SENATE DOCKET, NO. 1623 FILED ON: 1/19/2023

SENATE . . . . . No. 1046

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prevent human trafficking and improve the health and safety of sex workers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Liz Miranda	*Second Suffolk*	
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/8/2023*
Jack Patrick Lewis	*7th Middlesex*	*3/7/2023*

SENATE DOCKET, NO. 1623 FILED ON: 1/19/2023

SENATE . . . . . No. 1046

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1046) of Liz Miranda, Joanne M. Comerford and Jack Patrick Lewis for legislation to prevent human trafficking and improve the health and safety of sex workers. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to prevent human trafficking and improve the health and safety of sex workers.

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

SECTION 1. Section 7 of chapter 4, as appearing in the 2018 Official Edition, is hereby amended by inserting after the sixty-first definition the following definitions:-

Sixty-second, "Commercial sex" shall mean a sexual act or contact with another person in return for giving or receiving anything of value.

Sixty-third, "Sex worker" shall mean a person who provides a sexual act or contact with another person in return for receiving anything of value.

SECTION 2. Chapter 272 of the General Laws is hereby amended by adding after section 53A the following section, which shall be titled “Human Trafficking Prevention and Sex Worker Project”:-

Section 53B. The Department of Public Health shall create a Human Trafficking Prevention and Sex Worker Project. The Project shall develop and implement a strategic plan to

prevent, reduce, prevent, and eliminate human trafficking; provided further, said strategic plan shall include ways to support the health, safety, and autonomy of sex workers. The goal shall be to reduce the economic, legal, and social vulnerability of people who experience human trafficking and/or engage in criminalized sex work. The strategic plan shall identify and collaborate with groups of people that are vulnerable to human trafficking, or likely to engage in sex work, including, but not limited to, sex workers, people who use drugs, undocumented people, people who identify as LGBTQ+, formerly incarcerated people, and people who are unhoused.

The Department shall identify resources, and initiate referrals, for free or low-cost (i) housing, (ii) healthcare including reproductive healthcare, (iii) childcare, (iv) legal aid, (v) harm reduction for substance use, (vi) safer sex resources, and (vii) educational and training opportunities. The Department shall identify, provide contact information for, and make referrals to community organizations that provide support to the above listed populations, among others.

Provided further, said strategic plan shall include the development of a system, directly or indirectly, to distribute cash aid to populations vulnerable to human trafficking, particularly people who engage in sex work. Provided further, the strategic plan shall create a publicly available system for individuals to submit an incident report related to human trafficking or abuse experienced during the course of sex work. The strategic plan, resources, incident reporting system, and application for cash aid shall be listed on the Department's publicly available website. The strategic plan should be created in collaboration with individuals who have engaged in commercial sex, individuals who have experiences with trafficking in the sex trade, and organizations that advocate for those individuals, among others. An initial iteration of the strategic plan should be made publicly available no later than November 30, 2023.

SECTION 3. Section 53 of chapter 272 of the General Laws is hereby amended by striking out subsection (a) as appearing in the 2018 Official Edition, and inserting in place thereof the following subsection:-

(a) Whoever commits offensive and disorderly acts or language, accosts or annoys another person, lewd, wanton and lascivious persons in speech or behavior, keepers of noisy and disorderly houses, and persons guilty of indecent exposure shall be punished by imprisonment in a jail or house of correction for not more than 6 months, or by a fine of not more than $200, or by both such fine and imprisonment.

SECTION 19. Chapter 272 of the General Laws is hereby amended by adding after section 53B the following section, which shall be titled “Interagency committee to study decriminalizing sex work”:-

Section 53C. (a) There shall be an interagency committee to be convened by the Executive Office of Health and Human Services within 90 days from the date of the enactment of this provision to study decriminalizing sex work. The committee shall consist of: (i) the secretary of the Executive Office of Health and Human Services or the secretary’s designee; (ii) a representative of the Department of Public Health; (iii) a representative of the Executive Office of Labor and Workforce Development; (iv) a representative of the Department of Housing and Community Development; (v) a representative of the Department of Children and Families; (vii) a representative from an organization focused on advocacy for sex workers; (viii) a representative from an organization focused incarcerated and formerly incarcerated LGBTQ+ people; (xiv) a representative from an organization focused on advocating for transgender people; (xv) a representative from an organization focused on advocating for racial justice; (ix) a

representative from an organization representing survivors of human trafficking in the commercial sex sector; (x) representative from the Boston Area Rape Crisis Center; (xi) a representative from the American Civil Liberties Union of Massachusetts; (xii) a representative from an organization focused on harm reduction related to substance use;(xiii) a representative from an organization focused on advocating for legal defense and bonds for undocumented people; (xiv) a representative from the Committee for Public Counsel Services; and (xv) at least three current or former sex workers. The members of the committee shall be appointed by the secretary of the Executive Office of Health and Human Services or the secretary's designee unless otherwise stated. Two co-chairs shall be appointed by majority vote of commission members. Adequate compensation for services shall be determined by a schedule of fees adopted by the committee.

The committee shall be responsible for studying and making recommendations towards the following: (i) what criminal penalties and collateral consequences exist related to the criminalization of sex work, (ii) what labor protections need to be in place under decriminalization, (iii) what services need to be made available to people engaged in commercial sex to improve health and safety outcomes, (iv) identify the methods of human trafficking and exploitation in order to develop strategies to reduce these activities in collaboration with sex workers, with a focus on prevention, and (v) implementation models for alternatives to policing to promote safety in the commercial sex sector, rooted in public health.

SECTION 20. Section 100K of chapter 276 of the General Laws is hereby amended by striking out subsection (c), as so appearing, and inserting in place thereof the following subsections:-

(c) The court must order an expungement pursuant to this section of a record created as a result of a criminal court appearance, juvenile court appearance or dispositions for charges of common street walking, under Section 53(a) of chapter 272 as appearing in the 2018 Official Edition, and a third conviction of being a common nightwalker, under Section 62 of chapter 272 as appearing in the 2018 Official Edition.

(d) The court shall forward an order for expungement pursuant to this section forthwith to the clerk of the court where the record was created, to the commissioner and to the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6.

SECTION 21. Section 62 of Chapter 272 of the General Laws is hereby repealed.

SECTION 22 . Chapter 94C is hereby amended by inserting after section 34A the following section:- Section 34B: Any person who, in good faith, reports a crime shall not be charged or prosecuted for (i) possession of a controlled substance under section 34, (ii) sex for fee under chapter 272 section 53A subsections (a) or (b), (iii) loitering under chapter 161 section 95, (iv) trespassing under chapter 266 section 120, (v) soliciting under chapter 272 section 8, or (vi) conspiracy to commit any of the aforementioned offenses under chapter 94C section 40, or found in violation of a condition of probation or pretrial release as determined by a court or a condition of parole, as determined by the parole board if the evidence for the above enumerated offenses was gained as a result of reporting a crime.