter 272 of the General Laws is hereby amended by
34 striking out subsection (a) as appearing in the 2018 Official Edition, and inserting in place
35 thereof the following subsection:-

36 (a) Whoever commits offensive and disorderly acts or language, accosts or annoys
37 another person, lewd, wanton and lascivious persons in speech or behavior, keepers of noisy and
38 disorderly houses, and persons guilty of indecent exposure shall be punished by imprisonment in
39 a jail or house of correction for not more than 6 months, or by a fine of not more than \$200, or by
40 both such fine and imprisonment.

41 SECTION 4. Section 53A of chapter 272 of the General Laws is hereby amended by
42 repealing subsection (a) as appearing in the 2018 Official Edition.

43 SECTION 5. Section 53A of chapter 272 of the General Laws is hereby further amended
44 by striking out subsection (b) and inserting in place thereof the following subsection:-

45 (b) Whoever pays, agrees to pay, or offers to pay another person to engage in sexual
46 conduct, or to agree to engage in sexual conduct with another person, shall be punished by
47 imprisonment in the house of correction for not more than 2 and one-half years or by a fine. The
48 fine assessed shall be set on a sliding scale as follows: (i) not less than \$500 and not more than
49 \$1,000, provided that the person's gross income, as defined by the U.S. Tax Code, is less than
50 \$12,760; (ii) not less than \$1,000 and not more than \$2,000, provided that the person's gross
51 income is less than \$35,977; (iii) not less than \$2,000 and not more than \$3,500, provided that
52 the person's gross income is less \$158,002; and (iv) not less than \$3,500 and not more than
53 \$5,000, provided that the person's gross income is greater than or equal to \$158,002.

54 SECTION 6. Section 53A of chapter 272 of the General Laws is hereby further amended
55 by striking out subsection (c) and inserting in place thereof the following subsections:-

56 (c) Whoever pays, agrees to pay or offers to pay any person with the intent to engage in
57 sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay or agrees that a
58 third person be paid in return for aiding a person who intends to engage in sexual conduct with a
59 child under the age of 18, shall be punished by imprisonment in the state prison for not more
60 than 10 years, or in the house of correction for not more than 2 and one-half years and by a fine.
61 The fine assessed shall be set on a sliding scale as follows: (i) not less than \$3,000 and not more
62 than \$4,000, provided that the person's gross income, as defined by the U.S. Tax Code, is less
63 than \$12,760; (ii) not less than \$4,000 and not more than \$5,000, provided that the person's gross
64 income is less than \$35,977; (iii) not less than \$5,000 and not more than \$8,000, provided that
65 the person's gross income is less \$158,002; and (iv) not less than \$8,000 and not more than
66 \$10,000, provided that the person's gross income is greater than or equal to \$158,002.

67 (d) All monies collected as fines for violation of this section shall be transmitted monthly
68 by the courts to the state treasurer who shall then allocate the funds to the Massachusetts Office
69 for Victim Assistance who shall, in turn, allocate the funds to survivor-of-prostitution-led exit
70 programming.

71 SECTION 7. Section 55 of chapter 265 of the General Laws, as so appearing, is hereby
72 amended by striking out the words "section 50 or 51" and inserting in place thereof the following
73 words: "section 50 or 51 of this chapter or Section 8 or 53A of chapter 272".

74 SECTION 8. Section 55 of chapter 265 of the General Laws is hereby further amended
75 by striking out the words “Sec. 50 or 51” from the title and inserting in place thereof the
76 following title: “Section 50 or 51 of this chapter or Section 8 or 53A of chapter 272”.

77 SECTION 9. Section 55 of chapter 265 of the General Laws is hereby further amended
78 by inserting at the end of the paragraph the following paragraph:-

79 All monies used or intended to be used to facilitate any violation of section 8 or 53A of
80 chapter 272 that are not provided as restitution to victims shall be transmitted monthly by the
81 courts to the state treasurer who shall then allocate the funds to the Massachusetts Office for
82 Victim Assistance who shall, in turn, allocate the funds to survivor-of-prostitution-led exit
83 programming.

84 SECTION 10. Section 56 of chapter 265 of the General Laws, as so appearing, is hereby
85 amended by striking out the words “Secs. 50 or 51” in the title and inserting in place thereof the
86 following words: “Section 50 or 51 of this chapter or Section 8 or 53A of chapter 272”.

87 SECTION 11. Section 56 of chapter 265 of the General Laws is hereby further amended
88 by striking out the words “section 50 or 51” in subsection (a)(i) and inserting in place thereof the
89 following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

90 SECTION 12. Section 56 of chapter 265 of the General Laws is hereby further amended
91 by striking out the words “section 50 or 51” in subsection (a)(ii) and inserting in place thereof
92 the following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

93 SECTION 13. Section 56 of chapter 265 of the General Laws is hereby further amended
94 by striking out the words “section 50 or 51” in subsection (a)(iii) and inserting in place thereof
95 the following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

96 SECTION 14. Section 56 of chapter 265 of the General Laws is hereby further amended
97 by striking out the words “section 50 or 51” in subsection (a)(iv) and inserting in place thereof
98 the following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

99 SECTION 15. Section 56 of chapter 265 of the General Laws is hereby further amended
100 by striking out the words “section 50 or 51” in subsection (c)(i) and inserting in place thereof the
101 following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

102 SECTION 16. Section 56 of chapter 265 of the General Laws is hereby further amended
103 by striking out the words “section 50 or 51” in subsection (c)(iii) and inserting in place thereof
104 the following words: “section 50 or 51 of this chapter or section 8 or 53A of chapter 272”.

105 SECTION 17. Section 56 of chapter 265 of the General Laws is hereby further amended
106 by striking out each occurrence of the words “section 50 or 51” in subsection (d) and inserting in
107 each place thereof the following words: “section 50 or 51 of this chapter or section 8 or 53A of
108 chapter 272”.

109 SECTION 18. Section 56 of chapter 265 of the General Laws is hereby further amended
110 by striking out subsection (e), as so appearing, and inserting in place thereof the following
111 subsection:-

112 (e) For property subject to forfeiture resulting from violations of sections 50 or 51 of this
113 chapter, the final order of the court shall be deposited into the Victims of Human Trafficking

114 Trust Fund established in section 66A of chapter 10. For property subject to forfeiture resulting
115 from violations of section 8 or 53A of chapter 272, the final order of the court shall provide that
116 said moneys and the proceeds or any such sale shall be transmitted monthly by the courts to the
117 state treasurer who shall then allocate the funds to the Massachusetts Office for Victim
118 Assistance who shall, in turn, allocate the funds to survivor-of-prostitution-led exit
119 programming.

120 SECTION 19. Chapter 265 of the General Laws is hereby amended by adding after
121 section 59 the following section, which shall be titled “Interagency committee to address all
122 aspects of prostitution”:-

123 Section 60. (a) There shall be an interagency committee to be convened by the Executive
124 Office of Health and Human Services within 90 days from the date of the enactment of this
125 provision to address all aspects of prostitution, including the causes thereof, solutions therefor,
126 and public concerns related thereto. The committee shall undertake efforts to prevent, identify,
127 and respond effectively to all forms of prostitution and shall consist of: (i) the director of the
128 Massachusetts Office for Victim Assistance or the director’s designee, who shall serve as a co-
129 chair; (ii) the secretary of the Executive Office of Health and Human Services or the secretary’s
130 designee, who shall serve as a co-chair; (iii) a representative of the Department of Public Health;
131 (iv) a representative of the Department of Housing and Community Development; (v) a
132 representative of the Department of Children and Families; (vi) a representative of the
133 Department of Mental Health; (vii) a representative of the Executive Office of Labor and
134 Workforce Development; (viii) a representative of a survivor-of-prostitution-led entity dedicated
135 to working with prostituted persons based in or around Boston; (ix) a representative of a
136 survivor-of-prostitution-led entity dedicated to working with prostituted persons based in or

137 around Worcester; (x) a representative of a survivor-of-prostitution-led entity dedicated to
138 working with prostituted persons based in Western Massachusetts; (xi) representative(s) from
139 one or more organizations focused on the needs of the LBGTQ+ community; (xii)
140 representative(s) from one or more organizations dedicated to providing treatment to those with
141 substance use disorder; (xiii) a representative of Boston Medical Center; (xiv) a representative of
142 the Massachusetts Office of Refugees and Immigrants; (xv) a representative from the Committee
143 for Public Counsel Services; and (xvi) a victim witness advocate appointed by the Massachusetts
144 Office for Victim Assistance. The members of the committee shall serve without compensation.

145 The committee shall be responsible for the following duties: (i) coordinating and
146 facilitating prevention and awareness campaigns focused on demanding reduction and education
147 targeting young men and boys, which highlight the negative consequences of purchasing sex and
148 recognize the violence, human rights violations, and degradation inherent in the commercial sex
149 trade; (ii) addressing the need for long-term housing and the implementation of supportive
150 housing for vulnerable populations; (iii) addressing the need for and implementation of
151 innovative employment programs, pathways to employment, and employment training for
152 vulnerable populations; (iv) assisting existing organizations providing survivor-of-prostitution-
153 led exit programming in creating and ensuring continuity of support for survivors; (v) addressing
154 the prevalence of co-occurring substance use within vulnerable populations and the intersection
155 between early victimization and development of alcohol use, other drug use, and exploitation;
156 (vi) overseeing and facilitating the allotment of resources to organizations providing survivor-of-
157 prostitution-led exit programming and collaborating with these organizations in working to
158 eliminate barriers frequently encountered by vulnerable populations; (vii) examining the
159 underlying problems and circumstances that render individuals vulnerable to prostitution and

160 evaluating potential solutions for those problems where feasible; (viii) identifying and reviewing
161 the existing services and facilities that provide assistance to prostituted persons including, but not
162 limited to, health and mental health services, housing, education and job training, legal services,
163 substance use disorder treatment, and victim compensation; (ix) evaluating approaches to
164 increase public awareness of prostitution and offering recommendations for programs and
165 educational and training opportunities for law enforcement and social service providers
166 including, but not limited to, methods used to identify prostituted persons; (x) recommending
167 strategy and relevant methodologies for training providers in health and human services in the
168 recognition of signs and circumstances indicating that an individual is a prostituted person and
169 the appropriate steps to take upon identifying such a person; and (xi) developing and
170 promulgating educational materials that may be used by school administrators and educators to
171 identify prostituted persons and the appropriate actions to be undertaken when such victims are
172 identified.

173 As used in this section, the term “vulnerable population” shall include, but not be limited
174 to, system-involved transitional-aged youth, minority and immigrant populations, individuals
175 experiencing homelessness, members of the LGBTQ+ community, and transgender youth.

176 SECTION 20. Section 100K of chapter 276 of the General Laws is hereby amended by
177 striking out subsection (c), as so appearing, and inserting in place thereof the following
178 subsections:-

179 (c) The court must order an expungement pursuant to this section of a record created as a
180 result of a criminal court appearance, juvenile court appearance or dispositions for charges of
181 common street walking, under Section 53(a) of chapter 272 as appearing in the 2018 Official

182 Edition, and sexual conduct with another person in return for a fee, under Section 53A(a) of
183 chapter 272 as appearing in the 2018 Official Edition.

184 (d) The court shall forward an order for expungement pursuant to this section forthwith to
185 the clerk of the court where the record was created, to the commissioner and to the commissioner
186 of criminal justice information services appointed pursuant to section 167A of chapter 6.