HOUSE . . . . . No. 3469

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to the commercial exploitation of people..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 265 of the General Laws, as most recently amended by Chapter 256 of the Acts of 2010, is hereby further amended by inserting after section 48 the following 5 sections:-

Section 49. As used in sections 50 through 51, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Blackmail”, is to be given its ordinary meaning and includes but is not limited to a threat to

convey or publish any fact or purported fact tending to subject any person to embarrassment,

contempt, defamation, hatred, ridicule or worry.

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

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

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

22 document, of another person; (e) blackmail; or (f) causing or threatening to cause financial harm
23 to any person.

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

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

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

31 Section 50. (a) Whoever knowingly subjects or attempts to subject, or whoever
32 knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to
33 recruit, entice, harbor, transport, provide, or obtain by any means, another person to engage in
34 commercial sexual activity, sexually-explicit performance, or the production of unlawful
35 pornography in violation of chapter 272, or causes or attempts to cause a person to engage in
36 commercial sexual activity, sexually-explicit performance, or the production of unlawful
37 pornography in violation of chapter 272; or (b) knowingly benefits, financially or by receiving
38 anything of value, from participation in a venture which has engaged in an act described herein,
39 is guilty of the crime of trafficking of persons for sexual servitude and shall be punished by
40 imprisonment in the state prison for not more than 20 years; provided, however, that a
41 prosecution commenced under the provisions of this section shall not be continued without a
42 finding or placed on file.

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

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

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

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

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

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

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

86 Section 11M. There shall be an inter-agency task force to address all aspects of human
87 trafficking, including sex trafficking and labor trafficking. The task force and shall consist of ___
88 members: 1 of whom shall be the attorney general or her designee who shall chair the task force;
89 1 of whom shall be the President of the Massachusetts District Attorneys Association or his
90 designee; 1 of whom shall be the executive director of the Massachusetts Office for Victim
91 Assistance or his designee; 1 of whom shall be the Director of the Department of Labor or his
92 designee; 1 of whom shall be the Commissioner of the Department of Children and Families or
93 his designee; 1 of whom shall be the Director of the Office for Refugees and Immigrants or his
94 designee; 1 of whom shall be the Secretary of the Executive Office of Public Safety and Security

95 or his designee; 1 of whom shall be the President of the Massachusetts Chiefs of Police
96 Association or his designee; 1 of whom shall be the Commissioner of the Office of the
97 Commissioner of Probation or his designee; 1 of whom shall be the Colonel of the Massachusetts
98 State Police or his designee; 1 of whom shall be the Chief of the Massachusetts Bay
99 Transportation Authority Transit Police or his designee; 1 of whom shall be the Director of the
100 Division of Professional Licensure or his designee; 1 of whom shall be the Commissioner of the
101 Boston Police Department or his designee; 2 of whom shall be the Chairmen of the Joint
102 Committee on the Judiciary; 1 of whom shall be an academic researcher dedicated to the subject
103 of human trafficking; 3 representatives appointed by the attorney general from non-governmental
104 organizations that specialize in human trafficking, including those who work in the following
105 areas: child and runaway services, sexually exploited adults, and labor, who shall serve a term
106 of eighteen months. The attorney general shall invite representatives of the U.S. Attorneys'
107 offices and of federal law enforcement agencies operating within the state, including the Federal
108 Bureau of Investigation, U.S. Immigration and Customs Enforcement, and the U.S. Department
109 of Labor, to be members of the task force.

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

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

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

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

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

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

145 (c) Whoever pays, agrees to pay, or offers to pay any person with the intent to engage in
146 sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay, or agrees that
147 a third person be paid in return for aiding a person who intends to engage in sexual conduct with
148 a child under the age of 18, shall be punished by imprisonment in the state prison for not more
149 than 10 years, or in the house of correction for not more than 2 ½ years, whether such sexual
150 conduct occurs or not; provided, however, that a prosecution commenced under the provisions of
151 this section shall not be continued without a finding or placed on file.