

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Lori Ehrlich**

*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 Protection of Human Trafficking Victims.**

PETITION OF:

NAME:

Lori Ehrlich

DISTRICT/ADDRESS:

8th Essex

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO THE PROTECTION OF HUMAN TRAFFICKING VICTIMS .

*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 10 of the General Laws is hereby amended by inserting after section 66 the  
2 following section:-

3 Section 66A. There shall be established and set up on the books of the commonwealth a  
4 separate fund to be known as the Victims of Human Trafficking Trust Fund. The fund shall  
5 consist of assets forfeited and the proceeds of assets seized and forfeited pursuant to chapter  
6 265A and fines and assessments collected pursuant to said chapter 265A, together with any  
7 interest or earnings accrued on such monies through investment or deposit. The state  
8 treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies  
9 transmitted to him under this section in accordance with sections 34, 34A and 38 of chapter 29  
10 in such a manner as to secure the highest rate of return available consistent with the safety of  
11 the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund. The  
12 state treasurer shall transfer funds from the income and receipts of the fund to the victim and

13 witness assistance board, as established in section 4 of chapter 258B, from time to time, at the  
14 request of the office. The board shall award and administer grants from the fund, without  
15 further appropriation, to public, private non-profit or community-based programs in the  
16 commonwealth to provide services to human trafficking victims, as defined in section 1 of said  
17 chapter 265A including, but not limited to, legal and case management services, health care,  
18 mental health, social services, housing or shelter services, education, job training or  
19 preparation, interpreting services, English-as-a-second-language classes, victim's compensation,  
20 and public and private non-profit collaborations to protect and assist human trafficking victims.  
21 The board shall develop, in conjunction with the Massachusetts Task Force to Combat Human  
22 Trafficking established by section 20 of chapter 265A, written criteria for the awarding of those  
23 grants, which shall be evaluated and, if necessary, revised on an annual basis.

24 The board shall file a report detailing the amount of funds collected and expended from the  
25 fund along with a copy of the written criteria used to expend the funds to the house and senate  
26 committees on ways and means not later than August 15 of each calendar year. An amount not  
27 to exceed 5 per cent of the total funds deposited in the fund may be expended by the office for  
28 administrative costs directly attributable to the grants and programs funded by the fund  
29 including, but not limited to, the costs of clerical and support personnel. Any unexpended  
30 balance of monies in the fund at the end of the fiscal year shall not revert to the General Fund  
31 but shall remain available for expenditure from such fund in subsequent fiscal years. No  
32 expenditure made from the fund shall cause the fund to become deficient at any point during a  
33 fiscal year.

34 SECTION 2. Section 2 of chapter 62 of the General Laws, as so appearing, is hereby amended  
35 by inserting after the word “year”, in line 179, the following subparagraph:-

36 (Q) Any amounts received by a human trafficking victim, as defined in section 1 of chapter  
37 265A, pursuant to an action for involuntary servitude, trafficking of persons for forced labor or  
38 services or sexual servitude.

39 SECTION 3. Section 51A of chapter 119, as so appearing, is hereby amended by striking the  
40 seventh paragraph and inserting in place thereof the following paragraph:-

41 Any privilege established by sections 135A and 138B of chapter 112 or by sections 20A, 20B or  
42 20M of chapter 233, relating to confidential communications shall not prohibit the filing of a  
43 report pursuant to this section or section 24.

44 SECTION 4. Chapter 231 of the 2004 official edition of the general laws is hereby amended by  
45 inserting, after section 59H, the following section:-

46 Section 59I. In any civil action in any court of the commonwealth in which the plaintiff alleges  
47 to be a human trafficking victim, as defined in section 1 of chapter 265A, the court shall, upon  
48 motion of the plaintiff, advance the proceeding for speedy trial so that it may be heard and  
49 determined with as little delay as possible.

50 SECTION 5. Chapter 233 of the General Laws, as so appearing, is hereby amended by inserting  
51 after section 11 the following new section:

52 Section 11A. Notwithstanding any general or special law to the contrary, in any civil action or  
53 other civil judicial proceeding commenced by a person alleging to be a human trafficking victim,  
54 as defined in chapter 265A, in which the petitioner is unable to be present in the jurisdiction in  
55 order to prosecute such action or proceeding due to the application of the immigration laws of  
56 the United States or undue financial or other hardship, testimony of such person may be given  
57 under oath before any ambassador or consul general or their respective designee in any  
58 embassy or consular office of the United States in any foreign country at which legal counsel for  
59 the defendant shall have the opportunity to either (a) be present and cross examine the  
60 witness, or (b) see, hear and cross examine the witness by way of video conference or other  
61 technology providing defense counsel with the opportunity to see, hear and cross examine the  
62 witness in real time. A live-video conference, a video-taped record or a transcript of such  
63 testimony shall be admissible at trial in any such action or proceeding.

64 SECTION 6. Said chapter 233 is hereby further amended by inserting after section 20L the  
65 following 2 sections:-

66 Section 20M. (a) As used in this section the following words shall unless the context clearly  
67 requires otherwise have the following meanings:—

68 “Confidential communication”, information transmitted in confidence by and between a human  
69 trafficking victim and a human trafficking victims’ caseworker by a means which does not  
70 disclose the information to a person other than a person present for the benefit of the victim,  
71 or to those to whom disclosure of such information is reasonably necessary to the counseling  
72 and assisting of such victim. The term includes all information received by the human trafficking

73 victims' caseworker which arises out of and in the course of such counseling and assisting,  
74 including, but not limited to, reports, records, working papers or memoranda.

75 "Human trafficking victims' caseworker", a person who is employed or volunteers in program  
76 serving human trafficking, who has undergone a minimum of 25 hours of training and who  
77 reports to and is under the direct control and supervision of a direct service supervisor of a  
78 human trafficking victims' program, and whose primary purpose is the rendering of advice,  
79 counseling or assistance to human trafficking victims.

80 "Human trafficking victims' program", any refuge, shelter, office, safe house, institution or  
81 center established for the purpose of offering assistance to human trafficking victims through  
82 crisis intervention, medical, legal or support counseling.

83 "Victim", a victim of a violation of section 2, 3, or 4 of chapter 265A and who consults a human  
84 trafficking victims' caseworker for the purpose of securing advice, counseling or assistance  
85 concerning a mental, physical or emotional condition caused by such violation.

86 (b) A human trafficking victims' caseworker shall not disclose any confidential communication  
87 without the prior written consent of the victim, or the victim's guardian in the case of a child,  
88 except as hereinafter provided. Such confidential communication shall not be subject to  
89 discovery in any civil, legislative or administrative proceeding without the prior written consent  
90 of the victim, or victim's guardian in the case of a child to whom such confidential  
91 communication relates. In criminal actions such confidential communication shall be subject to  
92 discovery and shall be admissible as evidence but only to the extent of information contained

93 therein which is exculpatory in relation to the defendant; provided, however, that the court  
94 shall first examine such confidential communication and shall determine whether or not such  
95 exculpatory information is therein contained before allowing such discovery or the introduction  
96 of such evidence.

97 (c) During the initial meeting between the caseworker and victim, the caseworker shall inform  
98 the human trafficking victim and any guardian thereof of such confidential communications and  
99 the limitations thereto.

100 Section 20N. At each stage of an investigation and prosecution of an offense involving a human  
101 trafficking victim, as defined by section 1 of chapter 265A, the names and identifying  
102 information of the victim and the victim's family shall be withheld from public inspection. Once  
103 a complaint is filed or an indictment returned, the court shall order that any identifying  
104 information of such a victim and family member shall be kept confidential and the court shall  
105 impound or redact the names and identifying information of the victim and the victim's family  
106 in any such proceeding, unless such victim provides written consent to the court to disclose  
107 that information in those records.

108 SECTION 7. Section 21B of said chapter 233, is hereby amended by inserting after the words  
109 "sixty-five", in line 5, the following words:- " , section 4 of chapter 265A,".

110 SECTION 8. Section 3 of chapter 258B of the general laws as so appearing is hereby amended  
111 by adding the following clause:-

112 (w) for human trafficking victims, to be provided a copy of an incident or a police report relative  
113 to the prosecution of the case. No charge shall be assessed to such victim for such report.

114 SECTION 9. The General Laws are hereby amended by inserting after chapter 265 the following  
115 chapter:-

116 Chapter 265A HUMAN TRAFFICKING CRIMES AND PROTECTION FOR VICTIMS.

117 Section 1. The following words and phrases, as used in this section, shall have the following  
118 meanings:

119 “Asset”, property of any kind including, but not limited to, real property, things affixed to and  
120 found in land and tangible and intangible personal property, including rights, privileges,  
121 interests, claims, accounts, and securities.

122 “Blackmail”, any malicious verbal, written, electronic, printed or other forms of communication  
123 which threatens to accuse another of a crime or offense, to injure the person or property of  
124 another or to expose any secret tending to subject any person to hatred, contempt or ridicule.

125 “Bodily injury”, substantial impairment of the physical condition, including, but not limited to,  
126 any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury  
127 which occurs as the result of repeated harm to any bodily function or organ, including human  
128 skin.

129 “Extortion”, any malicious verbal, written, electronic, printed or other form of communication  
130 which threatens to accuse another of a crime or offense, or by a verbal or written or electronic,  
131 printed or other form of communication maliciously threatens an injury to the person or



132 property of another, or any police officer or person having the powers of a police officer, or any  
133 officer, or employee of any licensing authority who verbally or by written or printed or  
134 electronic or other form of communication maliciously and unlawfully uses or threatens to use  
135 against another the power or authority vested in him, with intent thereby to extort money or  
136 any pecuniary advantage, or with intent to compel any person to do any act against his will.

137 “Attempted extortion”, verbal or written or electronic or printed communication, that maliciously  
138 threatens to accuse another of a crime or offence, or a verbal or written or printed communication that  
139 maliciously threatens an injury to the person or property of another, or any police officer or person  
140 having the powers of a police officer, or any officer, or employee of any licensing authority who verbally  
141 or by written or printed communication maliciously and unlawfully uses or threatens to use against  
142 another the power or authority vested in him, with intent thereby to extort money or any pecuniary  
143 advantage, or with intent to compel any person to do any act against his will

144 “Business entity”, a corporation, its officers or directors, an association, partnership, limited  
145 liability company, limited liability partnership, or other legal entity.

146 “Child”, any person under 18 years of age.

147 “Coercion”, threats of serious harm to or physical restraint against any person; any scheme,  
148 plan, or pattern intended to cause a person to believe that failure to perform an act would  
149 result in serious harm to or physical restraint against any person; the abuse or threatened  
150 abuse of the legal process.

151 “Entice”, to lure, induce, persuade, tempt, incite, solicit, coax or invite.

152 “Financial harm”, includes extortion as defined by section 25 of chapter 265, violation of the  
153 criminal usury laws as defined by section 49 of chapter 271, or any use or threat to use anything  
154 of value or the deprivation or threat of deprivation of anything of value.

155 “Forced labor or services”, means (1) work of economic or financial value or (2) activities  
156 performed directly or indirectly, under the supervision of or for the benefit of another  
157 including, but not limited to, sexual conduct for a fee or other thing of values, sexually-explicit  
158 performances and involvement in the production of pornography. Such work or services shall  
159 have been obtained or maintained in whole or in part, through:

160 (i) intimidation, fraud, duress or coercion;

161 (ii) psychological manipulation;

162 (iii) causing or threatening to cause injury to any person;

163 (iv) physically restraining or threatening to physically restrain another person;

164 (v) abusing or threatening to abuse the law or legal process by knowingly providing  
165 misinformation as to the adverse legal consequences of a person’s actions including, but not  
166 limited to, threats of deportation;

167 (vi) knowingly destroying, concealing, removing, confiscating or possessing any actual or  
168 purported passport or other immigration document, or any other actual or purported  
169 government identification document, of another person;

170 (vii) the use of blackmail;

171 (viii) extortion;

172 (ix) causing or threatening to cause financial harm or to use financial control over any person;

173 (x) debt coercion.

174 "Human trafficking", means a violation of section 2, 3 or 4.

175 "Human trafficking victim", any person subjected to a violation of section 2, 3 or 4.

176 "Intimidation", direct or indirect willful use of force or bodily injury or threats of force or bodily  
177 injury to influence or confine another.

178 "Maintain", means, in relation to labor or services, to secure continued performance thereof,  
179 regardless of any initial agreement on the part of the victim to perform such type of service.

180 "Serious bodily injury" includes bodily injury which results in a permanent disfigurement,  
181 protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

182 "Sexually-explicit performance" is an act involving sexual conduct intended to arouse or satisfy  
183 the sexual desires of another and which is: (i) a live and public or private act; or (ii) a  
184 photographed, recorded or videotaped act or show.

185 Section 2. Whoever intentionally subjects another person to forced labor or services shall be  
186 guilty of the crime of involuntary servitude and shall be punished by a fine of not more than

187 \$2,000 and by imprisonment in the state prison for not less than 5 years nor more than 25  
188 years.

189 Section 3. Whoever (a) intentionally entices, harbors, transports or delivers another, with the  
190 intent that the person be subjected to forced labor or services; or (b) intentionally benefits  
191 financially or receives anything of value, directly or indirectly, from a violation of this section  
192 shall be guilty of trafficking of persons for forced labor or services and shall be punished by a  
193 fine of not more than \$2,000 and by imprisonment in the state prison for not less than 10 years  
194 nor more than 20 years.

195 Section 4. Whoever (a) intentionally entices, harbors, transports or delivers another, with the  
196 intent that the person engage in a sexually-explicit performance, the production of  
197 pornography or sexual conduct for a fee or other thing of value, whether or not the person is  
198 the recipient of the fee or other thing of value; or (b) intentionally benefits financially or  
199 receives anything of value, directly or indirectly, from a violation of this section shall be guilty of  
200 procuring another for sexual servitude and shall be punished by a fine of not more than \$2,000  
201 and by imprisonment in the state prison for not less than 20 years nor more than 30 years.

202 Section 5. Whoever publishes, disseminates or otherwise discloses the location of any human  
203 trafficking victim with the intent that such victim suffers bodily injury thereby shall be punished  
204 in the state prison for not less than 3 years nor more than 5 years. Whoever violates this  
205 section and thereby causes bodily injury to such victim shall be punished by imprisonment in  
206 the state prison for not less than 5 years nor more than 10 years, or thereby causes serious  
207 bodily injury to such victim shall be punished by imprisonment in the state prison for not less

208 than 10 years nor more than 20 years, or thereby causes the death of such victim shall be  
209 punished by imprisonment in the state prison for life or for any term of years, but not less than  
210 20 years.

211 Section 6. Whoever maliciously publishes, disseminates or otherwise discloses the name of any  
212 human trafficking victim who's identity has been the subject of a confidentially order under  
213 section 20N of chapter 233, knowing that such victim's name was the subject of such order  
214 shall be punished in the house of correction for not more than 2 ½ years or by a \$1,000 fine, or  
215 both.

216 Section 7. (a) Whoever commits a violation of section 2 to 6, inclusive, and the victim thereof is  
217 a child shall be punished by imprisonment in the state prison for not less than 10 years nor  
218 more than 15 years. In accordance with section 8A of chapter 279, such sentence shall begin  
219 from and after the expiration of the sentence for violation of section 2, 3, 4, 5 or 6.

220 (b) Whoever commits a violation of section 2, section 3 or section 4 by means of kidnapping, in  
221 violation of section 26 of chapter 265, shall be punished by imprisonment in the state prison for  
222 not less than 10 years nor more than 15 years. In accordance with section 8A of chapter 279,  
223 such sentence shall begin from and after the expiration of the sentence for violation of section  
224 2, 3 or 4.

225 (c) Whoever commits a violation of section 2, section 3 or section 4 and: (i) thereby causes  
226 bodily injury to the victim of such offense shall be punished by imprisonment in the state prison  
227 for not less than 5 nor more than 10 years; or (ii) thereby causes serious bodily injury to the

228 victim of such offense shall be punished by imprisonment in the state prison for not less than  
229 10 year nor more than 15 years. In accordance with section 8A of chapter 279, such sentences  
230 shall begin from and after the expiration of the sentence for violation of section 2, 3 or 4.

231 (d) Whoever commits a violation of section 2, section 3 or section 4 and thereby causes the  
232 death of another shall be punished by imprisonment in state prison for life or for any term of  
233 years, but not less than 20 years. In accordance with section 8A of chapter 279, such sentence  
234 shall begin from and after the expiration of the sentence for violation of section 2, 3 or 4.

235 (e) Whoever commits a violation of section 2, section 3 or section 4 and the victim thereof was  
236 subjected to the provisions of any such section: (i) for between 180 days and 1 year, shall be  
237 punished by imprisonment in the state prison for not less than 3 years nor more than 5 years;  
238 or (ii) for more than 1 year, shall be punished by imprisonment in the state prison for not less  
239 than 5 years nor more than 25 years. In accordance with section 8A of chapter 279, such  
240 sentences shall begin from and after the expiration of the sentence for violation of section 2, 3  
241 or 4.

242 Section 8. Whoever violates section 53A of chapter 272 knowing or having reason to know that  
243 the person engaging in sexual conduct for a fee or other thing of value is a human trafficking  
244 victim shall be punished by imprisonment in state prison for not less than 3 years nor more  
245 than 5 years and by a fine of \$2,000, or if the human trafficking victim is a child, shall be  
246 punished by imprisonment in state prison for not less than 5 years nor more than 10 years and  
247 by a fine of \$2,000.

248 Section 9. Restitution to human trafficking victims shall be ordered by the court in sentences  
249 rendered for violations of this chapter. In addition to any other amount of loss identified, the  
250 court shall order restitution including the following:

251 (1) lost income, which includes the greater of: (i) the gross income or value to the defendant of  
252 the victim's labor or services; or (ii) the value of the victim's labor or services as guaranteed  
253 under the commonwealth's minimum wage and overtime provisions, and interest;

254 (2) medical and related professional services relating to physical, psychiatric or psychological  
255 care;

256 (3) physical and occupational therapy or rehabilitation;

257 (4) necessary transportation, temporary housing, and child care expenses;

258 (5) in the case of an offense resulting in damage or destruction of property, return of the  
259 property, or if return is impossible, impracticable or inadequate, payment of the replacement  
260 value of the property;

261 (6) in the case of an offense resulting in death, or bodily injury that results in death, the costs  
262 and expenses of necessary funeral and related services;

263 (7) attorneys' fees and other costs and expenses incurred, including those costs and expenses  
264 incurred that are related to participation in the investigation or prosecution of the offense or  
265 attendance at proceedings related to the offense;

- 266 (8) compensation for emotional distress, pain, and suffering;
- 267 (9) expenses incurred in relocating away from the defendant, including, but not limited to,
- 268 deposits for utilities and telephone service, deposits for rental housing, temporary lodging and
- 269 food expenses, clothing, and personal items; and
- 270 (10) any other losses suffered by the human trafficking victim.

271 Section 10. (a) Any and all fines collected pursuant to this chapter shall be transmitted monthly

272 by the courts to the state treasurer who shall then deposit, invest and transfer the monies,

273 from time to time, into the Victims of Human Trafficking Trust Fund established in section 66A

274 of chapter 10.

275 (b) There shall be an assessment of \$250 against any person who violates any provision of

276 section 2 to 6, inclusive. The assessment shall not be subject to waiver by the court for any

277 reason. If a person is sentenced to a correctional facility and the assessment has not been paid,

278 the court shall note the assessment on the mittimus. The monies collected pursuant to the

279 assessment established by this paragraph shall be transmitted monthly by the courts to the

280 state treasurer who shall then deposit, invest and transfer the monies into the Victims of

281 Human Trafficking Trust Fund established in said section 66A of said chapter 10. The monies

282 shall then be administered, pursuant to said section 66 of said chapter 10, by the

283 Massachusetts Office of Victim Assistance for the purposes set forth in said section 66A. The

284 assessment paid by an individual into the Victims of Human Trafficking Trust Fund pursuant to

285 this section shall be in addition to, and not in lieu of, any other fee imposed by the court



286 pursuant to this chapter or any other chapter. The administrative office of the trial court shall  
287 file a report detailing the amount of funds imposed and collected pursuant to this section to the  
288 house and senate committees on ways and means and to the Massachusetts Office of Victim  
289 Assistance not later than August 15 of each calendar year.

290 Section 11. An individual who is a human trafficking victim may bring a civil action for  
291 involuntary servitude, trafficking of persons for forced labor or services or sexual servitude.  
292 The court may award actual damages, compensatory damages, punitive damages, injunctive  
293 relief, or any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's  
294 fees and costs. Treble damages may be awarded on proof of actual damages where the  
295 defendant's acts were willful and malicious.

296 Section 12. (a) Any business entity that knowingly aids or participates in involuntary servitude,  
297 trafficking of person for forced labor or services or sexual servitude shall be civilly liable for an  
298 offense under this section and may be subject to loss of business license in the state.

299 (b) Upon a finding of responsibility of aiding or participating in involuntary servitude, trafficking  
300 of person for forced labor or services or sexual servitude, a business entity shall be assessed a  
301 fine of not less than \$10,000 and not more than \$100,000. The assessment shall not be subject  
302 to waiver by the court for any reason. The court may:

303 (i) order its dissolution or reorganization;

304 (ii) order the suspension or revocation of any license, permit, or prior approval granted to it by  
305 a state agency; or

306 (iii) order the surrender of its charter or the revocation of its certificate to conduct business in  
307 the Commonwealth.

308 Section 13. (a) A civil action for involuntary servitude, trafficking of persons for forced labor or  
309 services or sexual servitude shall be commenced within 7 years of the date on which the human  
310 trafficking victim was freed from the human trafficking situation, or if the victim was a child  
311 when the act of human trafficking against the victim occurred, within 7 years after the date the  
312 plaintiff attains the age of 18.

313 (b) If a person entitled to sue is under a disability at the time the cause of action accrues, such  
314 that it is impossible or impracticable for him or her to bring an action, the time during which  
315 the plaintiff is under a disability tolls the statute until the disability ceases.

316 (c) In the event that a child plaintiff is under a disability, the failure of the child's guardian ad  
317 litem to bring a plaintiff's action within the applicable limitation period will not prejudice the  
318 plaintiff's right to do so after his disability ceases.

319 (d) A defendant is estopped from asserting a defense of the statute of limitations when the  
320 expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the  
321 filing of the action or preventing the plaintiff from filing the action or threats made by the  
322 defendant that caused duress upon the plaintiff.

323 (e) The suspension of the statute of limitations due to disability or estoppel applies to all other  
324 related claims arising out of the trafficking situation. A criminal action includes investigation  
325 and prosecution and remains pending until final adjudication in the trial court. Any legal

326 guardian, family member, representative of the human trafficking victim, or court appointee  
327 may represent the human trafficking victim's rights, in the event the human trafficking victim is  
328 deceased or otherwise unable to represent his own interests in court.

329 Section 14. (a) The following property shall be subject to forfeiture to the commonwealth and  
330 all property rights therein shall be in the commonwealth:

331 (i) all conveyances, including aircraft, vehicles or vessels used, or intended for use, to transport,  
332 conceal or otherwise facilitate a violation of section 2, 3 or 4;

333 (ii) all books, records, and research, including microfilm, tapes and data which are used, or  
334 intended for use, in violation of section 2, 3 or 4;

335 (iii) all monies, negotiable instruments, securities or other things of value furnished or intended  
336 to be furnished by any person in exchange for involuntary servitude, forced labor or services or  
337 sexual servitude, all proceeds traceable to such an exchange, including real estate and any  
338 other thing of value, and all monies, negotiable instruments, and securities used or intended to  
339 be used to facilitate any violation of section 2, 3, 4 or 5; and

340 (iv) all real property, including any right, title and interest in the whole of any lot or tract of land  
341 and any appurtenances or improvements thereto, which is used in any manner or part, to  
342 commit or to facilitate any violation of section 2, 3 or 4.

343 No forfeiture under this section shall extinguish a perfected security interest held by a creditor  
344 in a conveyance or in any real property at the time of the filing of the forfeiture action.

345 (b) Property subject to forfeiture pursuant to clauses (i) to (iv), inclusive, shall, upon motion of  
346 the attorney general or district attorney, be declared forfeit by any court having jurisdiction  
347 over said property or having final jurisdiction over any related criminal proceeding brought  
348 under this section.

349 (c) The court shall order forfeiture of all conveyances and real property subject to forfeiture  
350 under this section, except as follows:

351 (i) no conveyance used by any person as a common carrier in the transaction of business as a  
352 common carrier shall be forfeited unless it shall appear that the owner or other person in  
353 charge of such conveyance was a consenting party or privy to a violation of section 2, 3 or 4;

354 (ii) no conveyance shall be forfeited by reason of any act or omission established by the owner  
355 thereof to have been committed or omitted by any person other than such owner while such  
356 conveyance was unlawfully in the possession of a person other than the owner in violation of  
357 the criminal laws of the United States, or of the commonwealth, or of any state; and

358 (iii) no conveyance or real property shall be subject to forfeiture unless the owner thereof knew  
359 or should have known that such conveyance or real property was used in violation of section 2,  
360 3 or 4.

361 (d) A district attorney or the attorney general may petition the superior court in the name of  
362 the commonwealth in the nature of a proceeding in rem to order forfeiture of a conveyance,  
363 real property, monies or other things of value subject to forfeiture under subsection (a). Such  
364 petition shall be filed in the court having jurisdiction over the conveyance, real property,

365 monies or other things of value or having final jurisdiction over any related criminal proceeding  
366 brought under section 2, 3 or 4. In all such suits in which the property is claimed by any person,  
367 other than the commonwealth, the commonwealth shall have the burden of proving to the  
368 court the existence of probable cause to institute the action, and any such claimant shall then  
369 have the burden of proving that the property is not forfeitable pursuant to subsection (c). The  
370 owner of the conveyance or real property, or other person claiming thereunder shall have the  
371 burden of proof as to all exceptions set forth in subsections (c) and (j). The court shall order the  
372 commonwealth to give notice by certified or registered mail to the owner of the conveyance,  
373 real property, monies or other things of value and to such other persons as appear to have an  
374 interest therein, and the court shall promptly, but not less than 2 weeks after notice, hold a  
375 hearing on the petition. Upon the motion of the owner of the conveyance, real property,  
376 monies or other things of value, the court may continue the hearing on the petition pending the  
377 outcome of any criminal trial related to the violation of section 2, 3 or 4. At such hearing the  
378 court shall hear evidence and make conclusions of law, and shall thereupon issue a final order,  
379 from which the parties shall have a right of appeal. In all such suits where a final order results  
380 in a forfeiture, the final order shall provide for disposition of the conveyance, real property,  
381 monies or any other thing of value by the commonwealth or any subdivision thereof in any  
382 manner not prohibited by law, including official use by an authorized law enforcement or other  
383 public agency, or sale at public auction or by competitive bidding. The proceeds of any such  
384 sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure,  
385 storage, maintenance of custody, advertising and notice and the balance thereof shall be  
386 distributed as further provided in this section.

387 (e) The final order of the court shall provide that the monies and the proceeds of any such sale  
388 shall be distributed as follows:

389 (i) half shall be divided equally between the prosecuting district attorney or attorney general  
390 and the city, town or state police department involved in the seizure. If more than 1  
391 department was substantially involved in the seizure, the court having jurisdiction over the  
392 forfeiture proceeding shall distribute the police portion equitably among these departments;  
393 and

394 (ii) half shall be deposited into the Victims of Human Trafficking Trust Fund established in  
395 section 66A of chapter 10.

396 (f) All such monies and proceeds received by any prosecuting district attorney or attorney  
397 general shall be deposited in the separate special law enforcement trust funds for each district  
398 attorney and for the attorney general within the office of the state treasurer, established under  
399 paragraph (d) of section 47 of chapter 94C. Each district attorney, the attorney general or the  
400 state treasurer shall ensure that proper accounting procedures are in place to account for  
401 monies and proceeds received and expended pursuant to this section. All such monies and  
402 proceeds shall be expended without further appropriation to defray the costs of protracted  
403 investigations, to provide additional technical equipment or expertise, to provide matching  
404 funds to obtain federal grants, or for such other law enforcement purposes as the district  
405 attorney or attorney general deems appropriate. The district attorney or attorney general may  
406 also expend monies and proceeds for human trafficking prevention or to provide victims'  
407 services to human trafficking victims. Within 90 days of the close of the fiscal year, each district

408 attorney and the attorney general shall file an annual report with the house and senate  
409 committees on ways and means on the use of the monies in such trust fund to prohibit human  
410 trafficking.

411 (g) All such monies and proceeds received by any police department shall be deposited in a  
412 special law enforcement trust fund and shall be expended without further appropriation to  
413 defray the costs of protracted investigations, to provide additional technical equipment or  
414 expertise, to provide matching funds to obtain federal grants, or to accomplish such other law  
415 enforcement purposes as the chief of police of such city or town, or the colonel of state police  
416 deems appropriate, but such funds shall not be considered a source of revenue to meet the  
417 operating needs of such department.

418 (h) Any officer, department, or agency having custody of any property subject to forfeiture  
419 under this section or having disposed of the property shall keep and maintain full and complete  
420 records showing from whom it received the property, under what authority it held or received  
421 or disposed of said property, to whom it delivered the property, the date and manner of  
422 disposition of the property, and the exact kinds, quantities and forms of the property. The  
423 records shall be open to inspection by all federal and state officers charged with enforcement  
424 of federal and state human trafficking laws. Persons making final disposition of the property  
425 under court order shall report, under oath, to the court the exact circumstances of such  
426 disposition.

427 (i) (i) During the pendency of the proceedings the court may issue at the request of the  
428 commonwealth ex parte any preliminary order or process as is necessary to seize or secure the

429 property for which forfeiture is sought and to provide for its custody including, but not limited  
430 to: an order that the commonwealth remove the property if possible and safeguard it in a  
431 secure location in a reasonable fashion; that monies be deposited in an interest-bearing escrow  
432 account and; that a substitute custodian be appointed to manage such property. Property  
433 taken or detained under this section shall not be repleviable, but once seized shall be deemed  
434 to be lawfully in the custody of the commonwealth pending forfeiture, subject only to the  
435 orders and decrees of the court having jurisdiction thereof. Process for seizure of the property  
436 shall issue only upon a showing of probable cause, and the application therefore and the  
437 issuance, execution and return thereof shall be subject to the provisions of chapter 276, so far  
438 as applicable.

439 (ii) A district attorney or the attorney general may refer any real property, and any furnishings,  
440 equipment and related personal property located therein, for which seizure is sought, to the  
441 division of capital asset management and maintenance office of seized property management,  
442 established under section 47 of chapter 94C. The office of seized property management shall  
443 preserve and manage the property in a reasonable fashion and dispose of the property upon a  
444 judgment ordering forfeiture, and to enter into contracts to preserve, manage and dispose of  
445 the property. The office of seized property management may receive initial funding from the  
446 special law enforcement trust funds of the attorney general and each district attorney under  
447 paragraph (f) and shall subsequently be funded by a portion of the proceeds of each sale of  
448 such managed property to the extent provided as payment of reasonable expenses in  
449 paragraph (d).



450 (j) The owner of any real property which is the principal domicile of the immediate family of the  
451 owner and which is subject to forfeiture under this section may file a petition for homestead  
452 exemption with the court having jurisdiction over such forfeiture. The court may, in its  
453 discretion, allow the petition exempting from forfeiture an amount allowed under section 1 of  
454 chapter 188. The value of the balance of the principal domicile, if any, shall be forfeited as  
455 provided in this section. Such homestead exemption may be acquired on only 1 principal  
456 domicile for the benefit of the immediate family of the owner.

457 (k) A forfeiture proceeding affecting the title to real property or the use and occupation thereof  
458 or the buildings thereon shall not have any effect except against the parties thereto and  
459 persons having actual notice thereof, until a memorandum containing the names of the parties  
460 to such proceeding, the name of the town wherein the affected real property lies, and a  
461 description of the real property sufficiently accurate for identification is recorded in the registry  
462 of deeds for the county or district wherein the real property lies. At any time after a judgment  
463 on the merits, or after the discontinuance, dismissal or other final disposition is recorded by the  
464 court having jurisdiction over such matter, the clerk of such court shall issue a certificate of the  
465 fact of such judgment, discontinuance, dismissal or other final disposition, and such certificate  
466 shall be recorded in the registry in which the original memorandum recorded pursuant to this  
467 section was filed.

468 Section 15. In any prosecution of a person who is a human trafficking victim, it shall be an  
469 affirmative defense that he was under duress or coerced into committing the offenses for  
470 which he is being prosecuted, unless prohibited by the general laws. A human trafficking victim

471 is not criminally liable for any sexual conduct for a fee or other thing of value committed as a  
472 direct result of, or incident or related to, being trafficked.

473 Section 16. Compensation is mandatory under this section. In addition to any other amount of  
474 loss identified, the division of victim compensation and assistance in the department of the  
475 attorney general shall compensate human trafficking victims including the greater of the  
476 following: (1) the gross income or value to the defendant of the victim's labor or services or (2)  
477 the value of the victim's labor or services as guaranteed under the commonwealth's minimum  
478 wage and overtime provisions; whichever is greater, and interest. Any alleged human  
479 trafficking victim will also be eligible for any state funded benefits including, but not limited to,  
480 cash assistance and medical insurance.

481 Section 17. (a) For purposes of this section, human trafficking shall mean a severe form of  
482 trafficking under Section 7102(8) of Title 22 of the United States Code on October 28, 2000.  
483 The attorney general, district attorney, or any law enforcement official shall certify in writing to  
484 the United States Department of Justice or other federal agency, such as the United States  
485 Department of Homeland Security, that an investigation or prosecution under this chapter has  
486 begun and that the human trafficking victim is willing to cooperate or is cooperating with the  
487 investigation in order to enable that individual, if eligible under federal law, to qualify for a T-  
488 Visa or another appropriate visa and to access available federal benefits. Cooperation with law  
489 enforcement shall not be required of human trafficking victims who are under 18 years of age.  
490 This certification shall be made available to the victim and his designated legal representative.

491 (b) When a credible report has been made to the police of a crime described in this chapter,  
492 and upon request of the victim of that crime, the attorney general, district attorney,  
493 department of social services, or any law enforcement official shall certify in writing to the  
494 United States Department of Justice, the United States Department of Homeland Security,  
495 including any subset thereof, such as the United States Customs and Immigration Service or the  
496 United States Immigration and Customs Enforcement, that the individual making the request is  
497 a victim of such crime and that the individual has been helpful, is being helpful, or is likely to be  
498 helpful in the investigation or prosecution, of that crime in order to enable that individual, if  
499 eligible under federal law, to qualify for a U-Visa or another appropriate visa and to access  
500 available federal benefits. For the purposes of this section, an individual will be deemed to  
501 have been helpful in the investigation or prosecution of the crime if he has filed a credible  
502 report of the crime with the police or other law enforcement officials or provided a statement  
503 concerning the underlying circumstances of the crime to the police or other law enforcement  
504 officials even where that victim has requested that no domestic prosecution occur because of a  
505 reasonable fear that harm will come to individuals who reside abroad where local law  
506 enforcement cannot provide protection. The certification provided under this subsection, as  
507 well as a photocopy of the victim's report of the crime, shall be made available to the victim  
508 and the victim's designated representative.

509 (c) Human trafficking victims may be eligible for continued presence status in the United States  
510 subject to the provisions of 28 Code of Federal Regulations 1100.35.

511 (d) (i) Within 20 business days of the first encounter of a human trafficking victim, law  
512 enforcement agencies shall provide brief letters that satisfy the following Law Enforcement  
513 Agency Endorsement, hereinafter “LEA”, regulations as found in Section 214.11(f)(1) of Chapter  
514 8 of the Code of Federal Regulations.

515 (ii) The LEA must be submitted on Supplement B, Declaration of Law Enforcement Officer for  
516 Victim of Trafficking in Persons, of Form I-914. The LEA endorsement must be filled out  
517 completely in accordance with the instructions contained on the form and must attach the  
518 results of any name or database inquiry performed. In order to provide persuasive evidence,  
519 the LEA endorsement must contain a description of the victimization upon which the  
520 application is based, including the dates the human trafficking and victimization occurred, and  
521 be signed by a supervising official responsible for the investigation or prosecution of human  
522 trafficking. The LEA endorsement must address whether the victim had been recruited,  
523 harbored, transported, provided, or obtained specifically for either labor or services or for the  
524 purposes of a sexual conduct for a fee or other thing of value.

525 (iii) Where state or local law enforcement agencies find the grant of an LEA endorsement to be  
526 inappropriate for a human trafficking victim, the agency shall within 15 business days provide  
527 the human trafficking victim with a letter explaining the grounds for the denial of the LEA. The  
528 human trafficking victim may submit additional evidence to the law enforcement agency, which  
529 shall reconsider the denial of the LEA within 5 business days of the receipt of additional  
530 evidence.

531 (iv) Law enforcement agencies that demonstrate a consistent pattern of failing to meet the  
532 time limits established in paragraphs (d)(i) and (d)(iii) shall be prohibited from retaining or  
533 receiving assets or the proceeds from assets forfeited under section 14 of this chapter. The  
534 attorney general and the secretary of health and human services shall jointly determine  
535 whether a law enforcement agency has demonstrated a consistent pattern of failing to meet  
536 the above mentioned time limits and shall consider reports from human trafficking case  
537 workers and other victim service providers as evidence. The attorney general and the secretary  
538 of health and human services shall jointly determine whether a law enforcement agency has  
539 made sufficient progress in meeting the above mentioned time limits in order to allow such law  
540 enforcement agency to retain or receive assets or the proceeds from assets forfeited under  
541 section 14 of this chapter. The attorney general and the secretary of health and human  
542 services shall consider reports from human trafficking case workers and other victim service  
543 providers as evidence in making their determination.

544 Section 18. Subject to appropriation, the executive office of health and human services shall  
545 hereby established a pilot program creating a human trafficking safe house specifically to meet  
546 the unique needs of adult human trafficking victims, and the department of social services in  
547 consultation with the department of youth services shall hereby establish a pilot program  
548 creating a human trafficking safe house specifically to meet the unique needs of child human  
549 trafficking victims. The safe houses shall each provide specialized support services to adult or  
550 child human trafficking victims that will take into account the age, gender, linguistic capabilities,  
551 and special needs of the victims and the victim's dependent children, if any. The safe houses  
552 shall also provide 24 hour security on the premises, multilingual trauma trained case

553 management staff, access to healthcare and mental health services, and access to employment  
554 and educational services.

555 Section 19. Subject to appropriation, the department of social services in consultation with the  
556 department of youth services shall provide child human trafficking victims with age-appropriate  
557 resources and services including, but not limited to, information about their rights, privacy  
558 protections, shelter, and psychological counseling. Such services shall include a coordinated  
559 multidisciplinary plan by government and non-governmental agencies to minimize the number  
560 of child interviews, enhance the provision of services, and best meet the needs of the child.

561 Section 20. (a) There is hereby established an Anti-Human Trafficking Task Force, co-chaired by  
562 the attorney general and the secretary of health and human services or their designees. The  
563 task force shall:

564 (1) collect and organize data on the nature and extent of human trafficking in the  
565 commonwealth including the harms and consequences to human trafficking victims;

566 (2) identify available federal, state, and local programs and licensing bodies that could provide  
567 services, benefits or licenses to human trafficking victims including, but not limited to, health  
568 care, mental health, human services, housing or shelter services, education, legal assistance,  
569 job training or preparation, interpreting services, English-as-a-second-language classes,  
570 voluntary repatriation, and victim's compensation, and examine how to move human trafficking  
571 victims quickly through the system in order to provide them with timely services;

572 (3) evaluate approaches to increase public awareness of human trafficking, and offer  
573 recommendations for programs and educational and training opportunities for law  
574 enforcement and social service providers, including, but not limited to, methods used to  
575 identify human trafficking victims including preliminary interviewing and questioning  
576 techniques, methods of protecting the special needs of women and child human trafficking  
577 victims, developments in state and federal laws regarding human trafficking, and methods to  
578 increase effective collaboration between state and local agencies, law enforcement, social  
579 service providers and non-governmental organizations;

580 (4) examine collaborative models between government and nongovernmental organizations for  
581 protecting human trafficking victims;

582 (5) measure and evaluate the progress of the state in preventing human trafficking, protecting  
583 and providing assistance to human trafficking victims, and prosecuting persons engaged in  
584 human trafficking;

585 (6) analyze existing state laws and regulations, including the effectiveness of existing victim-  
586 witness assistance laws, regulations and services and confidentiality laws, for their adequacy in  
587 addressing human trafficking and, if the analysis determines that those statutes are inadequate,  
588 recommend revisions to those statutes or the enactment of new statutes that specifically  
589 address human trafficking;

590 (7) consult with governmental and nongovernmental organizations in developing  
591 recommendations to strengthen state and local efforts to prevent human trafficking, to protect  
592 and assist human trafficking victims, and to prosecute human traffickers; and

593 (8) issue an annual report outlining the task force's findings from paragraph (1) to (7), inclusive.

594 (b) The office of the attorney general and the executive office of health and human services  
595 shall provide staff and support for the task force, including, but not limited to, publication and  
596 dissemination of the annual report required by this section and posting the report on their  
597 websites, to the extent resources are available.

598 (c) The task force shall be comprised of the following members or their designees:

599 (1) the secretary of the executive office of economic development;

600 (2) the colonel of the state police;

601 (3) a representative of the Massachusetts police chiefs association;

602 (4) a representative of the Massachusetts district attorney's association;

603 (5) the commissioner of the Boston police department;

604 (6) a representative of the Massachusetts police training committee, formerly the  
605 Massachusetts criminal justice training counsel;

606 (7) a representative from the Massachusetts Task Force to Combat Human Trafficking;



- 607 (8) a representative of the Massachusetts Office of Victim Assistance;
- 608 (9) a representative from the Massachusetts department of social services;
- 609 (10) a representative of the Trafficking Victims Outreach and Services network;
- 610 (11) a representative of the Massachusetts Immigrant and Refugee Advocacy Coalition;
- 611 (12) a representative of Jane Doe, Inc.;
- 612 (13) a representative of the Massachusetts Children’s Alliance;
- 613 (14) a representative of a coalition dedicated to prevention of and intervention in the  
614 trafficking of children;
- 615 (15) a senator appointed by the senate president;
- 616 (16) a senator appointed by the senate minority leader;
- 617 (17) a representative appointed by the speaker of the house;
- 618 (18) a representative appointed by the house minority leader;
- 619 (19) 2 survivors of human trafficking, one domestic and one international, appointed by the  
620 governor;
- 621 (20) 2 human trafficking attorneys, one who works with adults and one who works with  
622 children, appointed by the governor;

623 (21) 2 human trafficking caseworkers, one who works with adults and one who works with  
624 children, appointed by the governor;

625 (22) a medical professional appointed by the governor;

626 (23) 2 mental health professionals, one who works with adults and one who works with  
627 children, appointed by the governor;

628 (24) a university researcher with a background in human trafficking appointed by the governor;

629 (25) a person with a background in child and runaway services appointed by the governor; and

630 (26) a representative from the Massachusetts Commission on the Status of Women appointed  
631 by the governor.

632 Section 21. (a) Subject to appropriation, the office of the attorney general shall provide  
633 educational or informational materials to state and local employers and their employees who,  
634 through the dispatch of their duties, may encounter individuals who either identify themselves  
635 as or are suspected of being human trafficking victims, to provide such victims with information  
636 and resources concerning human trafficking laws that are available to protect human trafficking  
637 victims and services available to such victims.

638 (b) The office of the attorney general in consultation with the Massachusetts Office of Victims  
639 Assistance shall maintain statistics and other relevant information regarding incidents of human  
640 trafficking in the commonwealth, including, but not limited to, information from the state  
641 police, district attorneys, and local law enforcement. An annual report of said incidents shall be

642 delivered to the joint committee on children and families, the joint committee on the judiciary  
643 and the joint committee on public safety and homeland security of the general court.

644 SECTION 10. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby  
645 amended by inserting after the word "sixty-five", in lines 4 and 5 and in line 21, each time it  
646 appears, the following words: "or section 2, section 3, section 4, section 5, section 6 or section  
647 7 of chapter 265A.