

# SENATE NO. 97

## AN ACT RELATING TO ANTI-HUMAN TRAFFICKING AND PROTECTION

*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  
2 section 66 the 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 treasurer  
8 shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to  
9 him under this section in accordance with sections 34, 34A and 38 of chapter 29 in such a manner  
10 as to secure the highest rate of return available consistent with the safety of the fund, and shall  
11 credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer shall  
12 transfer funds from the income and receipts of the fund to the victim and witness assistance  
13 board, as established in section 4 of chapter 258B, from time to time, at the request of the office.  
14 The board shall award and administer grants from the fund, without further appropriation, to  
15 public, private non-profit or community-based programs in the commonwealth to provide

16 services to human trafficking victims, as defined in section 1 of said chapter 265A including, but  
17 not limited to, legal and case management services, health care, mental health, social services,  
18 housing or shelter services, education, job training or preparation, interpreting services, English-  
19 as-a-second-language classes, victim's compensation, and public and private non-profit  
20 collaborations to protect and assist human trafficking victims. The board shall develop, in  
21 conjunction with the Anti-Human Trafficking Task Force established by section 20 of chapter  
22 265A, written criteria for the awarding of those grants, which shall be evaluated and, if necessary,  
23 revised on an annual basis.

24           The board shall file a report detailing the amount of funds collected and expended from  
25 the 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 to  
27 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 including,  
29 but not limited to, the costs of clerical and support personnel. Any unexpended balance of  
30 monies in the fund at the end of the fiscal year shall not revert to the General Fund but shall  
31 remain available for expenditure from such fund in subsequent fiscal years. No expenditure made  
32 from the fund shall cause the fund to become deficient at any point during a fiscal year.

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

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

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

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

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

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

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

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

61 examine the witness in real time. A live-video conference, a video-taped record or a transcript of  
62 such testimony shall be admissible at trial in any such action or proceeding.

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

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

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

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

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

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

85 (b) A human trafficking victims’ caseworker shall not disclose any confidential  
86 communication without the prior written consent of the victim, or the victim’s guardian in the  
87 case of a child, except as hereinafter provided. Such confidential communication shall not be  
88 subject to discovery in any civil, legislative or administrative proceeding without the prior  
89 written consent of the victim, or victim’s guardian in the case of a child to whom such  
90 confidential communication relates. In criminal actions such confidential communication shall  
91 be subject to discovery and shall be admissible as evidence but only to the extent of information  
92 contained therein which is exculpatory in relation to the defendant; provided, however, that the  
93 court shall first examine such confidential communication and shall determine whether or not  
94 such exculpatory information is therein contained before allowing such discovery or the  
95 introduction of such evidence.

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

99 Section 20N. At each stage of an investigation and prosecution of an offense involving  
100 a human trafficking victim, as defined by section 1 of chapter 265A, the names and identifying  
101 information of the victim and the victim’s family shall be withheld from public inspection. Once  
102 a complaint is filed or an indictment returned, the court shall order that any identifying  
103 information of such a victim and family member shall be kept confidential and the court shall

104 impound or redact the names and identifying information of the victim and the victim's family in  
105 any such proceeding, unless such victim provides written consent to the court to disclose that  
106 information in those records.

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

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

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

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

115 Chapter 265A

116 HUMAN TRAFFICKING CRIMES AND PROTECTION FOR VICTIMS.

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

119 "Asset", property of any kind including, but not limited to, real property, things affixed  
120 to and 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 form of  
123 communication which threatens to accuse another of a crime or offense, to injure the person or  
124 property of another or to expose any secret tending to subject any person to hatred, contempt or  
125 ridicule.

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

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

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

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

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

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

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

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

147 (ii) psychological manipulation;

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

- 149 (iv) physically restraining or threatening to physically restrain another person;
- 150 (v) abusing or threatening to abuse the law or legal process by knowingly providing
- 151 misinformation as to the adverse legal consequences of a person's actions including, but
- 152 not limited to, threats of deportation;
- 153 (vi) knowingly destroying, concealing, removing, confiscating or possessing any actual
- 154 or purported passport or other immigration document, or any other actual or purported
- 155 government identification document, of another person;
- 156 (vii) the use of blackmail;
- 157 (viii) causing or threatening to cause financial harm or to use financial control over any
- 158 person.

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

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

161 "Intimidation", direct or indirect willful use of force or bodily injury or threats of force

162 or bodily injury to influence or confine another.

163 "Maintain", means, in relation to labor or services, to secure continued performance

164 thereof, regardless of any initial agreement on the part of the victim to perform such type of

165 service.

166 "Serious bodily injury" includes bodily injury which results in a permanent

167 disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial

168 risk of death.

169 "Sexually-explicit performance" is an act involving sexual conduct intended to arouse or

170 satisfy the sexual desires of another and which is: (i) a live and public or private act; or (ii) a

171 photographed, recorded or videotaped act or show.

172           Section 2. Whoever intentionally subjects another person to forced labor or services  
173 shall be guilty of the crime of involuntary servitude and shall be punished by a fine of not more  
174 than \$2,000 and by imprisonment in the state prison for not less than 5 years nor more than 25  
175 years.

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

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

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

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

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

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

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

211           (c) Whoever commits a violation of section 2, section 3 or section 4 and: (i) thereby  
212 causes bodily injury to the victim of such offense shall be punished by imprisonment in the state  
213 prison for not less than 5 nor more than 10 years; or (ii) thereby causes serious bodily injury to the  
214 victim of such offense shall be punished by imprisonment in the state prison for not less than 10  
215 year nor more than 15 years. In accordance with section 8A of chapter 279, such sentences shall  
216 begin from and after the expiration of the sentence for violation of section 2, 3 or 4.

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

221 (e) Whoever commits a violation of section 2, section 3 or section 4 and the victim  
222 thereof was subjected to the provisions of any such section: (i) for between 180 days and 1 year,  
223 shall be punished by imprisonment in the state prison for not less than 3 years nor more than 5  
224 years; or (ii) for more than 1 year, shall be punished by imprisonment in the state prison for not  
225 less than 5 years nor more than 25 years. In accordance with section 8A of chapter 279, such  
226 sentences shall begin from and after the expiration of the sentence for violation of section 2, 3 or  
227 4.

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

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

237 (1) lost income, which includes the greater of: (i) the gross income or value to the  
238 defendant of the victim's labor or services; or (ii) the value of the victim's labor or

- 239 services as guaranteed under the commonwealth's minimum wage and overtime  
240 provisions, and interest;
- 241 (2) medical and related professional services relating to physical, psychiatric or  
242 psychological care;
- 243 (3) physical and occupational therapy or rehabilitation;
- 244 (4) necessary transportation, temporary housing, and child care expenses;
- 245 (5) in the case of an offense resulting in damage or destruction of property, return of the  
246 property, or if return is impossible, impracticable or inadequate, payment of the  
247 replacement value of the property;
- 248 (6) in the case of an offense resulting in death, or bodily injury that results in death, the  
249 costs and expenses of necessary funeral and related services;
- 250 (7) attorneys' fees and other costs and expenses incurred, including those costs and  
251 expenses incurred that are related to participation in the investigation or prosecution of  
252 the offense or attendance at proceedings related to the offense;
- 253 (8) compensation for emotional distress, pain, and suffering;
- 254 (9) expenses incurred in relocating away from the defendant, including, but not limited  
255 to, deposits for utilities and telephone service, deposits for rental housing, temporary  
256 lodging and food expenses, clothing, and personal items; and
- 257 (10) any other losses suffered by the human trafficking victim.

258 Section 10. (a) Any and all fines collected pursuant to this chapter shall be transmitted  
259 monthly by the courts to the state treasurer who shall then deposit, invest and transfer the  
260 monies, from time to time, into the Victims of Human Trafficking Trust Fund established in  
261 section 66A of chapter 10.

262 (b) There shall be an assessment of \$250 against any person who violates any provision  
263 of section 2 to 6, inclusive. The assessment shall not be subject to waiver by the court for any  
264 reason. If a person is sentenced to a correctional facility and the assessment has not been paid,  
265 the court shall note the assessment on the mittimus. The monies collected pursuant to the  
266 assessment established by this paragraph shall be transmitted monthly by the courts to the state  
267 treasurer who shall then deposit, invest and transfer the monies into the Victims of Human  
268 Trafficking Trust Fund established in said section 66A of said chapter 10. The monies shall then  
269 be administered, pursuant to said section 66 of said chapter 10, by the Massachusetts Office of  
270 Victim Assistance for the purposes set forth in said section 66A. The assessment paid by an  
271 individual into the Victims of Human Trafficking Trust Fund pursuant to this section shall be in  
272 addition to, and not in lieu of, any other fee imposed by the court pursuant to this chapter or any  
273 other chapter. The administrative office of the trial court shall file a report detailing the amount  
274 of funds imposed and collected pursuant to this section to the house and senate committees on  
275 ways and means and to the Massachusetts Office of Victim Assistance not later than August 15 of  
276 each calendar year.

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

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

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

290           (i) order its dissolution or reorganization;

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

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

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

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

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

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

310 (e) The suspension of the statute of limitations due to disability or estoppel applies to all  
311 other related claims arising out of the trafficking situation. A criminal action includes  
312 investigation and prosecution and remains pending until final adjudication in the trial court. Any  
313 legal guardian, family member, representative of the human trafficking victim, or court appointee  
314 may represent the human trafficking victim's rights, in the event the human trafficking victim is  
315 deceased or otherwise unable to represent his own interests in court.

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

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

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

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

327 (iv) all real property, including any right, title and interest in the whole of any lot or tract  
328 of land and any appurtenances or improvements thereto, which is used in any manner or part, to

329 commit or to facilitate any violation of section 2, 3 or 4.

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

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

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

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

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

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

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

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

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

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

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

381 (f) All such monies and proceeds received by any prosecuting district attorney or  
382 attorney general shall be deposited in the separate special law enforcement trust funds for each  
383 district attorney and for the attorney general within the office of the state treasurer, established  
384 under paragraph (d) of section 47 of chapter 94C. Each district attorney, the attorney general or  
385 the state treasurer shall ensure that proper accounting procedures are in place to account for  
386 monies and proceeds received and expended pursuant to this section. All such monies and  
387 proceeds shall be expended without further appropriation to defray the costs of protracted  
388 investigations, to provide additional technical equipment or expertise, to provide matching funds  
389 to obtain federal grants, or for such other law enforcement purposes as the district attorney or  
390 attorney general deems appropriate. The district attorney or attorney general may also expend  
391 monies and proceeds for human trafficking prevention or to provide victims' services to human  
392 trafficking victims. Within 90 days of the close of the fiscal year, each district attorney and the  
393 attorney general shall file an annual report with the house and senate committees on ways and  
394 means on the use of the monies in such trust fund to prohibit human trafficking.

395 (g) All such monies and proceeds received by any police department shall be deposited  
396 in a special law enforcement trust fund and shall be expended without further appropriation to  
397 defray the costs of protracted investigations, to provide additional technical equipment or

398 expertise, to provide matching funds to obtain federal grants, or to accomplish such other law  
399 enforcement purposes as the chief of police of such city or town, or the colonel of state police  
400 deems appropriate, but such funds shall not be considered a source of revenue to meet the  
401 operating needs of such department.

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

410 (i) (i) During the pendency of the proceedings the court may issue at the request of the  
411 commonwealth ex parte any preliminary order or process as is necessary to seize or secure the  
412 property for which forfeiture is sought and to provide for its custody including, but not limited to:  
413 an order that the commonwealth remove the property if possible and safeguard it in a secure  
414 location in a reasonable fashion; that monies be deposited in an interest-bearing escrow account  
415 and; that a substitute custodian be appointed to manage such property. Property taken or detained  
416 under this section shall not be repleviable, but once seized shall be deemed to be lawfully in the  
417 custody of the commonwealth pending forfeiture, subject only to the orders and decrees of the  
418 court having jurisdiction thereof. Process for seizure of the property shall issue only upon a  
419 showing of probable cause, and the application therefore and the issuance, execution and return  
420 thereof shall be subject to the provisions of chapter 276, so far as applicable.

421 (ii) A district attorney or the attorney general may refer any real property, and any  
422 furnishings, equipment and related personal property located therein, for which seizure is sought,  
423 to the division of capital asset management and maintenance office of seized property  
424 management, established under section 47 of chapter 94C. The office of seized property  
425 management shall preserve and manage the property in a reasonable fashion and dispose of the  
426 property upon a judgment ordering forfeiture, and to enter into contracts to preserve, manage and  
427 dispose of the property. The office of seized property management may receive initial funding  
428 from the special law enforcement trust funds of the attorney general and each district attorney  
429 under paragraph (f) and shall subsequently be funded by a portion of the proceeds of each sale of  
430 such managed property to the extent provided as payment of reasonable expenses in paragraph  
431 (d).

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

439 (k) A forfeiture proceeding affecting the title to real property or the use and occupation  
440 thereof or the buildings thereon shall not have any effect except against the parties thereto and  
441 persons having actual notice thereof, until a memorandum containing the names of the parties to  
442 such proceeding, the name of the town wherein the affected real property lies, and a description  
443 of the real property sufficiently accurate for identification is recorded in the registry of deeds for

444 the county or district wherein the real property lies. At any time after a judgment on the merits,  
445 or after the discontinuance, dismissal or other final disposition is recorded by the court having  
446 jurisdiction over such matter, the clerk of such court shall issue a certificate of the fact of such  
447 judgment, discontinuance, dismissal or other final disposition, and such certificate shall be  
448 recorded in the registry in which the original memorandum recorded pursuant to this section was  
449 filed.

450           Section 15. In any prosecution of a person who is a human trafficking victim, it shall be  
451 an affirmative defense that he was under duress or coerced into committing the offenses for  
452 which he is being prosecuted, unless prohibited by the general laws. A human trafficking victim  
453 is not criminally liable for any sexual conduct for a fee or other thing of value committed as a  
454 direct result of, or incident or related to, being trafficked.

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

463           Section 17. (a) For purposes of this section, human trafficking shall mean a severe form  
464 of trafficking under Section 7102(8) of Title 22 of the United States Code on October 28, 2000.  
465 The attorney general, district attorney, or any law enforcement official shall certify in writing to  
466 the United States Department of Justice or other federal agency, such as the United States

467 Department of Homeland Security, that an investigation or prosecution under this chapter has  
468 begun and that the human trafficking victim is willing to cooperate or is cooperating with the  
469 investigation in order to enable that individual, if eligible under federal law, to qualify for a T-  
470 Visa or another appropriate visa and to access available federal benefits. Cooperation with law  
471 enforcement shall not be required of human trafficking victims who are under 18 years of age.  
472 This certification shall be made available to the victim and his designated legal representative.

473 (b) When a credible report has been made to the police of a crime described in this  
474 chapter, and upon request of the victim of that crime, the attorney general, district attorney,  
475 department of social services, or any law enforcement official shall certify in writing to the  
476 United States Department of Justice, the United States Department of Homeland Security,  
477 including any subset thereof, such as the United States Customs and Immigration Service or the  
478 United States Immigration and Customs Enforcement, that the individual making the request is a  
479 victim of such crime and that the individual has been helpful, is being helpful, or is likely to be  
480 helpful in the investigation or prosecution, of that crime in order to enable that individual, if  
481 eligible under federal law, to qualify for a U-Visa or another appropriate visa and to access  
482 available federal benefits. For the purposes of this section, an individual will be deemed to have  
483 been helpful in the investigation or prosecution of the crime if he has filed a credible report of the  
484 crime with the police or other law enforcement officials or provided a statement concerning the  
485 underlying circumstances of the crime to the police or other law enforcement officials even where  
486 that victim has requested that no domestic prosecution occur because of a reasonable fear that  
487 harm will come to individuals who reside abroad where local law enforcement cannot provide  
488 protection. The certification provided under this subsection, as well as a photocopy of the

489 victim's report of the crime, shall be made available to the victim and the victim's designated  
490 representative.

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

493 (d) (i) Within 20 business days of the first encounter of a human trafficking victim, law  
494 enforcement agencies shall provide brief letters that satisfy the following Law Enforcement  
495 Agency Endorsement, hereinafter "LEA", regulations as found in Section 214.11(f)(1) of Chapter  
496 8 of the Code of Federal Regulations.

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

507 (iii) Where state or local law enforcement agencies find the grant of an LEA  
508 endorsement to be inappropriate for a human trafficking victim, the agency shall within 15  
509 business days provide the human trafficking victim with a letter explaining the grounds for the  
510 denial of the LEA. The human trafficking victim may submit additional evidence to the law  
511 enforcement agency, which shall reconsider the denial of the LEA within 5 business days of the

512 receipt of additional evidence.

513 (iv) Law enforcement agencies that demonstrate a consistent pattern of failing to meet  
514 the time limits established in paragraphs (d)(i) and (d)(iii) shall be prohibited from retaining or  
515 receiving assets or the proceeds from assets forfeited under section 14 of this chapter. The  
516 attorney general and the secretary of health and human services shall jointly determine whether a  
517 law enforcement agency has demonstrated a consistent pattern of failing to meet the above  
518 mentioned time limits and shall consider reports from human trafficking case workers and other  
519 victim service providers as evidence. The attorney general and the secretary of health and human  
520 services shall jointly determine whether a law enforcement agency has made sufficient progress  
521 in meeting the above mentioned time limits in order to allow such law enforcement agency to  
522 retain or receive assets or the proceeds from assets forfeited under section 14 of this chapter. The  
523 attorney general and the secretary of health and human services shall consider reports from  
524 human trafficking case workers and other victim service providers as evidence in making their  
525 determination.

526 Section 18. Subject to appropriation, the executive office of health and human services  
527 shall hereby established a pilot program creating a human trafficking safe house specifically to  
528 meet the unique needs of adult human trafficking victims, and the department of social services in  
529 consultation with the department of youth services shall hereby establish a pilot program creating  
530 a human trafficking safe house specifically to meet the unique needs of child human trafficking  
531 victims. The safe houses shall each provide specialized support services to adult or child human  
532 trafficking victims that will take into account the age, gender, linguistic capabilities, and special  
533 needs of the victims and the victim's dependent children, if any. The safe houses shall also  
534 provide 24 hour security on the premises, multilingual trauma trained case management staff,

535 access to healthcare and mental health services, and access to employment and educational  
536 services.

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

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

- 547           (1) collect and organize data on the nature and extent of human trafficking in the  
548           commonwealth including the harms and consequences to human trafficking victims;
- 549           (2) identify available federal, state, and local programs and licensing bodies that could  
550           provide services, benefits or licenses to human trafficking victims including, but not  
551           limited to, health care, mental health, human services, housing or shelter services,  
552           education, legal assistance, job training or preparation, interpreting services, English-as-  
553           a-second-language classes, voluntary repatriation, and victim's compensation, and  
554           examine how to move human trafficking victims quickly through the system in order to  
555           provide them with timely services;
- 556           (3) evaluate approaches to increase public awareness of human trafficking, and offer  
557           recommendations for programs and educational and training opportunities for law

558 enforcement and social service providers, including, but not limited to, methods used to  
559 identify human trafficking victims including preliminary interviewing and questioning  
560 techniques, methods of protecting the special needs of women and child human  
561 trafficking victims, developments in state and federal laws regarding human trafficking,  
562 and methods to increase effective collaboration between state and local agencies, law  
563 enforcement, social service providers and non-governmental organizations;

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

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

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

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

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

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

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

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

585 (2) the colonel of the state police;

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

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

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

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

591 (7) a representative from the Interjurisdictional Anti-Human Trafficking Task Force;

592 (8) a representative of the Massachusetts Office of Victim Assistance;

593 (9) a representative from the Massachusetts department of social services;

594 (10) a representative of the Trafficking Victims Outreach and Services network;

595 (11) a representative of the Massachusetts Immigrant and Refugee Advocacy Coalition;

596 (12) a representative of Jane Doe, Inc.;

597 (13) a representative of the Massachusetts Children's Alliance;

598 (14) a representative of a coalition dedicated to prevention of and intervention in the  
599 trafficking of children;

- 600 (15) a senator appointed by the senate president;
- 601 (16) a senator appointed by the senate minority leader;
- 602 (17) a representative appointed by the speaker of the house;
- 603 (18) a representative appointed by the house minority leader;
- 604 (19) 2 survivors of human trafficking, one domestic and one international, appointed by  
605 the governor;
- 606 (20) 2 human trafficking attorneys, one who works with adults and one who works with  
607 children, appointed by the governor;
- 608 (21) 2 human trafficking caseworkers, one who works with adults and one who works  
609 with children, appointed by the governor;
- 610 (22) a medical professional appointed by the governor;
- 611 (23) 2 mental health professionals, one who works with adults and one who works with  
612 children, appointed by the governor;
- 613 (24) a university researcher with a background in human trafficking appointed by the  
614 governor;
- 615 (25) a person with a background in child and runaway services appointed by the  
616 governor; and
- 617 (26) a representative from the Massachusetts Commission on the Status of Women  
618 appointed by the governor.

619 Section 21. (a) Subject to appropriation, the office of the attorney general shall provide  
620 educational or informational materials to state and local employers and their employees who,

621 through the dispatch of their duties, may encounter individuals who either identify themselves as  
622 or are suspected of being human trafficking victims, to provide such victims with information and  
623 resources concerning human trafficking laws that are available to protect human trafficking  
624 victims and services available to such victims.

625 (b) The office of the attorney general in consultation with the Massachusetts Office of  
626 Victims Assistance shall maintain statistics and other relevant information regarding incidents of  
627 human trafficking in the commonwealth, including, but not limited to, information from the state  
628 police, district attorneys, and local law enforcement. An annual report of said incidents shall be  
629 delivered to the joint committee on children and families, the joint committee on the judiciary and  
630 the joint committee on public safety and homeland security of the general court.

631 SECTION 10. Section 63 of chapter 277 of the General Laws, as so appearing, is  
632 hereby amended by inserting after the word “sixty-five”, in lines 4 and 5 and in line 21, each time  
633 it appears, the following words:-“, or section 2, section 3, section 4, section 5, section 6 or section  
634 7 of chapter 265A.