

SAFE HARBOR LAWS

PORTIONS OF STATE STATUTES:

Model Public Policy

VERMONT

(S.272) Sec. 1. The general assembly finds that:

(1) According to his book, *The Slave Next Door: Human Trafficking and Slavery in America Today*, Dr. Kevin Bales states that the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history. Vermont and all of its bordering states have seen elements of human trafficking, yet Vermont is the only remaining state in the Northeast and one of the remaining five in the nation lacking legislation on this issue. Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity.

(2) Human trafficking is an interrelated, under-reported crime that is intentionally kept secret by the traffickers who profit by billions of dollars from these crimes. Human trafficking is the third most profitable illegal global enterprise after drug and weapon trafficking, all of which have been found to be closely related.

(3) Because Vermont has a limited level of awareness regarding the existence of human trafficking within its own borders, the collaborative efforts of a human trafficking task force are necessary to raise public awareness and to recommend measures that will assist victims of human trafficking.

Sec. 2. HUMAN TRAFFICKING TASK FORCE

(a) As used in this section, "human trafficking" shall have the same meaning as in 18 U.S.C. §§ 1589–1592.

(b) For purposes of the definition of "human trafficking," "forced labor" means providing or obtaining the labor or services of a person:

- (1) by threats of serious harm to, or physical restraint against, that person or another person;
- (2) by means of any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) by means of the abuse or threatened abuse of law or the legal process.

(c) The human trafficking task force is established for the purpose of raising public awareness about human trafficking within the state and across state and international borders, identifying resources for the victims of human trafficking, recommending to the public ways to identify and report acts of human trafficking and reporting, and making findings and recommendations regarding those efforts to the general assembly.

(d) The human trafficking task force shall be composed of the following members:

- (1) the attorney general or his or her designee, who shall serve as chair;
- (2) a representative of the law enforcement community, appointed by the commissioner of public safety;
- (3) a representative of Vermont's emergency housing or shelter community;
- (4) representatives, appointed by the governor, from each of the following:
 - (A) the Vermont state housing authority;
 - (B) the department of labor;
 - (C) the department of education;
 - (D) the department for children and families;
 - (E) the business community; and
 - (F) the agency of agriculture, food and markets.
- (5) a representative, appointed by the secretary, from the agency of human services who specializes in refugee matters;
- (6) a representative of the coalition of Vermonters against slavery today;
- (7) a representative of the Vermont farm bureau;
- (8) a representative of the Vermont network against domestic and sexual violence;
- (9) a representative of the Vermont coalition of runaway and homeless youth programs;
- (10) a representative of the Vermont crime victim's services; and
- (11) an immigration attorney, appointed by the Vermont bar association.

(e) The task force shall consult with representatives from the following:

- (1) the human rights commission;
- (2) the department of public safety;
- (3) the polaris project;
- (4) health care professionals;
- (5) the United States' attorney for Vermont;
- (6) migrant worker and other labor advocacy groups; and
- (7) any other groups or individuals the committee deems appropriate.

(f) The task force shall perform the following duties:

- (1) Identify ways to raise public awareness about human trafficking in Vermont communities.
- (2) Recommend how the Vermont public, business community, local and state government, health, and education providers can best identify, report, and prevent acts of human trafficking in Vermont.
- (3) Identify the services needed by victims of human trafficking and their families, and recommend ways to provide those services.

(g) The task force shall have the assistance and cooperation of all state and local agencies and departments.

(h) On or before November 15, 2010, the task force shall report to the members of the senate and house committees on judiciary, the senate committee on health and welfare, the house committee on human services and to the legislative council its recommendations and legislative proposals, including criminal statutory provisions, if any, relating to its findings.

(i) On or before January 15, 2011, the task force shall report to the general assembly and to the governor its findings and any recommendations.

(j) The task force may meet no more than six times, and shall cease to exist on January 15,

2011. Sec. 3. LAW ENFORCEMENT ADVISORY BOARD

(a) On or before November 15, 2010, the commissioner of public safety shall report to the law enforcement advisory board on the status of efforts by Vermont law enforcement to respond to issues regarding the crime of human trafficking and what recommendations, if any, should be made to the members of the senate and house committees on judiciary and to the legislative council in order to respond more effectively to those issues.

(b) Prior to making this report, the commissioner shall consult with the following groups:

- (1) a representative of the Vermont association of chiefs of police;
- (2) a representative of the Vermont sheriffs' association;
- (3) the attorney general, or his or her designee from the criminal division;
- (4) a state's attorney, appointed by the executive director of the department of state's attorneys and sheriffs;
- (5) a representative from the Vermont center for crime victim services;
- (6) a representative from the network against domestic and sexual violence;
- (7) a representative from the coalition of Vermonters against slavery today;
- (8) the executive director of the Vermont police academy or his or her designee;
- (9) the United States' attorney for Vermont or his or her designee;
- (10) representatives from federal law enforcement agencies in Vermont;
- (11) the human trafficking task force; and
- (12) any other groups or individuals the commissioner deems appropriate.

(c) The law enforcement advisory board shall include its findings and recommendations, based upon the commissioner's report, in its annual report to the general assembly and governor as required pursuant to 24 V.S.A. § 1939(d).

TENNESSEE

SECTION 1. Tennessee Code Annotated, Section 39-13-513, is amended by adding the following

as a new, appropriately designated subsection:

() Notwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the National Human Trafficking Resource Center hotline and release the minor to the custody of a parent or legal guardian.

SECTION 2. Tennessee Code Annotated, Section 39-13-514, is amended by adding the following language as a new, appropriately designated subdivision to subsection (b):

() (A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is a Class E felony.

(B) Nothing in this subdivision (b)() shall be construed as prohibiting prosecution under any other applicable provision of law.

SECTION 3. Tennessee Code Annotated, Section 39-13-512, is amended by adding the following language as a new subdivision (5) and redesignating the subsequent subdivisions accordingly:

(5) "Promoting prostitution of a minor" means engaging in any of the activities described in subdivision (4) when one (1) or more of the persons engaged in prostitution is less than eighteen (18) years of age or has an intellectual disability;

SECTION 4. Tennessee Code Annotated, Section 39-13-515, is amended by redesignating the existing language as subsection (a) and adding the following as a new, appropriately designated subsection:

() Promoting prostitution of a minor is a Class E felony.

SECTION 5. This act shall take effect upon becoming a law and shall apply to any acts committed on or after the effective date, the public welfare requiring it.

NEW YORK

Section 1. Article 6 of the social services law is amended by adding a new title 8-A to read as follows:

TITLE 8-A SAFE HARBOUR FOR EXPLOITED CHILDREN ACT

Section 447-a. Definitions. ~~447-b. Services for exploited children. § 447-a. Definitions. As used-~~

in this title:-

1. The term "sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because he or she:
 - (a) is the victim of the crime of sex trafficking as defined in section 230.34 of the penal law;
 - (b) is an abused child as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act;
 - (c) engages in any act as defined in section 230.00 or 240.37 of the penal law;
 - (d) is a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law;
 - ~~(e) engages in acts or conduct described in article two hundred sixty-three of the penal law.~~

2. The term "short-term safe house" means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility ~~operating as part of an approved runaway program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides emergency shelter, services and care to sexually exploited children including food, shelter, clothing, medical care, counseling and appropriate crisis intervention services at the time they are taken into custody by law enforcement and for the duration of any legal proceeding or proceeding in which they are either the complaining witness or the subject child. The short-term safe house shall also be available at the point in time that a child under the age of eighteen has first come into the custody of juvenile detention officials, law enforcement, local jails or the local commissioner of social services or is residing with the local runaway and homeless youth authority.~~

3. The term "advocate" means an employee of the short-term safe house defined in subdivision two of this section that has been trained to work with and advocate for the needs of sexually exploited children. The advocate shall accompany the child to all court appearances and will serve as a liaison between the short-term safe house and the court.

4. The term "safe house" means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of an approved runaway program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter for sexually exploited children. A safe house created under this article shall provide or assist in securing necessary services for such sexually exploited children either through direct provision of services, or through written agreements with

other community and public agencies for the provision of services including but not limited to housing, assessment, case management, medical care, legal, mental health and substance and alcohol abuse services. Where appropriate such safe house in accordance with a service plan for such sexually exploited child may also provide counseling and therapeutic services, educational services including life skills services and planning services to successfully transition residents back to the community. The safe house shall be available as a final disposition pursuant to section seven hundred fifty-six of the family court act to any sexually exploited child who is in need of long term housing. Nothing in the provisions of this article shall prevent a child who is the subject of a proceeding which has not reached final disposition from residing at the safe house for the duration of that proceeding nor shall it prevent any sexually exploited child who is not the subject of a proceeding from residing at the safe house.

5. The term "community-based program" means a program operated by a not-for-profit organization that provides services such as street outreach, voluntary drop-in services, peer counseling, individual counseling, family therapy and referrals for services such as educational and vocational training and health care. Any community-based program funded under this article shall also work with the safe house created under this article to provide transitional services to children returning to the community.

§ 447-b. Services for exploited children.

1. Notwithstanding any inconsistent provision of law, pursuant to regulations of the office of children and family services, every local social services district shall as a component of the district's multi-year consolidated services child-welfare services plan address the child welfare services needs of sexually exploited children and to the extent that funds are available ensure that preventative services including a short-term safe house or another short-term safe placement such as an approved runaway and homeless youth program, approved respite or crisis program providing crisis intervention or respite services or community-based program to serve sexually exploited children is available to children residing in such district. Nothing in this section shall prohibit a local social services district from utilizing existing respite or crisis intervention services already operated by such social services district or homeless youth programs or services for victims of human trafficking pursuant to article ten-D of this chapter so long as the staff members have received appropriate training approved by the office of children and family services regarding sexually exploited children and the existing programs and facilities provide a safe, secure and appropriate environment for sexually exploited children. Crisis intervention services, short-term safe house care and community-based programming may, where appropriate, be provided by the same not for profit agency. Local social services districts may work cooperatively to provide such short-term safe house or other short-term safe placement, services and programming and access to such placement, services and programming may be provided on a regional basis, provided, however, that every local social services district shall to the extent that funds are available ensure that such placement, services and programs shall be readily accessible to sexually exploited children residing within the district.

2. ~~All of the services created under this article~~ may, to the extent possible provided by law, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of an adjournment in contemplation of dismissal issued in criminal court, through the diversion services created under section seven hundred thirty-five of the ~~family court act~~, through a proceeding under article three of the family court act, a proceeding under article ten of the family court act or through a referral from a local social services agency.
3. The capacity of the crisis intervention services and community-based programs in subdivision one of this section shall be based on the number of sexually exploited children in each district who are in need of such services. A determination of such need shall be made annually in ~~every social services district by the local commissioner of social services~~ and be included in the integrated county plan. Such determination shall be made in consultation with local law enforcement, runaway and homeless youth program providers, local probation departments, local social services commissioners, the runaway and homeless youth coordinator for the local social services district, local law guardians, presentment agencies, public defenders and district attorney's offices and child advocates and services providers who work directly with sexually exploited youth.
4. ~~In determining~~ the need for and capacity of the services created under this section, each local social services district shall recognize ~~that sexually exploited youth have separate and distinct service needs~~ according to gender and, where a local social services district determines that the need exists, to the extent that funds are available, appropriate programming shall be made available.
5. The office of children and family services shall contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate at least one safe house in a geographically appropriate area of the state which shall provide safe and secure long term housing and specialized services for sexually exploited children throughout the state. The appropriateness of the geographic location shall be determined taking into account the areas of the state with high numbers of sexually exploited children and the need for sexually exploited children to find shelter and long term placement in a region that cannot be readily accessed by the perpetrators of sexual exploitation. The need for more than one safe house shall be determined by the office of children and family services based on the numbers and geographical location of sexually exploited children within the state.
6. ~~The local social services commissioner may, to the extent that funds are available, in conjunction with local law enforcement officials, contract with an appropriate not-for-profit agency with experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to~~

~~identify and obtain appropriate services for sexually exploited children. Local social services districts may work cooperatively to provide such training and such training may be provided on regional basis. The office of children and family services shall assist local social services districts in obtaining any available funds for the purposes of conducting law enforcement training from the federal justice department and/or the office of juvenile justice and delinquency prevention.~~

§ 2. Section 311.4 of the family court act is amended by adding a new subdivision 3 to read as follows:

1. In any proceeding under this article based upon an arrest for an act of prostitution, there is a presumption that the respondent meets the criteria for a certification as a victim of a severe form of trafficking as defined in section 7105 of title 22 of the United States Code- (Trafficking Victims Protection Act of 2000). Upon the motion of the respondent, without the consent of the presentment agency, a petition alleging that the respondent is in need of supervision shall be substituted for the delinquency petition. If, however, the respondent is not ~~victim of a severe form of trafficking as defined by the federal Trafficking Victims Protection Act of 2000, or has been previously found under this article to have committed an offense pursuant to article two hundred thirty of the penal law, or has been previously adjudicated under section seven hundred fifty-two of this chapter and placed with a commissioner of social services pursuant to subdivisions (a) and (b) of section seven hundred fifty-six of this chapter, or expresses a current unwillingness to cooperate with specialized services for sexually exploited youth, continuing with the delinquency proceeding shall be~~ within the court's discretion. The necessary findings of fact to support the continuation of the delinquency proceeding shall be reduced to writing and made part of the court record. If, subsequent to issuance of substitution order under this subdivision, the respondent is not in substantial compliance with a lawful order of the court, the court may, in its discretion, substitute a petition alleging that the respondent is a juvenile delinquent for the petition alleging that the respondent is in need of supervision.

§ 3. Subdivision (a) of section 712 of the family court act, as amended by chapter 596 of the laws of 2000, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age who does not attend school in accordance with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section 221.05, 230.00, or 240.37 of the penal law.

§ 4. Subdivision (a) of section 732 of the family court act, as amended by section 6 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

(a) the respondent is an habitual truant or is incorrigible, ungovernable, or habitually

disobedient and beyond the lawful control of his or her parents, guardian or lawful custodian, or has been the victim of sexual exploitation as defined in subdivision one of section four hundred forty-seven-a of the social services law, and specifying the acts on which the allegations are based and the time and place they allegedly occurred. Where habitual truancy is alleged or the petitioner is a school district or local educational agency, the petition shall also include the steps taken by the responsible school district or local educational agency to improve the school attendance and/or conduct of the respondent;

§ 5. This act shall take effect April 1, 2010.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

MINNESOTA

Section 1. Minnesota Statutes 2010, section 260B.007, subdivision 6, is amended to read:

(c) The term delinquent child does not include a child under the age of 16 years alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

Sec. 2. Minnesota Statutes 2010, section 260B.007, subdivision 16, is amended to read:

(d) A child who commits a juvenile petty offense is a "juvenile petty offender." The term juvenile petty offender does not include a child under the age of 16 years alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(17) is a sexually exploited youth.

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 31. Sexually exploited youth. "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired

- by another individual to engage in sexual penetration or sexual conduct;
- (2) is a victim of a crime described in section 609.342, 609.343, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;
- (3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or
- (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

Sec. 6. **[609.093] JUVENILE PROSTITUTES; DIVERSION OR CHILD PROTECTION PROCEEDINGS.**

Subdivision 1. First-time prostitution offense; applicability; procedure.

(a) This section applies to a 16 or 17 year old child alleged to have engaged in prostitution as defined in section 609.321, subdivision 9, who:

- (1) has not been previously adjudicated delinquent for engaging in prostitution as defined in section 609.321, subdivision 9;
- (2) has not previously participated in or completed a diversion program for engaging in prostitution as defined in section 609.321, subdivision 9;
- (3) has not previously been placed on probation without an adjudication or received a continuance under section 260B.198, subdivision 7, for engaging in prostitution as defined in section 609.321, subdivision 9;
- (4) has not previously been found to be a child in need of protection or services for engaging in prostitution as defined in section 609.321, subdivision 9, or because the child is a sexually exploited youth as defined in section 260C.007, subdivision 31, clause (1); and
- (5) agrees to successfully complete a diversion program under section 388.24 or fully comply with a disposition order under section 260C.201.

(b) The prosecutor shall refer a child described in paragraph (a) to a diversion program under section 388.24 or file a petition under section 260C.141 alleging the child to be in need of protection or services.

Subd. 2. Failure to comply. If a child fails to successfully complete diversion or fails to fully comply with a disposition order under section 260C.201, the child may be referred back to the court for further proceedings under chapter 260B.

Subd. 3. Dismissal of charge. The court shall dismiss the charge against the child if any of the following apply:

- (1) the prosecutor referred the child to diversion program and the prosecutor notifies the court that the child successfully completed the program;
- (2) the prosecutor filed a petition under section 260C.141 and the court does not find that the child is in need of protection or services; or

(3) the prosecutor filed a petition under section 260C.141, the court entered an order

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Sec. 7. Minnesota Statutes 2010, section 609.3241, is amended to read:

609.3241 PENALTY ASSESSMENT AUTHORIZED.

(a) When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than \$250 \$500 and not more than \$500 \$750 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than \$500 \$750 and not more than \$1,000...

(b) The court may not waive payment of the minimum assessment required by this section. If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum assessment to not less than \$100. The court also may authorize payment of the assessment in installments.

(c) The assessment collected under paragraph (a) must be distributed as follows:

(1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);

(2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth; and

(3) 40 percent of the assessment must be forwarded to the commissioner of public safety to be deposited in the safe harbor for youth account in the special revenue fund and are appropriated to the commissioner for distribution to crime victims' services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

(d) A safe harbor for youth account is established as a special account in the state treasury.

Sec. 9. SAFE HARBOR FOR SEX TRAFFICKED YOUTH; SEXUALLY EXPLOITED YOUTH; STATEWIDE VICTIM SERVICES MODEL.

(a) If sufficient funding from outside sources is donated, the commissioner of public safety shall develop a statewide model as provided in this section. By June 30, 2012, the commissioner of public safety, in consultation with the commissioners of health and human services, shall develop a victim services model to address the needs of sexually exploited youth and youth at risk of sexual exploitation. The commissioner shall take into consideration the findings and recommendations as reported to the legislature on the results of the safe harbor for sexually exploited youth pilot project authorized by Laws 2006, chapter 282, article 13, section 4, paragraph (b). In addition, the commissioner shall seek recommendations from prosecutors, public safety officials, public health professionals, child protection workers, and service providers.

(b) By January 15, 2013, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house of representatives divisions having jurisdiction over health and human services and criminal justice funding and policy on the development of the statewide model, including recommendations for additional legislation or funding for services for sexually exploited youth or youth at risk of sexual exploitation.

(c) As used in this section, "sexually exploited youth" has the meaning given in section 260C.007, subdivision 31.

Washington

Sec. 1. RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read 10 as follows:

(5) "Child in need of services" means a juvenile: ... (d) Who is a "sexually exploited child".

(17) "Sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that youth with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

Sec. 6. RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows: (3) (b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW

9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

Sec. 7. RCW 13.40.070 and 2009 c 252 s 3 are each amended to read as follows:

(7) Where a case is legally sufficient to charge an alleged offender with either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case...

Sec. 8. RCW 13.40.213 and 2009 c 252 s 2 are each amended to read as follows:

(1) When a juvenile is alleged to have committed the offenses of prostitution or prostitution loitering, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;
- (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (d) Education and employment training delivered on-site; and
- (e) Referrals to off-site specialized services, as appropriate.

Sec. 18. RCW 43.63A.740 and 2009 c 387 s 2 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 8 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used ~~((only for))~~ in the following order of priority:

(1) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(2) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(3) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

(4) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

CONNECTICUT

Public Act No. 10-115

AN ACT PROVIDING A SAFE HARBOR FOR EXPLOITED CHILDREN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) A person sixteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the actor was coerced into committing such offense by another person in violation of section 53a-192a.

(c) In any prosecution of a person sixteen or seventeen years of age for an offense under this section, there shall be a presumption that the actor was coerced into committing such offense by another person in violation of section 53a-192a.

~~[(c)]~~ (d) Prostitution is a class A misdemeanor.

Sec. 2. Section 53a-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) A person is guilty of promoting prostitution in the first degree when he knowingly: (1) Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from coercive conduct by another; or (2) advances or profits from prostitution of a person less than ~~sixteen~~ eighteen years old.

(b) Promoting prostitution in the first degree is a class B felony. Any person found guilty under subdivision (2) of subsection (a) of this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

Sec. 3. Section 53a-87 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

- (a) A person is guilty of promoting prostitution in the second degree when he knowingly ~~[(1) Advances]~~ advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes. ~~[(2) advances or profits from prostitution of a person less than eighteen years old.]~~
- (b) Promoting prostitution in the second degree is a class C felony.

Sec. 4. Section 53a-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) In any prosecution for prostitution in violation of section 53a-82, as amended by this act, or patronizing a prostitute in violation of section 53a-83 or 53a-83a, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it shall be no defense that: (1) Such persons were of the same sex; or (2) the person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.

(b) In any prosecution for patronizing a prostitute in violation of section 53a-83 or 53a-83a, promoting prostitution in violation of section 53a-86, 53a-87 or 53a-88, as amended by this act, or permitting prostitution in violation of section 53a-89, it shall be no defense that the person engaging or agreeing to engage in sexual conduct with another person in return for a fee could not be prosecuted for a violation of section 53a-82, as amended by this act, on account of such person's age.

ILLINIOS

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Abused and Neglected Child Reporting Act is amended by changing Section 3 as follows:

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(h) commits or allows to be committed the offense of involuntary servitude, involuntary

sexual servitude of a minor, or trafficking in persons for forced labor or services as defined in Section 10-9 of the Criminal Code of 1961 against the child.

(705 ILCS 405/2-18) (from Ch. 37, par. 802-18)

Sec. 2-18. Evidence.

(2) In any hearing under this Act, the following shall constitute prima facie evidence of abuse or neglect, as the case may be:

(i) proof that a parent, custodian, or guardian of a minor allows, encourages, or requires a minor to perform, offer, or agree to perform any act of sexual penetration as defined in Section 12-12 of the Criminal Code of 1961 for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification, constitutes prima facie evidence of abuse and neglect;

(k) proof that a parent, custodian, or guardian of a minor commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services defined in Section 10-9 of the Criminal Code of 1961, upon such minor, constitutes prima facie evidence of abuse and neglect.

(720 ILCS 5/11-14) (from Ch. 38, par. 11-14)

Sec. 11-14. Prostitution.

(d) Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.

(720 ILCS 5/11-19.3 new)

Sec. 11-19.3. Vehicle impoundment.

(a) In addition to any other penalty provided by law, a peace officer who arrests a person for a violation of Section 10-9, 10-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, may tow and impound any vehicle used by the person in the commission of the offense. The person arrested for one or more such violations shall be charged a \$1,000 fee, to be paid to the unit of government that made the arrest. The person may recover the vehicle from the impound after a minimum of 2 hours after arrest upon payment of the fee.

(b) \$500 of the fee shall be distributed to the unit of government whose peace officers

made the arrest, for the costs incurred by the unit of government to tow and impound the vehicle. Upon the defendant's conviction of one or more of the offenses in connection with which the vehicle was impounded and the fee imposed under this Section, the remaining \$500 of the fee shall be deposited into the Violent Crime Victims Assistance Fund and shall be used by the Department of Human Services to make grants to non-governmental organizations to provide services for persons encountered during the course of an investigation into any violation of Section 10-9, 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, provided such persons constitute prostituted persons or other victims of human trafficking.

(c) Upon the presentation by the defendant of a signed court order showing that the defendant has been acquitted of all of the offenses in connection with which a vehicle was impounded and a fee imposed under this Section, or that the charges against the defendant for those offenses have been dismissed, the unit of government shall refund the \$1,000 fee to the defendant.

MASSACHUSETTES

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

SECTION 5. Chapter 10 of the General Laws is hereby amended by inserting after section 66 the following section: Section 66A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Victims of Human Trafficking Trust Fund. The fund shall consist of proceeds of assets seized and forfeited pursuant to sections 55 and 56 of chapter 265 and fines and assessments collected pursuant to sections 50, 51 and 54 of said chapter 265, together with any interest or earnings accrued on such monies through investment or deposit. The state treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to him under this section in accordance with sections 34 and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer shall transfer funds from the income and receipts of the fund to the victim and witness assistance board, as established in section 4 of chapter 258B, from time to time, at the request of the board. The board shall award and administer grants from the fund, without further appropriation, to public, private non-profit or community-based programs in the commonwealth to provide services to victims of offenses under said sections 50 and 51 of said chapter 265.

The board shall file a report detailing the amount of funds collected and expended from the fund, along with a copy of the written criteria used to expend the funds, to the house and senate committees on ways and means not later than August 15 of each calendar year. Administrative and operational expenses directly attributable to the grants and programs funded by the fund including, but not limited to, the costs of clerical and support personnel, shall not exceed 5 per cent of the total assets of the fund in any 1 fiscal year. Any unexpended balance of monies in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure from such fund in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

SECTION 6. Section 21 of chapter 119 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "51A report", the following 2 definitions:

"Appropriate services", the assessment, planning and care provided by a state agency or nongovernmental organization or entity, through congregate care facilities, whether publicly or privately funded, emergency residential assessment services, family-based foster care or the community, including food, clothing, medical care, counseling and appropriate crisis intervention services, provided: (i) that such agency, organization or entity has expertise in providing services to sexually exploited children or children who are otherwise human trafficking victims; and (ii) that such services are provided in accordance with such regulations that the department of children and families may adopt or the policies of such department.

SECTION 7. The definition of "child in need of services" in said section 21 of said chapter 119, as so appearing, is hereby amended by inserting in place thereof the following words:(e) is a sexually exploited child.

SECTION 9. Said chapter 119 is hereby further amended by inserting after section 39J the following 2 sections:

Section 39K. (a) Notwithstanding any general or special law to the contrary, the department of children and families, in collaboration with the department of mental health and other appropriate state agencies, shall: (i) provide for the child welfare services needs of sexually exploited children including, but not limited to, services for sexually-exploited children residing in the commonwealth at the time they are taken into custody by law enforcement or are identified by the department as sexually-exploited children, for the duration of any legal or administrative proceeding in which they are either the complaining witness, defendant or the subject child; and (ii) provide appropriate services to a child reasonably believed to be a sexually exploited child in order to safeguard the child's welfare. If a child reasonably believed to be a sexually exploited child declines

services or is unable or unwilling to participate in the services offered, the department or any person may file a care and protection petition under section 24. Sexually exploited children shall have access to an advocate. The advocate or a member of the multidisciplinary service team established under section 51D shall accompany the child to all court appearances and may serve as a liaison between the service providers and the court.

(b) The services that shall be provided under this section shall be available to all sexually exploited children, whether they are accessed voluntarily, through a court proceeding under this section or through a referral, which may be made by any person.

(c) In determining the need for and capacity of the services that may be provided under this section, the department of children and families shall recognize that sexually exploited youth have separate and distinct service needs according to gender and appropriate services shall be made available while ensuring that an appropriate continuum of services exists.

(d) The commissioner of the department may, subject to appropriation, contract with non-governmental organizations or entities with experience working with sexually exploited children to train law enforcement officials likely to encounter sexually exploited children in the course of their law enforcement duties. The training shall include, but not be limited to, awareness and compliance with the provisions of this section, identification of, access to, and the provision of services for sexually-exploited children and any other services the department deems necessary.

(e) The department may apply to the victim and witness assistance board for grants from the Victims of Human Trafficking Trust Fund, established in section 66A of chapter 10, grants from the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention or any other federal agency, or grants from any other private source to fund the law enforcement training and services for sexually-exploited children.

(f) The department shall adopt regulations to carry out this section.

Section 39L. (a) Before or after arraignment in any juvenile delinquency or criminal proceeding against a sexually exploited child alleging that such juvenile or such defendant violated the prohibition against common night walking or common streetwalking under section 53 of chapter 272 or the provisions of subsection (a) of section 53A of said chapter 272, there shall be a presumption that a care and protection petition on behalf of such child, or a child in need of services petition under section 39E, shall be filed. Any person, including the juvenile, may file a care and protection petition on behalf of such child, including a petition for emergency commitment under section 24, or a parent or a police officer may file a child in need of services petition under section 39E.

(b) The court may appoint a guardian ad litem and shall hold a hearing on such petition. The court may allow a reasonable delay in the proceedings, including any arraignment, to consider the petition. The necessary findings of fact to support the court's decision shall be reduced to writing and made part of the court record.

(c) Upon a motion by a party to the juvenile delinquency or criminal proceeding or by a guardian ad litem, unless the district attorney or the attorney general objects, and upon a finding that a child alleged to be a juvenile delinquent by reason of violating section 53 of chapter 272 or subsection (a) of section 53A of said chapter 272 is a child in need of care and protection or a child in need of services, the court shall, if arraignment has not yet occurred, indefinitely stay arraignment and place the proceeding on file. If the court finds that the child has failed to substantially comply with the requirements of services or that the child's welfare or safety so requires, the court may remove the proceeding from file, arraign the child and restore the delinquency or criminal complaint to the docket for trial or further proceedings in accordance with the regular course of such proceedings. If arraignment has already occurred, unless the district attorney or the attorney general objects, the court shall place the child on pretrial probation under section 87 of chapter 276. If appropriate, the conditions of such probation shall include, but not be limited to, requiring the child to substantially comply with all lawful orders of the court, including orders relating to any care and protection or child in need of services proceeding, and the child shall also comply with the guidance and services of the department or any designated non-governmental service provider. If the child fails to substantially comply with the conditions of probation or if the child's welfare or safety so requires, the court may in its discretion restore the delinquency or criminal complaint to the docket for trial or further proceedings in accordance with the regular course of such proceedings.

SECTION 11. Subsection (a) of section 51B of said chapter 119, as so appearing, is hereby amended by adding the following sentence: The department shall immediately report to the district attorney and local law enforcement authorities, a sexually exploited child or a child who is otherwise a human trafficking victim, regardless of whether the child is living with a parent, guardian or other caretaker.

SECTION 13. Section 51D of said chapter 119, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

For 51A reports specifically involving a sexually exploited child or a child who is otherwise a human trafficking victim, the multi-disciplinary service team may consist of a team of professionals trained or otherwise experienced and qualified to assess the needs of sexually exploited children or children who are otherwise human trafficking victims including, but not limited to, a police officer, as defined by section 1 of chapter 90C, or other person designated by a police chief, as defined in said section 1 of said chapter 90C, an employee of the

department of children and families, a representative of the appropriate district attorney, a social service provider, a medical professional or a mental health professional.

SECTION 14. Said section 51D of said chapter 119, as so appearing, is hereby further amended by inserting after the fifth paragraph the following paragraph:- For 51B reports specifically involving a sexually exploited child, the purpose of the multidisciplinary service team shall be to determine whether the child has been sexually exploited or is otherwise a human trafficking victim and to recommend a plan for services to the department that may include, but shall not be limited to, shelter or placement, mental health and medical care needs and other social services.

Section 54. The court shall transmit fines collected pursuant to sections 50 and 51 to the state treasurer. The treasurer shall deposit such fines into the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10.

Section 55. All monies furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, and all monies used or intended to be used to facilitate any violation of section 50 or 51 shall be subject to forfeiture to the commonwealth and shall be made available by the court to any victim ordered restitution by the court pursuant to section 3 of chapter 258B.

Section 56. (a) The following property shall be subject to forfeiture to the commonwealth and all property rights therein shall be in the commonwealth:

- (i) all conveyances, including aircraft, vehicles or vessels used, or intended for use, to transport, conceal or otherwise facilitate a violation of section 50 or 51;
- (ii) all books, records and research, including microfilm, tapes and data which are used, or intended for use, in violation of section 50 or 51;
- (iii) all negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, all proceeds traceable to such an exchange, including real estate and any other thing of value, and all negotiable instruments and securities used or intended to be used to facilitate any violation of section 50 or 51; and
- (iv) all real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements thereto, which is used in any manner or part to commit or to facilitate any violation of section 50 or 51.

No forfeiture under this section shall extinguish a perfected security interest held by a creditor in a conveyance or in any real property at the time of the filing of the forfeiture action. (b) Property subject to forfeiture pursuant to clauses (i) to (iv), inclusive, of subsection (a) shall, upon motion of the attorney general or district attorney, be declared forfeit by any court having jurisdiction over said property or having final jurisdiction over any related criminal proceeding brought under this section.

SECTION 31. (a) There shall be an interagency task force to address all aspects of human

trafficking, including sex trafficking and labor trafficking. The task force shall consist of the attorney general or the attorney general's designee, who shall serve as the chair, the colonel of state police or the colonel's designee, a representative of the Massachusetts police chiefs association, a representative of the Massachusetts district attorneys' association, the commissioner of the Boston police department or the commissioner's designee, the director of the division of professional licensure or the director's designee, a representative of the Massachusetts office for victim assistance, the director of the department of labor standards or the director's designee, the commissioner of the department of children and families or the commissioner's designee, the secretary of the executive office of public safety or the secretary's designee, the commissioner of the office of probation or the commissioner's designee; a representative of a group dedicated to immigrant and refugee issues appointed by the governor; a representative of a group dedicated to the prevention of violence against women appointed by the governor; a representative of an entity dedicated to prevention of and intervention in the trafficking of children appointed by the governor; a survivor of human trafficking appointed by the governor; a human trafficking attorney appointed by the governor; a human trafficking caseworker appointed by the governor; a mental health professional appointed by the governor and a university researcher with a background in human trafficking appointed by the governor.

(b) Subject to appropriation, the task force shall:

- (i) coordinate the collection and sharing of human trafficking data among government agencies; provided, however, that such data collection shall respect the privacy of victims of human trafficking; coordinate strategies and make recommendations for law enforcement to share information for the purposes of detecting individuals and groups engaged in human trafficking;
- (ii) review and recommend policies and procedures to enable state government to work with non-governmental organizations and other elements of civil society to prevent human trafficking and to protect and provide assistance to victims of trafficking;
- (iii) identify and review the existing services and facilities that meet the needs of victims of human trafficking including, but not limited to, health and mental health services, housing, education and job training, legal services and victim compensation;
- (iv) evaluate approaches to increase public awareness of human trafficking and offer recommendations for programs and educational and training opportunities for law enforcement and social service providers including, but not limited to, methods used to identify human trafficking victims including preliminary interviewing and questioning techniques, methods of protecting the special needs of women and child human trafficking victims, developments in state and federal laws regarding human trafficking and methods to increase effective collaboration between state and local agencies, law enforcement, social service providers and non-governmental organizations;
- (v) examine ways to curtail the demand side of trafficking such as self-sustaining first offender diversion programs;
- (vi) examine the costs associated with establishing a safe house pilot program for adult and child victims of human trafficking and identify public and private funding sources that may be used to develop and implement a safe house pilot program;
- (vii) examine cost-effective notices, announcements or advertisements that may be displayed in

public places, such as airports, train stations, bus stations, hotels, massage parlors, spas, strip clubs and other sexually-oriented businesses providing information relating to services for human trafficking victims;

(viii) recommend strategy and relevant methodologies for training providers in health and human services in the recognition of signs and circumstances indicating that an individual is the victim of human trafficking and the appropriate steps to report the individual to the appropriate law enforcement personnel or agencies;

(ix) recommend ways to develop and promulgate educational materials and health curricula that may be used by school administrators and educators to identify human trafficking victims and the appropriate actions to be undertaken when such victims are identified and to educate school officials as to the scope and magnitude of human trafficking in the nation and the commonwealth including, but not limited to, how to prevent it and developing a parent guide and teacher training material on internet safety and methods of preventing the exploitation of minors over the internet; and

(x) submit a report of its findings and recommendations to the clerks of the senate and the house of representatives who shall forward the report to the chairs of the joint committee on the judiciary not later than 18 months after the effective date of this act. The task force shall determine if subsequent reports are necessary in order to properly address human trafficking.