



MASSACHUSETTS

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Mass. Gen. Laws Ann. ch. 265, § 50(a) (2012) – Trafficking of Persons for Sexual Servitude

i. Summary

The Massachusetts trafficking of persons for sexual servitude statute provides:

Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of said chapter 272; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude

Mass. Gen. Laws Ann. ch. 265, § 50(a).

ii. Sentencing

An offender “shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than [USD] 25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.”¹ Mass. Gen. Laws Ann. ch. 265, § 50(a).

Additionally, if a person is convicted of a second or subsequent violation of either sexual servitude or trafficking in persons, the person “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. Such sentence shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for parole, work release or furlough or receive any deduction from his

¹ A “case continued without a finding” is when, upon the defendant’s admission of sufficient facts, the court can put the case aside without reaching a decision and the defendant instead begins a probationary period. If the defendant then satisfies the terms of the probationary period, the case can be dismissed. The Boston Municipal Court and District Court Sentencing Bench Book, 1.A(1) (2021). A “case placed on file” is when both the defendant and the prosecution agree, after a guilty verdict, to have the court put the case aside without imposing a sentence. If the case is later removed from file, then a sentence can be imposed. Massachusetts Rules of Criminal Procedure, Rule 28(e) (2009).

sentence for good conduct until he shall have served 10 years of such sentence. No prosecutions commenced under this section shall be continued without a finding or placed on file.” Mass. Gen. Laws Ann. ch. 265, § 52(a).

A defendant may also be ordered to pay restitution to the victim. Mass. Gen. Laws Ann. ch. 258B, § 3(o).

A business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than USD 1 million. Mass. Gen. Laws Ann. ch. 265, § 50(c).

Fines collected shall be deposited into the Victims of Human Trafficking Trust Fund. Mass. Gen. Laws Ann. ch. 265, § 54.

iii. Statute of Limitations

A prosecution for trafficking in persons for sexual servitude under section 50(a), for conspiracy to commit such trafficking, or for aiding such trafficking under section 50(a), must be filed within 15 years of the commission of the offense. If the victim is under the age of 16 at the time the crime is committed, the period of limitation does not commence until the victim turns 16 or the violation is reported to law enforcement, whichever occurs earlier. Mass. Gen. Laws Ann. ch. 277, § 63.

b. Mass. Gen. Laws Ann. ch. 265, § 50(b) (2012) – Trafficking of Persons Under 18 Years for Sexual Servitude

i. Summary

It is also a crime to commit the offense of trafficking of persons for sexual servitude upon a person under 18 years of age. Mass. Gen. Laws Ann. ch. 265, § 50(b).

ii. Sentencing

A person who commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.” Mass. Gen. Laws Ann. ch. 265, § 50(b).

Additionally, if a person is convicted of a second or subsequent violation of either sexual servitude or trafficking in persons, the person “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. Such sentence shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. No prosecutions commenced under this section shall be continued without a finding or placed on file.” Mass. Gen. Laws Ann. ch. 265, § 52(a).

A defendant may also be ordered to pay restitution to the victim. Mass. Gen. Laws Ann. ch. 258B, § 3(o).

A business entity that commits trafficking of persons for sexual servitude of a minor shall be punished by a fine of not more than USD 1 million. Mass. Gen. Laws Ann. ch. 265, § 50(c).

Fines collected pursuant to a violation of this statute shall be deposited into the Victims of Human Trafficking Trust Fund. Mass. Gen. Laws Ann. ch. 265, § 54.

iii. Statute of Limitations

The crime of trafficking of persons for sexual servitude upon a person under 18 years, for conspiracy to commit such trafficking, or for aiding such trafficking under section 50(a), has no statute of limitations, although any indictment

or complaint found and filed more than 27 years after the date of commission of such offense shall be supported by independent evidence that corroborates the victim’s allegation. Mass. Gen. Laws Ann. ch. 277, § 63.

If the victim is under the age of 16 at the time the crime is committed, the period of limitation for prosecution shall not commence until the victim has reached the age of 16 or the violation is reported to a law enforcement agency, whichever occurs earlier. Mass. Gen. Laws Ann. ch. 277, § 63.

c. Mass. Gen. Laws Ann. ch. 265, § 51(a) (2012) – Trafficking of Persons for Forced Service

i. Summary

The Massachusetts trafficking of persons for forced service statute provides:

Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services

Mass. Gen. Laws Ann. ch. 265, § 51(a).

ii. Sentencing

A person convicted under this statute “shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than [USD] 25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.” Mass. Gen. Laws Ann. ch. 265, § 51(a).

Additionally, if a person is convicted of a second or subsequent violation of either sexual servitude or trafficking in persons, the person “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. Such sentence shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. No prosecutions commenced under this section shall be continued without a finding or placed on file.” Mass. Gen. Laws Ann. ch. 265, § 52(a).

A defendant may also be ordered to pay restitution to the victim. Mass. Gen. Laws Ann. ch. 258B, § 3(o).

A business entity that commits trafficking of persons for forced service shall be punished by a fine of not more than USD 1 million. Mass. Gen. Laws Ann. ch. 265, § 51(c).

Fines collected for violation of the forced labor trafficking statute shall be deposited into the Victims of Human Trafficking Trust Fund. Mass. Gen. Laws Ann. ch. 265, § 54.

iii. Statute of Limitations

The statute of limitations for the crime of trafficking of persons for forced service is six years. Mass. Gen. Laws Ann. ch. 277, § 63.

d. Mass. Gen. Laws Ann. ch. 265, § 51(b) (2012) – Trafficking of Persons for Forced Service; Victims Under 18 Years

i. Summary

It is also a crime to commit the offense of trafficking of persons for forced service upon a person under 18 years of age. Mass. Gen. Laws Ann. ch. 265, § 51(b).

ii. Sentencing

A person who commits the crime of trafficking of persons for forced service upon a person under 18 years of age “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from the sentence for good conduct until he shall have served 5 years of such sentence.” Mass. Gen. Laws Ann. ch. 265, § 51(b).

Additionally, if a person is convicted of a second or subsequent violation of either sexual servitude or trafficking in persons, the person “shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. Such sentence shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. No prosecutions commenced under this section shall be continued without a finding or placed on file.” Mass. Gen. Laws Ann. ch. 265, § 52(a).

A defendant convicted under this statute may also be ordered to pay restitution to the victim. Mass. Gen. Laws Ann. ch. 258B, § 3(o).

A business entity that commits trafficking of persons for forced service of a minor shall be punished by a fine of not more than USD 1 million. Mass. Gen. Laws Ann. ch. 265, § 51(c).

Fines collected for violation of this statute shall be deposited into the Victims of Human Trafficking Trust Fund. Mass. Gen. Laws Ann. ch. 265, § 54.

iii. Statute of Limitations

The statute of limitations for the crime of trafficking a person under the age of 18 for forced service is six years. Mass. Gen. Laws Ann. ch. 277, § 63.

e. Mass. Gen. Laws Ann. ch. 265, § 55 (2012) – Forfeiture

“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 [trafficking of persons for sexual servitude] or 51 [trafficking of persons for forced service] shall be subject to forfeiture to the commonwealth and shall be made available by the court to any victim ordered restitution.” Mass. Gen. Laws Ann. ch. 265, § 55.

f. Mass. Gen. Laws Ann. ch. 265, §§ 57, 59 (2018) – Human Trafficking Victimization as Affirmative Defense to Certain Offenses

In any prosecution or juvenile delinquency proceeding of a person who is a human trafficking victim, it is an affirmative defense to charges of engaging in common nightwalking or common streetwalking that, “while a human trafficking victim, such person was under duress or coerced into committing the offenses for which such person is being prosecuted or against whom juvenile delinquency proceedings have commenced.” Mass. Gen. Laws Ann. ch. 265, § 57. This same affirmative defense may be available in a prosecution or delinquency complaint for engaging in

sexual conduct for a fee, simple possession of a controlled substance, and indecent exposure and other offenses under sections 53 and 53A of chapter 272. Mass. Gen. Laws Ann. ch. 265, § 59(b).

g. Mass. Gen. Laws Ann. ch. 265, § 26D (2012) – Enticement of Child Under Age 18 to Engage in Prostitution, Human Trafficking or Commercial Activity

i. Summary

Massachusetts law provides: “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution, ... human trafficking ... or commercial sexual activity ... or attempts to do so, shall be punished.” Mass. Gen. Laws Ann. ch. 265, § 26D(c).

As used in this section, the term “entice” means “to lure, induce, persuade, tempt, incite, solicit, coax or invite.” Mass. Gen. Laws Ann. ch. 265, § 26D(a).

As used in this section, the term “electronic communication” includes “any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.” Mass. Gen. Laws Ann. ch. 265, § 26D(b).

ii. Sentencing

An offender convicted under this section “shall be punished by imprisonment in a house of correction for not more than 2 1/2 years or in the state prison for not more than 5 years or by a fine of not less than [USD] 2,500, or by both such fine and imprisonment.” Mass. Gen. Laws Ann. ch. 265, § 26D(c).

A person who “commits a second or subsequent such violation shall be punished by imprisonment in the state prison for not less than 5 years and by a fine of not less than [USD] 10,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this subsection be eligible for probation, parole, work release or furlough or receive any deduction from the sentence for good conduct until that person has served 5 years of such sentence.” Mass. Gen. Laws Ann. ch. 265, § 26D(d).

A defendant convicted under this section may also be ordered to pay restitution to the victim. Mass. Gen. Laws Ann. ch. 258B, § 3(o).

iii. Statute of Limitations

The statute of limitations is six years. Mass. Gen. Laws Ann. ch. 277, § 63.

h. Mass. Gen. Laws Ann. ch. 271A (2011) – Enterprise Crime

Massachusetts includes human trafficking in its predicate acts for criminal enterprise activity involved with gaming establishments. Mass. Gen. Laws Ann. ch. 271A, § 1.

2. Online Child Sexual Exploitation and Child Pornography Offenses

Mass. Gen. Laws Ann. ch. 272, § 29A (1988) – Posing or Exhibiting Child in State of Nudity or Sexual Conduct

Mass. Gen. Laws Ann. ch. 272, § 29B (1988) – Dissemination of Visual Material of Child in State of Nudity or Sexual Conduct; Punishment

Mass. Gen. Laws Ann. ch. 272, § 29C (1997) – Knowing Purchase or Possession of Visual Material of Child Depicted in Sexual Conduct; Punishment

Mass. Gen. Laws Ann. ch. 272, § 105 (2014) – Photographing, Videotaping, or Electronically Surveilling Partially Nude or Nude Person or the Sexual or Other Intimate Parts of a Person Around the Person’s Clothing; Exceptions; Punishment

3. Mass. Gen. Laws Ann. ch. 6, §§ 178C-Q (2018) – Sex Offender Registry

Within five days of receiving a sex offender sentence, the agency that has custody of the sex offender shall transmit to the sex offender registry board that sex offender’s registration data. Mass. Gen. Laws Ann. ch. 6, § 178E. A “sex offender” is a person who has been convicted of a “sex offense.” Mass. Gen. Laws Ann. ch. 6, § 178C. The definition of “sex offense” includes human trafficking, enticing a child to engage in prostitution, and child pornography. Mass. Gen. Laws Ann. ch. 6, § 178C. An offender is entitled to judicial review of this classification. Mass. Gen. Laws Ann. ch. 6, § 178M.

B. Civil Liability Statutes

1. Mass. Gen. Laws Ann. ch. 260, § 4D (2012) – Civil Remedies for Victims of Trafficking of Persons for Sexual Servitude or Forced Services

a. Summary

A victim of trafficking of persons for sexual servitude or of trafficking of persons for forced services may bring a civil lawsuit for trafficking of persons for forced labor or services or sexual servitude. Mass. Gen. Laws Ann ch. 260, § 4D(a).

b. Damages and Other Relief

The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief. A prevailing plaintiff shall also be awarded attorney’s fees and costs. The court may award three times the amount of actual damages if the defendant’s acts were willful and malicious. Mass. Gen. Laws Ann. ch. 260, § 4D(a).

c. Statute of Limitations

A civil lawsuit for trafficking of persons for forced labor or services or sexual servitude shall be commenced within three years of the date on which the human trafficking victim was freed from human trafficking or, if the victim was a child during the commission of the offense, within three years after the date the plaintiff attains the age of 18. The statute of limitations is tolled until a disability that makes it impossible or impracticable for a person to bring a lawsuit ceases. In the event that a child plaintiff is under a disability, the failure of the child’s guardian ad litem to bring a plaintiff’s lawsuit within the applicable limitation period shall not prejudice the plaintiff’s right to sue after the disability ceases. Mass. Gen. Laws Ann. ch. 260, § 4D(b), (c), (d).

A defendant cannot assert a statute of limitations defense if the statute expired because the defendant induced the plaintiff to delay filing the lawsuit, prevented the plaintiff from filing the lawsuit, or caused the plaintiff duress by threatening the plaintiff. Mass. Gen. Laws Ann. ch. 260, § 4D(e).

2. Mass. Gen. Laws Ann. ch. 265, § 50 (2012) – Tort Claim for Victims of Trafficking of Persons for Sexual Servitude or for Forced Labor

A victim of human trafficking for sexual servitude (Mass. Gen. Laws Ann. ch. 265, § 50) or a victim of trafficking of persons for forced service (Mass. Gen. Laws Ann. ch. 265, § 51) may bring a tort claim in superior court. Any business entity that knowingly aids or is a joint venturer in trafficking of persons for sexual servitude or for forced labor shall be civilly liable for those offenses. Mass. Gen. Laws Ann. ch. 265, §§ 50(d), 51(d).

3. Mass. Gen. Laws Ann. ch. 260, § 4C (2012) – Sexual Abuse of Minors

Massachusetts also provides a specific tort claim for a minor alleging that a defendant sexually abused a minor. The term “sexual abuse” in this context includes trafficking of persons for sexual servitude. Mass. Gen. Laws Ann. ch. 260, § 4C.

Such a lawsuit shall be commenced within 35 years of the acts alleged to have caused an injury or condition or within seven years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever period expires later; provided, however, that the time limit for commencement of a claim under this section is tolled for a child until the child reaches 18 years of age. Mass. Gen. Laws Ann. ch. 260, § 4C.

4. Mass. Gen. Laws Ann. ch. 260, § 4C 1/2 (2014) – Negligent Supervision or Conduct Causing or Contributing to the Sexual Abuse of Minor by Another Person

Massachusetts also provides a specific tort claim alleging “that the defendant negligently supervised a person who sexually abused a minor or that the defendant’s conduct caused or contributed to the sexual abuse of a minor by another person.” Mass. Gen. Laws Ann. ch. 260, § 4C 1/2.

Such a lawsuit “shall be commenced within the later to expire of (i) 35 years of the acts alleged to have caused an injury or condition to such minor; or (ii) within 7 years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by such act; provided, however, that the time limit for commencement of [a lawsuit] under this section is tolled for a child until the child reaches 18 years of age.” Mass. Gen. Laws Ann. ch. 260, § 4C 1/2.

C. Additional Statutes Specific to Human Trafficking

1. Mass. Gen. Laws Ann. ch. 10, § 66A (2018) – Victims of Human Trafficking Trust Fund

Massachusetts has a separate fund that awards and administers grants for services to human trafficking victims.

2. Mass. Gen. Laws Ann. Ch. 149, § 150 (2015) – Right to Sue, Non-Payment of Wages

An employee who is not paid the full wages owed must first file a complaint with the Attorney General’s Office (**AGO**). Ninety days after submitting a complaint to the AGO, an employee may bring a civil lawsuit for injunctive relief, damages, and any lost wages. A prevailing employee may also recover treble damages as liquidated damages for lost wages, as well as attorney’s fees and costs. Mass. Gen. Laws Ann. ch. 149, § 150. An employer may also face additional fines and imprisonment for noncompliance. Mass. Gen. Laws Ann. ch. 149, § 27C.

More information is available at: <https://www.mass.gov/service-details/workers-right-to-sue>.

3. Mass. Gen. Laws Ann. ch. 265, § 59 (2018) – Human Trafficking Victimization; Grounds to Vacate

A person convicted or adjudicated delinquent of certain offenses including engaging in sexual conduct for a fee and unlawful possession of controlled substances may file a motion to vacate the conviction or adjudication because the offense was a result of having been a human trafficking victim. Where a child under the age of 18 was adjudicated delinquent for a prostitution offense, there is a rebuttable presumption that the child’s participation in the offense was a result of having been a victim of human trafficking as defined by Mass. Gen. Laws Ann. ch. 233, § 20M or trafficking in persons under 22 U.S.C. 7102.

D. Significant Cases

1. *Commonwealth v. Dabney*, 90 N.E.3d 750 (Mass. 2018)

The defendant was convicted of human trafficking, deriving support from prostitution, rape, and two counts of assault and battery. On appeal, he argued that he did not coerce or force the victim to engage in prostitution.

The court concluded that the statute (Mass. Gen. Laws Ann. ch. 265, § 50) does not require the defendant to have coerced or forced the victim to engage in prostitution for the defendant to be guilty of human trafficking.

That the defendant engaged in enticing and recruiting the victim to engage in prostitution is also sufficient for the defendant to be guilty of human trafficking.

The court also concluded that the statute does not exclude conduct aimed at victims who had engaged in prostitution in the past. Thus, it did not matter that the victim had also engaged in prostitution at some point before meeting the defendant.

E. Academic Research/Papers

Melissa Dess, Note, *Walking the Freedom Trail: An Analysis of the Massachusetts Human Trafficking Statute and Its Potential to Combat Child Sex Trafficking*, 33 B.C. J.L. & Soc. JUST. 147 (2013), available at: <https://lawdigitalcommons.bc.edu/jlsj/vol33/iss1/5/>.

F. Resources

Massachusetts Attorney General Human Trafficking Division:

<https://www.mass.gov/fighting-human-trafficking>

National Human Trafficking Hotline (Massachusetts):

<https://humantraffickinghotline.org/state/massachusetts>

Shared Hope International, Massachusetts Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_MA.pdf

Shared Hope International, Massachusetts Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_MA.pdf

U.S. Department of Health & Human Services, *Massachusetts: Efforts to Combat Human Trafficking* (2017):

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/massachusetts_profile_efforts_to_combat_human_trafficking.pdf

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