

SENATE No. 905

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 adoption of the accompanying bill:

An Act to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/3/2017</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/20/2017</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/29/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/31/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/1/2017</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>2/1/2017</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>2/1/2017</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	<i>2/1/2017</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>2/1/2017</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/1/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>

<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/2/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/2/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/2/2017</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>2/2/2017</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>2/3/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>2/3/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/3/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/3/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>2/3/2017</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/14/2017</i>

SENATE No. 905

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 905) of Mark C. Montigny, Patricia A. Haddad, Sal N. DiDomenico, Richard J. Ross and other members of the General Court for legislation to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2444 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to strengthen laws combatting human trafficking and protecting survivors of modern-day slavery.

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 6 of the General Laws, as appearing in the 2014 Official Edition, is
2 hereby amended by adding the following section:-

3 Section 219. (a) For purposes of this section, “partnership” shall mean the human
4 trafficking prevention business partnership.

5 (b) There shall be a human trafficking prevention business partnership. The partnership
6 shall engage participating corporations and other private entities in voluntary efforts to prevent
7 and combat human trafficking. The governor, or the governor's designee, shall serve as chair of
8 the partnership.

9 (c) Participating corporations in the partnership shall: (i) adopt a zero tolerance policy
10 toward human trafficking; (ii) ensure that the corporation's or entity's employees comply with the
11 policy adopted under clause (i); (iii) participate in public awareness and education campaigns;
12 (iv) enhance awareness of and encourage participation in the partnership; and (v) exchange
13 information about effective practices for abolishing human trafficking including, but not limited
14 to, identifying private and nonprofit resources that may be available to support the work of the
15 partnership and promote efforts to abolish human trafficking.

16 (d) The governor, or his designee, shall work collaboratively to promote the partnership
17 with other state agencies, including but not limited to the executive office of labor and workforce
18 development, the executive office of health and human services, and the executive office of
19 public safety and security.

20 (e) The chair of the partnership shall present a certificate of recognition to participating
21 corporations and private entities to recognize the corporation's or entity's contributions and
22 commitment to abolishing human trafficking.

23 (g) Nothing in this section shall be construed as limiting any laws currently in effect
24 related to human trafficking.

25 SECTION 2. Chapter 13 of the General Laws is hereby amended by adding the following
26 2 sections:-

27 Section 109. (a) There shall be a board of registration in bodywork therapy consisting of
28 7 members who are residents of the commonwealth appointed by the governor, 3 of whom shall
29 be licensed bodywork therapists engaged in the practice of bodywork therapy in the
30 commonwealth for not fewer than 5 years immediately preceding appointment or, in the case of

31 initial appointments, who are able to provide proof of: (i) not fewer than 500 hours of bodywork
32 therapy for compensation; (ii) authorization to practice bodywork therapy issued by a municipal
33 board of health within the commonwealth within the preceding 2 years; or (iii) not fewer than 40
34 hours of bodywork therapy performed within a licensed healthcare facility; 1 of whom shall be a
35 health agent, board member or other health professional employed by or elected to a municipal
36 board of health within the commonwealth; 1 of whom shall be an individual engaged in the
37 operation of a bodywork therapy education program; and 2 of whom shall be consumers of
38 bodywork therapy. Board members shall be subject to chapter 268A.

39 (b) Board members shall be appointed for a term of 3 years; provided, however, that of
40 the members first appointed to the board, 3 shall serve for a term of 3 years, 2 shall serve for a
41 term of 2 years and 2 shall serve for a term of 1 year. Upon expiration of their terms members of
42 the board shall continue to hold office until the appointment of a successor. A member may be
43 removed by the governor for cause. Upon the death, resignation or removal for cause of any
44 member of the board, the governor shall fill the vacancy for the remainder of that member's
45 term.

46 (c) The board shall at its first meeting and annually thereafter elect from among its
47 members, by majority vote, a chairman and vice-chairman. The board shall meet at least once
48 every 3 months and may hold additional meetings as necessary for the discharge of its duties.
49 Members shall receive no compensation but shall be entitled to reasonable travel expenses. The
50 members of the board shall be public employees for the purposes of chapter 258 for all acts or
51 omissions within the scope of their duties as board members.

52 Section 110. The board shall have the following powers and duties: (i) to administer and
53 enforce sections 265 to 272, inclusive, of chapter 112; (ii) to adopt rules and regulations
54 governing the licensure of bodywork therapists, the practice of bodywork therapy and the
55 operation of bodywork therapy establishments and schools to promote the public health, welfare
56 and safety of the citizens of the commonwealth; (iii) to establish standards of professional and
57 ethical conduct; (iv) to establish standards for continuing education reflecting acceptable national
58 standards; (v) to investigate complaints, conduct inspections, review billing and treatment
59 records and set and administer penalties as defined in sections 61 to 65F, inclusive, and sections
60 265 to 272, inclusive, of chapter 112 for fraudulent, deceptive or professionally incompetent and
61 unsafe practices and for violations of rules and regulations promulgated by the board; and (vi) to
62 make available to the public a list of licensed bodywork therapists.

63 SECTION 3. Chapter 62 of the General Laws, as so appearing, is hereby amended by
64 inserting after section 6N the following section:-

65 Section 6O. A person filing an individual or a joint return may voluntarily contribute all
66 or part of any refund to which they are entitled, or may voluntarily add an amount on to any
67 amount due, to be credited to the Victims of Human Trafficking Trust Fund established in
68 section 66A of chapter 10.

69 A contribution under this section may be made with respect to any taxable year at the
70 time of filing a return of the tax established by this chapter for such taxable year. The
71 commissioner shall prescribe the manner in which the contribution shall be made on the face of
72 the return required by section 5 of chapter 62C; provided, however, that the commissioner shall

73 assure that taxpayers filing any such forms are made clearly aware of their ability to make the
74 contributions provided for by this section.

75 The commissioner shall annually report the total amount designated under this section to
76 the state treasurer, who shall credit such amount to the Victims of Human Trafficking Trust
77 Fund.

78 SECTION 4. Chapter 112 of the General Laws is hereby amended by adding the
79 following 9 sections:-

80 Section 265. As used in this section and sections 266 to 272, inclusive, the following
81 words shall have the following meanings:-

82 “Board”, the board of registration of bodywork therapy established in section 109 of
83 chapter 13.

84 “Licensed bodywork establishment”, an office, clinic, spa, salon or other establishment
85 licensed by the board to offer bodywork services.

86 “Bodywork” or “bodywork therapy”, the use of touch, words or directed movement to
87 deepen awareness of patterns of movement in the body, or the affectation of the human energy
88 system or acupoints or Qi meridians of the human body including, but not be limited to: the
89 Feldenkrais method; reflexology; the Trager approach; Ayurvedic therapies; Rolf structural
90 integration; polarity or polarity therapy; polarity therapy bodywork; Asian bodywork therapy;
91 acupressure; Jin Shin Do; Qi Gong; Tui Na; Shiatsu; body-mind centering and Bowenwork;
92 provided, however, that bodywork or bodywork therapy shall not include massage as that term is
93 defined in section 227, nor the practice or instruction in yoga or Reiki; and provided, further, that

94 bodywork therapy shall not include diagnosis of illness or disease, the prescription of drugs or
95 medicines, spinal or other joint manipulations, electrical stimulation, application of ultrasound or
96 any services or procedures for which a license to practice medicine, chiropractic, acupuncture,
97 massage therapy, occupational therapy, physical therapy or podiatry is required by law.

98 “Bodywork therapist” or “bodywork practitioner”, a person licensed by the board that
99 instructs or administers bodywork or bodywork therapy for compensation.

100 Section 266. (a) No person shall advertise or be otherwise characterized as a bodywork
101 therapist or practice bodywork or bodywork therapy unless that person holds a valid license
102 issued in accordance with this chapter; provided, however, that a student of bodywork therapy
103 enrolled in a bodywork therapy program approved by the board may engage in a required clinical
104 component of the student’s course of study under the guidance of a licensed bodywork therapist
105 and for no compensation.

106 (b) The following individuals shall be exempt from the licensure requirements of this
107 section: (i) a person duly licensed, registered or certified in another state, territory, the District
108 of Columbia or a foreign country who is temporarily in the commonwealth to teach a course
109 related to bodywork therapy or to consult with a person licensed as a bodywork therapist under
110 this chapter; (ii) a person providing bodywork therapy to a member of that person's immediate
111 family for which the person receives no compensation; (iii) a person who holds a professional
112 license, certificate or registration under the General Laws who performs services within the scope
113 of practice authorized by the license, certificate or registration but does not hold themselves out
114 to be a bodywork therapist; and (iv) a person, duly licensed, registered or certified in another
115 state, territory, the District of Columbia, or a foreign country, who is incidentally in the

116 commonwealth to provide service as part of an emergency response team working in conjunction
117 with disaster relief officials..

118 Section 267. (a) An applicant for licensure as a bodywork therapist shall submit an
119 application on a form furnished by the board. The information included in the application shall
120 be attested to and signed by the applicant. Each application shall be accompanied by payment of
121 the fee prescribed by the executive office of administration and finance under section 3B of
122 chapter 7. Upon submission of a completed application to the board and the payment of the
123 required fees, the board may issue a license to practice as a bodywork therapist to an applicant
124 who: (i) is 18 years of age or older; (ii) is of good moral character as determined by the board;
125 (iii) has obtained a high school diploma or its equivalent; (iv) has submitted 2 professional letters
126 of reference including at least 1 letter from an employer or licensed professional in the field of
127 bodywork therapy or a similar field as defined by the board; (v) has successfully completed a
128 course of study or training program approved by the board; (vi) has not been convicted in any
129 jurisdiction of a sexually-related crime or a crime involving moral turpitude during the 10 years
130 immediately preceding the date of application; (vii) provides proof of adequate professional
131 liability coverage as determined by the board; and (viii) demonstrates professional competence
132 as determined by the board.

133 (b) The director of the division of professional licensure shall determine the renewal
134 cycle and renewal period for bodywork therapy licenses. Each person licensed in accordance
135 with these sections may apply to the board for renewal of a license on or before the expiration
136 date, as determined by the director, unless the license was revoked, suspended or canceled earlier
137 by the board as a result of a disciplinary proceeding instituted pursuant to this chapter.

138 Applications for renewal shall be made on forms furnished by the board and accompanied by

139 payment of a renewal fee, as prescribed by the executive office of administration and finance
140 under section 3B of chapter 7, which fee shall not be less than \$100.

141 (c) As a condition of renewal of a license each licensed bodywork therapist shall furnish
142 the board with satisfactory proof that the licensee: (i) has not been convicted in any jurisdiction
143 of a sexually-related crime or a crime involving moral turpitude during the term of licensure; (ii)
144 carries adequate professional liability coverage as determined by the board; and (iii) has
145 completed the required number of relevant continuing education hours on the practice of
146 bodywork therapy and business practices as determined by the board. The board shall issue a
147 renewal license upon satisfactory proof of compliance with the licensing requirements. The
148 board may provide for the late renewal of a license which has lapsed and may require payment of
149 a late fee. All licensing and application fees collected pursuant to sections 265 to 272, inclusive,
150 shall be deposited into the trust fund established in section 35V of chapter 10.

151 (d) Every person receiving a license from the board shall conspicuously display the
152 license in the licensee's place of business.

153 Section 268. The board may provide reciprocal licenses for registered, certified or
154 licensed bodywork therapists from other jurisdictions if the standards of registration, certification
155 or licensure in their jurisdictions are reasonably equivalent to those set forth in section 267. The
156 board shall promulgate regulations to implement this section. The fee for a reciprocal license
157 shall be prescribed by the executive office of administration and finance under section 3B of
158 chapter 7 and shall not be less than \$100. An applicant shall not be granted reciprocity if the
159 applicant's license to practice has been revoked or suspended in another jurisdiction. The board,
160 subject to a vote of the majority of its members, may revoke a license if the license, certificate of

161 registration issued by another state or territory of the United States, the District of Columbia or a
162 foreign state or nation has been revoked, cancelled, suspended, or otherwise acted against, or if
163 the holder has been disciplined in that jurisdiction where the basis for the action would constitute
164 a basis for disciplinary action in the commonwealth.

165 Section 269. The board may grant a license to an individual who: (i) submits a
166 completed application and pays the necessary fee prescribed by the executive office of
167 administration and finance under section 3B of chapter 7; (ii) is 18 years of age or older; (iii) is
168 of good moral character as determined by the board; (iv) has obtained a high school diploma or
169 its equivalent; (v) has submitted 2 professional letters of reference including at least 1 letter from
170 an employer; (vi) provides proof of adequate professional liability coverage; (vii) has not been
171 convicted in any jurisdiction of a sexually-related crime or a crime involving moral turpitude
172 during the 10 years immediately preceding the date of application; and (viii) submits
173 documentation in a form determined by the board that the individual: (A) previously provided at
174 least 500 hours of bodywork therapy for compensation to individuals other than immediate
175 family members; (B) has been authorized by a municipal board of health in the commonwealth
176 to practice bodywork therapy within 2 years of the date of application; or (C) previously
177 provided at least 40 hours of bodywork therapy within a licensed healthcare facility.

178 Section 270. (a) The board shall conduct inspections and investigate all complaints filed
179 relating to the proper practice of bodywork therapy and any violation of sections 265 to 272,
180 inclusive, or any rule or regulation of the board. Complaints may be brought by any person or
181 municipality, or the board may initiate a complaint.

182 (b) The board shall be under the supervision of the division of professional licensure and
183 shall have the authority conferred under sections 61 to 65F, inclusive. For the purposes of this
184 section and sections 61 to 65F, inclusive, conduct which places into question the holder's
185 competence to practice bodywork therapy shall include, but not be limited to: (i) committing
186 fraud or misrepresentation in obtaining a license; (ii) criminal conduct resulting in a conviction,
187 guilty plea or plea of nolo contendere or an admission of sufficient facts; (iii) violating a rule or
188 regulation of the board; (iv) failing to cooperate with the board or its agents in the conduct of an
189 inspection or investigation; (v) failing to fulfill any continuing education requirements set out by
190 the board; or (vi) violating an ethical standard which in the board's determination renders the
191 person unfit to practice as a bodywork therapist including, but not limited to, inappropriate
192 conduct or touching in the practice of bodywork therapy, offering medical opinion or diagnosis
193 or negligence in the course of professional practice.

194 (c) The board may issue an order to a licensee directing the licensee to cease and desist
195 from unethical or unprofessional conduct if the board finds, after the opportunity for a hearing,
196 that the licensee has engaged in such conduct.

197 (d) A bodywork therapist whose license to practice is suspended for more than 1 year as
198 the result of professional misconduct related to insurance fraud during the course of the
199 licensee's practice shall not own, operate, practice in or be employed by another bodywork
200 therapist, massage therapist, physical therapist or chiropractor in any capacity during the course
201 of the suspension and until the license is reinstated by the board. A second occurrence of
202 professional misconduct related to insurance fraud during the course of a licensee's practice shall
203 result in the permanent revocation of the license. The licensee shall be barred from owning,

204 operating, practicing or being employed in a business that provides bodywork therapy, massage
205 therapy, physical therapy or chiropractic care.

206 (e) Nothing in this section shall limit the board's authority to impose sanctions by consent
207 agreements that are considered reasonable and appropriate by the board. Any person aggrieved
208 by a disciplinary action taken by the board under this chapter may file a petition for judicial
209 review under section 64.

210 Section 271. Every person licensed by the board to practice bodywork therapy shall
211 conspicuously display the license in the licensee's place of business.

212 Section 272. (a) Only persons duly licensed under this chapter shall be designated as
213 bodywork therapists and entitled to use the term "bodywork" or "bodywork therapy" when
214 advertising or printing promotional material. Any person who uses the term "bodywork" in a
215 professional title without being authorized to do so may be the subject of disciplinary action by
216 the board under section 65A.

217 (b) Any person who: (i) knowingly aids and abets another person in the use of the term
218 "bodywork" as part of a professional title when the person using the term is not authorized to do
219 so; or (ii) knowingly employs unlicensed individuals in the operation of a bodywork therapy
220 business may be the subject of a disciplinary proceeding before the board.

221 (c) It shall be a violation of this chapter for a person to advertise: (i) as a bodywork
222 therapist or a bodywork therapy business unless each person employed as part of the business,
223 and acting as a bodywork therapist, holds a valid license under this chapter; (ii) licensed
224 bodywork therapy services with escort or dating services; (iii) as specializing in particular
225 bodywork therapy services without an appropriate showing of competency as determined by the

226 board; or (iv) services not recognized as bodywork therapy by the board or explicitly prohibited
227 under section 265. The term “advertise” as used in this section shall include, but not be limited
228 to: (A) providing a card, sign or device to another; (B) causing, permitting, or allowing a sign or
229 marking on or in a building, vehicle or structure; (C) causing the placement of an advertisement
230 in a newspaper, magazine or on television; or (D) listing or causing the placement of an
231 advertisement in a directory under a classification or heading that includes the word “bodywork”.

232 Section 273. A city or town may adopt ordinances or by-laws relative to health and
233 safety of the practice of bodywork therapy not inconsistent with sections 265 to 272, inclusive;
234 provided, however, that local ordinances pertaining to bodywork therapy in effect prior to the
235 effective date of sections 265 to 272, inclusive, of the General Laws and that are consistent with
236 and that may exceed the requirements of those sections may remain in effect.

237 SECTION 5. Section 269 of said chapter 112 is hereby repealed.

238 SECTION 6. Section 12 of chapter 120 of the General Laws, as appearing in the 2014
239 Official Edition, is hereby amended by inserting after the figure “265”, in line 19, the following
240 words:- ; or trafficking of persons for sexual servitude in violation of subsection (a) of section 50
241 of said chapter 265; or trafficking of persons for sexual servitude upon a person under 18 years
242 of age in violation of subsection (b) of said section 50 of said chapter 265.

243 SECTION 7. Section 90A of chapter 127 of the General Laws, as so appearing, is hereby
244 amended by striking out, in line 13, the words “or section twenty-six” and inserting in place
245 thereof the following words:- , section 26 or section 50.

246 SECTION 4. Chapter 140 of the General Laws is hereby amended by adding the
247 following section:-

248 Section 207. State police or members of the police department of a city or town may,
249 upon appropriate legal process, enter and inspect any premises in a town where bodywork or
250 bodywork therapy services are provided under chapter 112.

251 SECTION 8. Section 4D of chapter 260 of the General Laws, as so appearing, is hereby
252 amended by striking out, in lines 11 and 14, the figure “3” and inserting in place thereof the
253 following figure:- 10.

254 SECTION 9. Section 50 of chapter 265 of the General Laws, as so appearing, is hereby
255 amended by adding the following subsection:-

256 (e) Upon the release of a person convicted of trafficking of persons for sexual servitude
257 in violation of subsection (a) of section 50 of said chapter 265; or trafficking of persons for
258 sexual servitude upon a person under 18 years of age in violation of subsection (b) of said
259 section 50 of said chapter 265, the department of corrections or the county sheriff shall notify the
260 chief of police of the city or town of which the person will reside and the chief of police of the
261 city or town where the offense occurred.

262 SECTION 10. Section 57 of chapter 265 of the General Laws, as so appearing, is hereby
263 amended by striking out, in line 5, the words “section 53A” and inserting in place thereof the
264 following words:- sections 8, 26 or 53A.

265 SECTION 11. Chapter 265 of the General Laws, as appearing in the 2014 Official
266 Edition, is hereby further amended by adding the following section:-

267 Section 59. (a) At any time after the entry of a judgment of disposition on an indictment
268 or criminal or delinquency complaint for an offense, excluding a felony offense, the court in

269 which it was entered shall, upon motion of the defendant, vacate any conviction, adjudication of
270 delinquency, or continuance without a finding and permit the defendant to withdraw any plea of
271 guilty, plea of nolo contendere, plea of delinquent, or factual admission tendered in association
272 with one or more pleas upon a finding by the court, established by a preponderance of the
273 evidence, that the defendant's participation in the offense was a result of having been a victim of
274 human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons
275 under 22 U.S.C. 7102.

276 (b) For the purposes of this subsection, "official documentation" shall mean a document
277 issued by a local, state or federal government agency in the agency's official capacity.

278 Except as provided in this section, the defendant shall have the burden of establishing by
279 a preponderance of the evidence that the defendant's participation in the offense was the result of
280 having been a victim of human trafficking. If the conviction, adjudication of delinquency, or
281 continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or
282 common nightwalking or common streetwalking under section 53 of chapter 272, official
283 documentation of the defendant's status as a victim of human trafficking or trafficking in persons
284 at the time of the offense shall create a rebuttable presumption that the defendant's participation
285 in the offense was a result of having been a victim of human trafficking or trafficking in persons;
286 provided, however, that such documentation shall not be required for granting a motion under
287 this section.

288 (c) In determining whether the defendant's participation in the offense was a result of
289 having been a victim of human trafficking, the court may consider any evidence it deems
290 appropriate in determining whether the person was a victim of human trafficking.

291 (d) The rules concerning the admissibility of evidence at criminal trials shall not apply to
292 the presentation and consideration of evidence at a hearing conducted pursuant to this section.
293 The court may, in its discretion, consider any evidence it deems relevant, including, but not
294 limited to, hearsay evidence.

295 (e) Where a child under the age of 18 was adjudicated delinquent for an offense under
296 sections 8, 26, 53 or 53A of chapter 272, based on allegations of prostitution, there shall be an
297 irrebuttable presumption that the child's participation in the offense was a result of having been a
298 victim of human trafficking or trafficking in persons.

299 (f) A motion pursuant to this section may be heard by the justice that originally heard the
300 matter or any sitting justice of the court that originally heard the matter.

301 (g) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a
302 finding, the court shall enter a plea of not guilty, except if the vacated conviction, adjudication of
303 delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of
304 chapter 272 or for common nightwalking or common streetwalking under section 53 of chapter
305 272, in which case the court shall dismiss the indictment or criminal or delinquency complaint
306 with prejudice. Upon vacatur of a conviction, adjudication of delinquency, or continuance
307 without a finding and the entrance of a plea of not guilty pursuant to this section, it shall be an
308 affirmative defense to the charges against the defendant that the defendant's participation in the
309 offense was a result of having been a victim of human trafficking or trafficking in persons.

310 (h) The chief justice of the trial court shall prescribe the form in which a motion may be
311 filed under this section.

312 (i) A conviction, adjudication of delinquency, or continuance without a finding vacated
313 under this section shall be deemed to have been vacated on the merits.

314 SECTION 12. Chapter 276 of the General Laws, as so appearing, is hereby amended by
315 inserting after section 87A the following section:-

316 Section 87B. (a) First offender commercial sexual exploitation prevention programs may
317 be established and certified subject to appropriation. A court and the district attorney may after
318 arraignment and prior to the disposition of a defendant and with the approval of the district
319 attorney divert the defendant charged with a first offense of subsection (b) or (c) of section 53A
320 of chapter 272 to a first offender commercial sexual exploitation prevention program. The court
321 shall continue the matter while the defendant fulfills the requirements of the program and shall
322 retain jurisdiction pending the defendant's successful completion of the program.

323 (b) The court shall determine if the defendant is eligible to participate in the first offender
324 commercial sexual exploitation prevention program established pursuant to this section. The
325 defendant shall not be eligible if the court determines that: (i) the defendant was convicted or
326 admitted to sufficient facts of a previous violation of subsection (b) or (c) of section 53A of
327 chapter 272 or a similar offense under the laws of another state; (ii) the defendant was previously
328 admitted to a first offender commercial sexual exploitation prevention program under this
329 section; (iii) the defendant has previously been charged with a violation of said subsection (b) or
330 (c) of section 53A of said chapter 272 or a similar offense under the laws of another state and is
331 awaiting adjudication of such offense; (iv) the defendant has been charged with, convicted of or
332 admitted to sufficient facts of a violation of section 50 or 51 of chapter 265; or (v) the defendant
333 is a registered sex offender under chapter 6 or under the laws of another jurisdiction.

334 (c) A first offender commercial sexual exploitation prevention program shall, at a
335 minimum: (i) provide each participant with information, counseling and services relating to: (A)
336 the negative impact of commercial sex and sex trafficking on victims; (B) the negative impact of
337 commercial sex and sex trafficking on communities; (C) the health risks involved in commercial
338 sexual exploitation, including the risk of sexually transmitted diseases and issues relating to
339 mental health, substance abuse and sexual addiction; (D) the legal consequence to the defendant;
340 and (E) classroom instruction related to the prevention of commercial sexual exploitation and
341 organized crime and the sex industry; (ii) employ persons or solicit volunteers that may include,
342 but shall not be limited to, health care professionals, psychologists, licensed social workers or
343 counselors, survivors of commercial sexual exploitation, members of a neighborhood association
344 or community that is adversely affected by the commercial sex trade or trafficking of persons or
345 employees of a nongovernmental organization specializing in advocacy on laws related to sex
346 trafficking or human trafficking or in providing services to victims of those offenses; (iii) allow
347 a participant to withdraw from the program at any time before a trial on the merits has been
348 initiated; and (iv) certify to the court that the defendant has successfully completed the
349 requirements of the program, has failed to complete the program or has withdrawn from the
350 program.

351 (d) Upon successful completion of the program, the court may dismiss the charge against
352 the defendant. Upon dismissal, the court may order the record of the defendant sealed.

353 (e) The court shall determine and assess an appropriate fee for participation in the first
354 offender commercial sexual exploitation prevention program. The court shall not waive the fee
355 but may, under section 100C of chapter 276 and its prevailing procedure and authority, reduce
356 the fee based on a determination by the court that the defendant cannot pay the entire fee. The

357 fee shall be distributed as follows: (i) 1/3 shall be transferred to the nonprofit organization
358 certified by the commissioner of probation to conduct the program; (ii) 1/3 shall be transferred to
359 the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10; and (iii)
360 1/3 shall be transferred to the state or municipal law enforcement agency responsible for the
361 arrest of the defendant which shall be used for human trafficking investigations and prevention
362 and to fund mandatory training for law enforcement agencies, prosecutors, public defenders,
363 juvenile detention center employees providing direct services to victims of human trafficking and
364 others providing direct services in the juvenile justice system and criminal justice system.

365 (f) The commissioner of probation shall review each organization that operates a first
366 offender commercial sexual exploitation prevention program and shall certify that the program is
367 operating under the requirements of subsection (c). The commissioner shall notify the
368 administrative office of the trial court and the district attorney of all programs receiving such
369 certification. Only programs certified by the commissioner shall be qualified to operate a
370 program under this section. The commissioner, at the commissioner's discretion, may decertify a
371 program for good cause and the commissioner shall notify the administrative office of the trial
372 court of decertification.

373 SECTION 13. Chapter 276 of the General Laws, as so appearing, is hereby amended by
374 inserting after section 100D the following section:-

375 Section 100E. (a) In any case wherein a plea of not guilty has been entered by a court
376 pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed;
377 (ii) the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is
378 made by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the

379 defendant, seal said court appearance and disposition recorded, and the clerk and the probation
380 officers of the courts in which the proceedings occurred or were initiated shall likewise seal the
381 records of the proceedings in their files. Sealed records shall not operate to disqualify a person in
382 any examination, appointment, or application for public employment in the service of the
383 commonwealth or of any political subdivision.

384 (b) An application for employment used by an employer which seeks information
385 concerning prior arrests or convictions or adjudications of delinquency of the applicant shall
386 include in addition to the statement required under section 100A the following statement: "An
387 applicant for employment with a sealed record on file with the commissioner of probation may
388 answer 'no record' with respect to an inquiry herein relative to prior arrests or criminal court
389 appearances." The attorney general may enforce the provisions of this section by a suit in equity
390 commenced in the superior court. Notwithstanding this section or any other general or special
391 law to the contrary, the commissioner of probation or the clerk of courts in any district court,
392 superior court, juvenile court, or the Boston municipal court, in response to inquiries by
393 authorized persons other than by a law enforcement agency or a court, shall in the case of a
394 sealed record report that no record exists.

395 SECTION 14. (a) All state, county, municipal and campus police departments and other
396 law enforcement agencies that report crime statistics to the executive office of public safety and
397 security shall include statistics on the crimes of trafficking of persons for sexual servitude under
398 section 50 of chapter 265 and trafficking of persons for forced service under section 51 of said
399 chapter 265 to ensure compliance with reporting standards established by the Federal Bureau of
400 Investigation Uniform Crime Reporting Program.

401 (b) The executive office of public safety and security shall promulgate regulations
402 relative to the collection of human trafficking crime data. Said regulations shall include, but not
403 be limited to: (i) the responsibilities of the crime reporting unit, as defined by section 32 of
404 chapter 22C, for the collection, analysis, classification reporting and retention of human
405 trafficking crime data in a central repository; (ii) the procedures necessary to ensure effective
406 data-gathering, preservation and protection of confidential information including, but not limited
407 to, victims' private and identifying information, and the disclosure of information as required by
408 this section; (iii) the procedures for reporting data on a standardized form to the crime reporting
409 unit by law enforcement agencies; and (iv) the procedures for assessing the credibility and
410 accuracy of reports of human trafficking from law enforcement agencies.

411 (c) The crime reporting unit shall analyze and summarize reports of human trafficking
412 data received by the unit. The crime reporting unit shall produce a report summarizing the data
413 collected from law enforcement agencies which shall be submitted annually to the governor,
414 attorney general, the senate and house chairs of the joint committee on public safety, the senate
415 and house chairs of the joint committee on the judiciary, the senate and house chairs of the
416 committee on rules and the chairs of the senate and house committees on ways and means. The
417 report shall not include the names, locations or other identifying information of victims of human
418 trafficking. The annual report shall be a public record and shall be available on the executive
419 office of public safety and security's website.

420 (d) The crime reporting unit shall make data collected on human trafficking under this
421 section available to federal, state and municipal agencies including, but not limited to, law
422 enforcement agencies. Data collected on human trafficking under this section shall be made

423 available to the public. The disclosed information shall not include the names, addresses or other
424 identifying information of victims of human trafficking.

425 (e) The district attorney for each county shall report on human trafficking data to the
426 crime reporting unit. Data provided to the crime reporting unit shall include, but not be limited
427 to: (i) the number of prosecutions and convictions of human trafficking crimes, including
428 prosecutions and convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of
429 individuals prosecuted for and convicted of violations under sections 50 and 51 of chapter 265,
430 including nationality, age, gender, and place of origin; (iii) the characteristics of victims of
431 human trafficking, including nationality, age, gender, and place of origin; (iv) the number of
432 human trafficking prosecutions and convictions originating in each municipality under the
433 district attorney's jurisdiction.

434 (f) The attorney general shall report on human trafficking data to the crime reporting unit.
435 Data provided to the crime reporting unit shall include, but not be limited to: (i) the number of
436 prosecutions and convictions of human trafficking crimes, including prosecutions and
437 convictions under sections 50 and 51 of chapter 265; (ii) the characteristics of individuals
438 prosecuted for and convicted of violations under sections 50 and 51 of chapter 265, including
439 nationality, age, gender, and place of origin; (iii) the characteristics of victims of human
440 trafficking, including nationality, age, gender, and place of origin; (iv) the number of human
441 trafficking prosecutions and convictions originating in each municipality under the attorney
442 general's jurisdiction.

443 (g) The executive office of public safety and security shall prescribe a standardized form
444 for data collection under (e) and (f).

445 SECTION 15. The executive office of public safety and security, in conjunction with the
446 executive office of health and human services and the office of the attorney general, shall
447 establish and maintain an independent website to disseminate information regarding human
448 trafficking, human trafficking crime statistics and resources for victims of human trafficking.
449 Information available through the website shall not include the names, locations or other
450 identifying information of victims of human trafficking.

451 SECTION 16. (a) Law enforcement agencies, prosecutors, public defenders, juvenile
452 detention center employees providing direct services and others providing direct services in the
453 juvenile justice system and criminal justice system shall be trained in identifying and responding
454 to human trafficking. The executive office public safety and security shall provide the training
455 which shall include information on: (i) human trafficking offenses; (ii) methods used in
456 identifying victims of human trafficking who may be United States citizens or foreign national
457 citizens, including preliminary interview techniques and appropriate questioning methods; (iii)
458 prosecuting human traffickers; (iv) increasing effective collaboration between the courts,
459 nongovernmental organizations and other relevant social service organizations to assist in the
460 investigation and prosecution of human trafficking cases; (v) protecting the rights of victims of
461 human trafficking, including but not limited to specific consideration of human rights, female
462 and minor victims; (vi) interacting with victims of human trafficking as crime victims rather than
463 criminals; and (vi) promoting the safety of victims of human trafficking. The training shall
464 include information on the screening of individuals who may be victims of human trafficking
465 and data collection protocols under section 12.

466 (b) The administrative office of the trial court shall provide mandatory training for
467 judges, clerk-magistrates and court personnel.

468 (c) The executive office of public safety and security shall collaborate with
469 nongovernmental organizations and other relevant organizations in the preparation and
470 presentation of the training required pursuant to this section.

471 (d) The executive office of education shall implement mandatory educational training for
472 educators in kindergarten through grade 12. The training shall include information to assist
473 educators in identifying victims of human trafficking and providing appropriate support to
474 victims of human trafficking. The training shall be incorporated into professional development
475 modules. The executive office of education may collaborate with public or nongovernmental
476 organizations to provide training and may use previously developed courses. The executive
477 office of education shall also develop a parent guide and teacher training material on internet
478 safety and methods of preventing the exploitation of minors over the internet.

479 (e) The department of public health shall implement mandatory training for all health
480 care professionals who are mandated reporters to assist in identifying human trafficking victims
481 and the appropriate actions to be undertaken when such victims have been identified. The
482 department may collaborate with public or nongovernmental organizations to provide training
483 and may use previously developed courses.

484 SECTION 17. (a) The executive office of health and human services, in cooperation with
485 the executive office of public safety and security, other agencies and nongovernmental
486 organizations shall, subject to appropriation, prepare public awareness programs designed to
487 educate potential victims of human trafficking and their families on the risks of victimization.
488 The public awareness programs shall include, but not be limited to: (i) information about the
489 risks of becoming a victim of human trafficking that uses best practices to prevent stigmatization

490 of victims and includes information about common recruitment techniques, use of debt bondage
491 and other coercive tactics, risk of maltreatment, rape, exposure to HIV/AIDS and other sexually-
492 transmitted diseases and psychological harm related to victimization in human trafficking cases;
493 (ii) information about victims' rights under federal and state laws; (iii) methods for reporting
494 suspected recruitment activities; and (iv) information on the types of services available to victims
495 of human trafficking and how to access such services, including information on relevant hotlines,
496 such as the National Human Trafficking Resource Center hotline.

497 (b) The executive office of health and human services, in cooperation with other
498 appropriate government agencies and nongovernmental organizations, shall prepare and
499 disseminate general public awareness materials to educate the public on the extent of human
500 trafficking of both United States citizens and foreign nationals within the United States, to
501 discourage the demand that fosters the exploitation of persons and that leads to human
502 trafficking.

503 (c) General public awareness materials may include information on the impact of human
504 trafficking on individual victims, whether United States citizens or foreign nationals; aggregate
505 information on human trafficking worldwide and domestically; and warnings of the criminal
506 consequences of engaging in human trafficking. Such materials may include pamphlets,
507 brochures, posters, advertisements in mass media and any other appropriate media.

508 (d) Programs and materials described in this section shall preserve the privacy of victims
509 and their family members.

510 (e) All public awareness programs shall be evaluated periodically to ensure their
511 effectiveness.

512 SECTION 18. (a) The Massachusetts Department of Transportation shall display public
513 awareness signs that contain the National Human Trafficking Resource Center hotline, or its
514 successor, in every transportation station, rest area and welcome center that is open to the public.

515 (b) Public awareness campaign advertisements shall be displayed in a conspicuous
516 location visible to the public and employees in the following facilities: (i) adult entertainment
517 facilities and other businesses primarily dedicated to adult entertainment or sex-related products;
518 (ii) facilities determined to be a nuisance for prostitution under section 4 of chapter 139; (iii)
519 facilities licensed as massage establishments and facilities providing bodyworks and related
520 therapies; (iv) nail salons; (v) job recruitment centers; (vi) facilities operating as foreign
521 transmittal agencies under chapter 169; (vii) hospitals; and (viii) emergency care providers.

522 (c) An employer who violates subsection (b) shall be punished by a fine of not more than
523 \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.

524 (d) The attorney general shall promulgate rules and regulations to enforce subsection (b).

525 SECTION 19. The secretary of health and human services shall file an annual report not
526 later than January 1 with the senate and house chairs of the joint committee on children, families
527 and persons with disabilities, the chairs of the senate and house committees on ways and means
528 and the chairs of the senate and house committees on rules outlining the adequacy and
529 limitations of current services to meet the safety, support, housing, health, education and quality
530 of life needs of human trafficking victims. The report shall identify specialized needs of victims
531 under the age of 18 including, but not limited to, the needs or current efforts to provide
532 specialized foster care, other suitable housing arrangements, and services to safe guard children.
533 The report shall also identify current resources available at safe house facilities, including the

534 number of beds, resources located on site, and number of victims served. The initial report shall
535 be filed no later than July 1, 2018.

536 SECTION 20. Section 5 shall take effect on March 1, 2019.

537 SECTION 21. Unless otherwise provided, this act shall take effect on September 1,
538 2017.