

By Mr. Weinberg of Boston, petition of Norman S. Weinberg relative to the crimes of prostitution and common nightwalking. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT RELATING TO THE CRIMES OF PROSTITUTION AND COMMON NIGHTWALKING.

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

1 SECTION 1. Chapter 272 of the General Laws is hereby
2 amended by deleting section 53 and inserting in place thereof the
3 following section:—

4 *Section 53. Penalty for Certain Offenses*

5 Common railers and brawlers, persons who with offensive and
6 disorderly act or language accost or annoy persons of the
7 opposite sex, lewd, wanton and lascivious persons in speech and
8 behavior, idle and disorderly persons, disturbers of the peace,
9 keepers of noisy and disorderly houses and persons guilty of
10 indecent exposure may be punished by imprisonment in a jail or
11 house of correction for not more than six months, or by a fine of
12 not more than two hundred dollars, or by both such fine and
13 imprisonment.

1 SECTION 2. Chapter 272 of the General Laws is hereby
2 amended by inserting after section 53 the following sections:—

3 *Section 53A. Any person whether male or female who offers*
4 *or agrees to engage in prostitution may be punished by*
5 *imprisonment in a jail or house of correction for not more than*
6 *one year, or by a fine of not more than \$1,000., or by both such*
7 *fine and imprisonment. As used in this section "prostitution"*
8 *means any sexual conduct between two persons involving contact*
9 *between the genitals of one person and any portion of the body of*
10 *the other person, performed in exchange for money or other*
11 *pecuniary benefit.*

12 *Section 53B.* Any person who habitually accosts other persons
13 at night on a street or way to which the public has a right of access
14 or within view of such streets or ways with the intent to solicit or
15 be solicited by other persons for prostitution as defined in section
16 53A shall be punished by imprisonment in a jail or a house of
17 correction for not more than six months or by a fine of not more
18 than \$1,000. or by both such fine and imprisonment.

19 *Section 53C.* Whoever, at night, repeatedly approaches other
20 persons on a street or other way to which the public has a right of
21 access or within view of such street or way may be stopped and
22 inquired of by any police officer. If from all the circumstances
23 such person is reasonably suspected of soliciting for prostitution
24 as defined in section 53A, he or she shall be warned of such
25 activities and of such suspicion. If such person subsequently is
26 seen by such police officer repeatedly approaching other persons
27 at night on any street or way to which the public has a right of
28 access such person may be stopped and inquired of again and
29 warned again. Any such person seen for a third time by such
30 police officer repeatedly approaching other persons at night on
31 any street or way to which the public has a right of access or
32 within view of such street or way may be arrested if such officer
33 has probable cause to believe, on all the circumstances, that said
34 person has been habitually on streets or ways to which the public
35 has a right of access or within view of such street or way accosting
36 other persons with the intent to solicit such other persons or to be
37 solicited by such other persons for prostitution as defined in
38 section 53A.

39 *Section 53D.* Evidence of Common Nightwalking.

40 Evidence of the circumstances, and frequency of occasions on
41 which a person accused of violating section 53B accosted other
42 persons during the times complained of shall be relevant at the
43 trial of such person. Evidence of the character of the
44 neighborhood in which such accosting took place, the number of
45 other persons habitually seen accosting others at night, the
46 identity and reputation of other persons in the area and any other
47 evidence relevant to the intent of the accused at the time of the
48 accosting including manner and dress shall be relevant at the trial
49 of such person. It shall not be necessary to prove that an actual
50 offer or agreement to engage in prostitution was made to prove
51 that an actual offer or agreement to engage in prostitution was
52 made to prove a violation of section 53B.

1 SECTION 3. Chapter 79 of chapter 277 of the General Laws is
2 hereby amended by deleting the form of pleading headed
3 "Common nightwalker," and inserting in place thereof the
4 following form of pleading:

5 Common Nightwalker. (Under Chapter 272, section 53B, 53C,
6 53D.) That A.B. from _____ to
7 _____ did habitually accost others on a street or
8 way to which the public has a right of access or within view of
9 such street or way with intent to solicit or be solicited for
10 prostitution.

1 SECTION 4. Section 79 of chapter 277 of the General Laws is
2 hereby amended by deleting the form of pleading headed
3 "Prostitute", and inserting in place thereof the following form of
4 pleading: —

5 Prostitution. (Under Chapter 272, section 53A). That A.B.
6 offered or agreed to engage in sexual conduct with C.D. involving
7 contact between the genitals of one of them and a portion of the
8 body of the other in exchange for money or other pecuniary
9 benefit.

1 SECTION 5. Chapter 272 of the General Laws is hereby
2 amended by deleting section 2, and inserting in place thereof the
3 following section: —

4 *Section 2.* Whoever fraudently and deceitfully entices or takes
5 away a person from his or her father's house or elsewhere, for the
6 purposes of engaging in prostitution as defined in section 53A,
7 and whoever aids and assists in such abduction for such purpose,
8 shall be punished by imprisonment in the state prison for not
9 more than three years or in jail for not more than one year or by a
10 fine of not more than one thousand dollars, or by both such fine
11 and imprisonment in jail.

1 SECTION 6. Chapter 272 of the General Laws is hereby
2 amended by deleting section 3, and inserting in place thereof the
3 following section: —

4 *Section 3.* Whoever applies, administers to or causes to be
5 taken by a person any drug, matter or thing with intent to stupify
6 or overpower her so as thereby to enable any person to engage in

7 prostitution, as defined in section 53A, with him or her shall be
8 punished by imprisonment in the state prison for not more than
9 three years or in jail or the house of correction for not more than
10 two and one half years or by a fine of not more than one thousand
11 dollars, or by both such fine and imprisonment in jail or the
12 house of correction.

1 SECTION 7. Chapter 272 of the General Laws is hereby
2 amended by deleting section 6, and inserting in place thereof the
3 following section: —

4 *Section 6.* Whoever, being the owner of a place or having or
5 assisting in the management or control thereof, induces or
6 knowingly suffers any person to resort to or be in or upon such
7 place for the purposes of engaging in prostitution as defined in
8 Section 53A shall be punished as provided in section 3.

1 SECTION 8. Chapter 272 of the General Laws is hereby
2 amended by deleting section 7, and inserting in place thereof the
3 following section: —

4 *Section 7.* Whoever, knowing a person to be engaged in
5 prostitution as defined by section 53A, shall live or derive support
6 or maintenance, in whole or in part, from the earnings or
7 proceeds of his or her prostitution, as defined by section 53A,
8 from moneys loaned, advanced to or charged against him or her
9 by any keeper or manager or inmate of a house or other place
10 where prostitution, as defined by section 53A, is practiced or
11 allowed, or shall share in such earnings, proceeds or moneys,
12 shall be punished by imprisonment in the state prison for not
13 more than three years or in the house of correction for not more
14 than one year or by a fine of not more than one thousand dollars,
15 or both.

1 SECTION 9. Chapter 272 of the General Laws is hereby
2 amended by deleting section 8 and inserting thereof the following
3 section: —

4 *Section 8.* Whoever shall solicit or receive compensation for
5 soliciting for the purpose of prostitution, as defined by section
6 53A, shall be punished by imprisonment in the house of
7 correction for not more than 1 year or by a fine of not more than
8 five hundred dollars, or both.

1 SECTION 10. Chapter 272 of the General Laws is hereby
2 amended by deleting section 9, and inserting in place thereof, the
3 following section:—

4 *Section 9.* If a person makes oath before a district court that
5 he has probable cause to suspect that a house, building, room or
6 place is kept or resorted to for prostitution, as defined by section
7 53A, and that a certain person owning, or having or assisting in
8 the management or control of such house, building, room or
9 place knowingly suffers a certain other person to be in or upon
10 such place for the purpose of engaging in prostitution as defined
11 in section 53A, said court shall, if satisfied that there is probable
12 cause therefore, issue a warrant commanding the sheriff or his
13 deputy, or any constable or police officer, to enter such house,
14 building, room or place and search for such person, and take into
15 custody such person and such other person. Said person shall be
16 detained for not more than twenty-four hours until complaint
17 may be made against him or her, and said other person for a
18 reasonable time until he or she may be brought before said court
19 to be recognized with or without sureties at the discretion of said
20 court to appear as witnesses before the next or any succeeding
21 sitting of said court. This section shall be in addition to and not in
22 derogation of the common law.

1 SECTION 11. Chapter 272 of the General Laws is hereby
2 amended by deleting section 12, and inserting in place thereof the
3 following section:—

4 *Section 12.* Whoever knowingly procures, entices, sends, or
5 aid and abets in procuring, enticing or sending, a person to
6 practice prostitution, as defined in section 53A, or to enter as an
7 inmate or a servant a house of ill fame or other place resorted to
8 for prostitution, as defined by section 53A, whether within or
9 without the commonwelath, shall be punished by a fine of not less
10 than one hundred nor more than five hundred dollars or by im-
11 prisonment for not less than 3 months nor more than two years.
12 Whoever a proprietor or keeper of an employment agency, either
13 personally or through an agent or employee, procures or sends a
14 person to enter as aforesaid a house of ill fame or other place
15 resorted to for prostitution, as defined by section 53A, the
16 character of which on reasonable inquiry could have been
17 ascertained by him, shall be punished by a fine of not less than
18 fifty nor more than two hundred dollars.

1 SECTION 12. Chapter 272 of the General Laws is hereby
2 amended by deleting section 13, and inserting in place thereof the
3 following section: —

4 *Section 13.* Whoever, for any length of time, unlawfully
5 detains or attempts to detain, or aids in unlawfully detaining or
6 attempting to detain, or provides or administers or aids and abets
7 in providing or administering any drug or liquor for the purpose
8 of detaining, a person in a house of ill fame or other place where
9 prostitution, as defined in section 53A, is practiced or allowed,
10 shall be punished by imprisonment in the state prison for not
11 more than five years or in the house of correction for not less than
12 one nor more than two and one half years or by a fine of not less
13 than one hundred nor more than five hundred dollars.

1 SECTION 13. Section 24 of Chapter 272 of the General Laws
2 is hereby amended by adding between the word “prostitution”
3 and the word “or” the following words: —

4 as defined in section 53A.

1 SECTION 14. Chapter 272 of the General Laws is hereby
2 amended by deleting section 26, and inserting in place thereof the
3 following: —

4 *Section 26.* Whoever, for the purpose of prostitution as
5 defined in section 53A, shall resort to any cafe, restaurant, tavern,
6 as defined in section one of chapter one hundred and thirty-eight,
7 or other place where food or drink is sold or served to be
8 consumed upon the premises, and whoever shall resort to any
9 such place for the purpose of, in any manner, inducing another
10 person to engage in prostitution as defined by section 53A, and
11 whoever, being in or about any such place, shall engage in any
12 such acts, and any persons owning, managing or controlling such
13 place and any employee of such person who induces or
14 knowingly suffers any person to resort to, or be in such place for
15 the purpose of prostitution as defined in section 53A, shall be
16 punished by a fine of not less than twenty-five nor more than five
17 hundred dollars or by imprisonment for not more than one year,
18 or both.

1 SECTION 15. Section 20 of Chapter 139 of the General Laws
2 is hereby amended by adding between the word “prostitution”

3 and the word "assignation" the following words:—
4 as defined in section 53A of Chapter 272. .

1 SECTION 16. Section 54 of Chapter 272 of the General Laws
2 is hereby amended by deleting the word "section", and inserting
3 in place thereof the following words:—
4 sections 53, 53A, or 53B.

1 SECTION 17. Sections 56 of Chapter 272 of the General Laws
2 is hereby amended by deleting the words "section 53", and
3 inserting in place thereof the following words:—
4 sections 53, 53A, or 53B.

1 SECTION 18. Section 57 of Chapter 272 of the General Laws
2 is hereby amended by adding between the words "fifty-three" and
3 "sixty-six" the following words:—
4 fifty-three A, fifty-three B,

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