

By Mr. White of Boston, petition of Louis Dolen relative to crimes against children and baby selling. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT RELATIVE TO CRIMES AGAINST CHILDREN AND BABY SELLING.

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

CHILD PROTECTION ACT OF 1983.

1
2 Baby Selling and Buying in General Chapter 267 of the General
3 Laws is hereby amended by adding the following section: —

4 *Section 32.* In attempting to transact or in completing a trans-
5 action relative to the sale of an infant or adoption of an infant
6 there is a falsification or misrepresentation, willfully and know-
7 ingly, of any document or signature involving an adoption to allow
8 the adoption to appear legal when it is in fact not legal or to conceal
9 the sale of an infant, the falsification or misrepresentation, includ-
10 ing any related forgery, shall be punishable by a non-suspendable
11 fine of twenty thousand dollars, not to be substituted with any
12 other penalty. Chapter 264 of the General Laws is hereby further
13 amended by adding the following section: —

14 *Section 25.* The falsification of or misrepresentation of any
15 legal document or form in transacting an illegal adoption or sale of
16 a baby (infant) to conceal the existence or nature of the act shall be
17 punishable by three years imprisonment. Filing the said document
18 or form with a government department or agency or court shall
19 furthermore be punishable by an additional five years imprison-
20 ment. Chapter 268 of the General Laws is hereby amended by
21 adding the following section: —

22 *Section 45.* Persons who plan, direct, participate in or aid in
23 any form or manner the crime described in Section 25 of Chapter
24 264 of the General Laws shall have obstructed the operation of

25 government and justice and shall also be punished by imprison-
26 ment for not less than eight years. Chapter 270 of the General Laws
27 is hereby amended by adding the following section: —

28 *Section 22.* The sale of an infant is hereby prohibited as a crime
29 against public health. Chapter 271 of the General Laws is hereby
30 amended by adding the following section: —

31 *Section 53.* The sale of an infant is hereby prohibited as a crime
32 against public policy. Chapter 272 of the General Laws is hereby
33 amended by adding the following section: —

34 *Section 104.* The sale of an infant is hereby prohibited as a
35 crime against morality and decency. Chapter 265 of the General
36 Laws is hereby amended by adding the following section: —

37 *Section 40.* The sale of an infant is a crime against the person
38 and a prohibited act because of the following reasons: —

39 (a) it is an act contrary to *community standards* and therefore
40 contrary to morality and decency;

41 (b) it is an act contrary to public health because the identity of
42 the infant is not truly known which facilitates concealment of
43 medical history posing a threat to the provision of proper medical
44 care and future emergency medical treatment for the infant;

45 (3) therefore, it is an act contrary to the public policy, and shall
46 be a non-bailable offense punishable by not less than ten years
47 imprisonment.

48 Local communities establish additional penalties through ordi-
49 nances enacted by three-fourths of their respective legislative
50 bodies because community standards vary. Chapter 275 of the
51 General Laws is hereby amended by adding the following sec-
52 tion: —

53 *Section 19.* Any person having reasonable cause to believe an
54 infant may be sold or has been sold shall report their beliefs and/or
55 facts to the District Attorney of the county in which the child lives
56 or is believed to be residing. All persons making such reports in
57 good faith shall *not* be subject to any civil or criminal suit or job
58 action as the result of such report.

59 Obstructing the reporting system described in this section by
60 threatening to invoke a legal action, job action or any other action
61 shall be punishable by a mandatory five years of imprisonment.
62 Invoking a job action or other action after the report as the result of
63 the report shall be punishable in the same manner.

Any citizen may file a criminal complaint through the District Attorney or the District Attorney may institute an action ex parte to restrain the sale of a baby or infant or prosecute an attempted or completed sale. If instituting and prosecuting the action in good faith, the person(s) instituting the action and prosecuting the action shall the immunities and protections provided to those reporting pursuant to this section Chapter 111 of the General Laws is hereby amended by adding the following section: —

Section 190. Baby Selling

(a) No facility described in Section 70E of this chapter shall operate within the Commonwealth if it knowingly permits baby selling.

(b) For purpose of protecting the physical and mental health of an infant, trying to transact the sale of an infant or such a completed sale shall be deemed a threat to the child's emotional environment and be within the scope of the term emotional abuse as referred to C.119, S.SIA of the General Laws, requiring care and protection for the infant. Cooperation between government agencies is hereby mandated.

(c) Persons who contribute to the act of selling an infant who is in poor health shall be prosecuted for contributory, gross and/or criminal negligence, in the name of the Commonwealth and on behalf of the Commissioner of Public Health.

Chapter 265 of the General Laws is hereby amended by adding the following Section: —

Section 41. The purchase of a child, a minor or infant for custody or otherwise, in any form or manner, is hereby prohibited.

(a) The crime of "receiving an illegally adopted child" shall have been committed when a person or persons receive in their custody an illegally adopted child that was adopted in exchange for money or *anything* else;

(b) The crime of "purchasing a child" shall have been committed when a person or persons receive in their custody or care a child in exchange for money or anything else;

(c) The crime of being an accessory to the criminal acts described in paragraphs (a) and (b) of this section shall include but is not limited to either acting as an intermediary for the exchange of information between buyer and seller involved in said criminal acts, or for the exchange of the child involved, or altering records

64 or documents in order to conceal the exchange and/or the child's
65 history, parentage, ancestry or existence of relatives, or any other
66 act required to complete said criminal acts.

67 The penalty for committing criminal acts described in this sec-
68 tion shall be imprisonment for not less than ten years without
69 parole, a suspended sentence, a substitute sentence or probation,
70 or a non-suspendable fine of ten thousand dollars, or both. An
71 attorney at law who commits an act described in paragraph (c) of
72 this section shall be immediately disbarred upon conviction of said
73 act.