

**ASSEMBLY BILL**

**No. 22**

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**Introduced by Assembly Members Lieber and Liu and Senator  
Kuehl  
(Coauthors: Assembly Members Goldberg, Hancock, Matthews,  
Pavley, and Sharon Runner)**

December 6, 2004

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An act to amend Section 14023 of, to add the heading of Chapter 7.5 (commencing with Section 181) to Title 7 of Part 1 of, and to add Sections 181.1, 181.2, 181.3, 181.4, 181.5, 181.6, 181.7, 13519.13, 13823.17, and 13823.18 to, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 22, as introduced, Lieber. Trafficking in persons.

Existing law establishes the offenses of slavery and involuntary servitude. Existing law also makes it an offense to entice an unmarried female minor for purposes of prostitution, as specified, or to aid or assist with the same, or to procure by fraudulent means, any female to have illicit carnal connection with any man. Existing law also makes it a crime to take away any minor as specified, for purposes of prostitution.

This bill would include the existing crimes of slavery and involuntary servitude within new provisions pertaining to human trafficking. The bill would establish the crime of trafficking of a person for forced labor or services and the crime of trafficking of a minor for sexual servitude, both punishable as felonies. The bill would provide various sentencing enhancements for these offenses.

By creating new crimes, this bill would impose a state-mandated local program.

The bill would also require restitution to trafficking victims, as defined, and as specified. The bill would require the Attorney General and the Department of Social Services to report to the Legislature regarding the application and improvement of various laws, regulations and social service programs as they apply to trafficking victims. The bill would require law enforcement agencies to report human trafficking violations to the Attorney General and would require the Attorney General to maintain statistics on those violations. The bill would require state and local law enforcement agencies to issue a Law Enforcement Authority Endorsement for all trafficking victims with 15 business days of initial contact with the victim.

By imposing new duties on local law enforcement agencies, this bill would impose a state-mandated local program.

Existing law establishes the Commission on Peace Officers Standard and Training.

The bill would require the Commission on Peace Officer Standards and Training to develop a course for peace officers relating to human trafficking offenses and social services available to trafficking victims.

Existing law charges the Victim's Compensation and Government Claims Board with overseeing domestic violence shelters, as specified.

The bill would require the Victim's Compensation and Government Claims Board to establish criteria for and to oversee local shelters designated for trafficking victims.

Existing law establishes various advisory bodies in connection with domestic violence.

The bill would establish a task force to study various issues in connection with human trafficking and to advise the Legislature, as specified.

Existing law requires the Attorney General to give priority to matters involving organized crime, gang activities, drug trafficking, and cases involving a high degree of risk to the witness.

This bill would include human trafficking in that list of priorities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The heading of Chapter 7.5 (commencing with  
2 Section 181) is added to Title 7 of Part 1 of the Penal Code,  
3 immediately preceding Section 181, to read:

4  
5 CHAPTER 7.5. HUMAN TRAFFICKING

6  
7 SEC. 2. Section 181.1 is added to the Penal Code, to read:

8 181.1. Every person who knowingly recruits, entices, harbors,  
9 transports, provides, or obtains by any means, or attempts to  
10 recruit, entice, harbor, transport, provide, or obtain by any means,  
11 another person, intending or knowing that the person will be  
12 subjected to forced labor or services, or who benefits financially  
13 or by receiving anything of value, from participation in a venture  
14 which has engaged in an act described in Section 181 or this  
15 section, is punishable as a felony.

16 SEC. 3. Section 181.2 is added to the Penal Code, to read:

17 181.2. Every person who knowingly recruits, entices,  
18 harbors, transports, provides, or obtains by any means, or  
19 attempts to recruit, entice, harbor, transport, provide, or obtain by  
20 any means, another person under 18 years of age, intending or  
21 knowing that the minor will engage in commercial sexual  
22 activity, sexually explicit performance, or the production of  
23 pornography, or causes or attempts the same, shall be punishable  
24 as a felony.

25 SEC. 4. Section 181.3 is added to the Penal Code, to read:

26 181.3. (a) If a violation of this chapter involves kidnapping,  
27 sexual abuse or an attempt to kidnap, commit sexual abuse or an  
28 attempt to kill, there shall be imposed an additional term of \_\_\_\_  
29 years in prison.

1 (b) If, pursuant to a violation of this chapter, a victim suffers  
2 bodily injury, there shall be imposed an additional term of \_\_\_\_  
3 years in prison.

4 SEC. 5. Section 181.4 is added to the Penal Code, to read:

5 181.4. In addition to any other amount of restitution imposed  
6 by law, for any violation of this chapter the court shall order  
7 restitution including the greater of the gross income or value to  
8 the defendant of the victim’s labor or services, or the value of the  
9 victim’s labor as guaranteed under the minimum wage and  
10 overtime provisions of the Fair Labor and Standards Act.

11 SEC. 6. Section 181.5 is added to the Penal Code, to read:

12 181.5. (a) The Attorney General shall, no later than January  
13 1, 2007, issue a report to the Legislature outlining how existing  
14 victim and witness protection laws and regulations respond to the  
15 needs of trafficking victims and suggesting areas of improvement  
16 and modification.

17 (b) The Department of Social Services shall, no later than  
18 January 1, 2007, issue a report to the Legislature outlining how  
19 existing social service programs respond to the needs of  
20 trafficking victims, and suggesting areas of improvement and  
21 modification.

22 SEC. 7. Section 181.6 is added to the Penal Code, to read:

23 181.6. (a) Every state and local law enforcement agency shall  
24 report all violations of this chapter within their jurisdiction to the  
25 Attorney General.

26 (b) The Attorney General shall keep accurate statistics on the  
27 prevalence of violations of this chapter.

28 (c) Every state and local law enforcement agency shall issue a  
29 Law Enforcement Authority Endorsement for all trafficking  
30 victims with 15 business days of initial contact with the victim.

31 SEC. 8. Section 181.7 is added to the Penal Code, to read:

32 181.7. For purposes of this chapter, the following definitions  
33 apply:

34 (a) “Blackmail” includes but is not limited to a threat to  
35 expose any secret tending to subject any person to hatred,  
36 contempt, or ridicule.

37 (b) “Commercial sexual activity” means any sex act on  
38 account of which anything of value is given, promised to, or  
39 received by any person.

1 (c) “Financial harm” includes credit extortion, criminal  
2 violation of usury provisions, or employment contracts that  
3 violate the Statute of Frauds.

4 (d) “Forced labor or services” means labor or services that are  
5 performed or provided by another person and are obtained or  
6 maintained through any of the following:

7 (1) Causing or threatening to cause serious harm to any  
8 person.

9 (2) Physically restraining or threatening to physically restrain  
10 another person.

11 (3) Abusing or threatening to abuse the law or legal process.

12 (4) Knowingly destroying, concealing removing, confiscating,  
13 or processing any actual or purported passport or other  
14 immigration document, or any other actual or purported  
15 government identification document, of another person.

16 (5) Blackmail.

17 (6) Causing or threatening to cause financial harm to any  
18 person.

19 (e) “Labor” means work of economic or financial value.

20 (f) “Maintain” means in relation to labor services, to secure  
21 continued performance thereof, regardless of any initial  
22 agreement on the part of the victim to perform that type of  
23 service.

24 (g) “Obtain” means, in relation to labor or services, to secure  
25 performance thereof.

26 (h) “Services” means an ongoing relationship between a  
27 person and the actor in which the person performs activities  
28 under the supervision of or for the benefit of the actor.  
29 Commercial sexual activity and sexually explicit performances  
30 are forms of “services” pursuant to this section. Nothing in this  
31 section shall be construed to legitimize or legalize prostitution.

32 (i) “Sexually explicit performance” means a live or public act  
33 or show intended to arouse or satisfy the sexual desires or appeal  
34 to the prurient interests of patrons.

35 (j) “Trafficking victim” means a person subjected to the  
36 practices set forth in Sections 181, 181.1, or 181.2.

37 SEC. 9. Section 13519.13 is added to the Penal Code, to read:

38 13519.13. The commission shall establish training standards  
39 and shall develop a course of instruction that includes education  
40 for peace officers regarding the criminal provisions of Chapter

1 7.5 (commencing with Section 181) of Title 7 of Part 1 and the  
2 services available for victims of the offenses described therein.

3 SEC. 10. Section 13823.17 is added to the Penal Code, to  
4 read:

5 13823.17. The Victim's Compensation and Government  
6 Claims Board shall establish criteria for and oversee local  
7 shelters designated for trafficking victims, as defined in Section  
8 181.6.

9 SEC. 11. Section 13823.18 is added to the Penal Code, to  
10 read:

11 13823.18. There is hereby created an antitrafficking advisory  
12 task force that shall assist the Legislature with guiding and  
13 coordinating antitrafficking efforts. The task force shall, at a  
14 minimum, do all of the following:

15 (a) Address the issues of raising the public's awareness and  
16 understanding of trafficking victims.

17 (b) Implement an independent, comprehensive study on the  
18 prevalence of trafficking in the state.

19 (c) Conduct public hearings on the issue of trafficking.

20 (d) Evaluate proposed antitrafficking legislation.

21 (e) Create working protocols for collaborative work between  
22 governmental and nongovernmental organizations.

23 (f) Review statewide implementation of state and federal  
24 antitrafficking laws, and make recommendations to the  
25 Legislature for improving laws, regulations, and social services  
26 for trafficking victims, as defined in Section 181.7.

27 SEC. 12. Section 14023 of the Penal Code is amended to  
28 read:

29 14023. The Attorney General shall give priority to matters  
30 involving organized crime, gang activities, drug trafficking,  
31 *human trafficking*, and cases involving a high degree of risk to  
32 the witness. Special regard shall also be given to the elderly, the  
33 young, battered, victims of domestic violence, the infirm, the  
34 handicapped, and victims of hate incidents.

35 SEC. 13. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution for  
37 certain costs that may be incurred by a local agency or school  
38 district because, in that regard, this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the  
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a  
2 crime within the meaning of Section 6 of Article XIII B of the  
3 California Constitution.

4 However, if the Commission on State Mandates determines  
5 that this act contains other costs mandated by the state,  
6 reimbursement to local agencies and school districts for those  
7 costs shall be made pursuant to Part 7 (commencing with Section  
8 17500) of Division 4 of Title 2 of the Government Code.

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11 **CORRECTIONS:** \_\_\_\_\_

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**Heading - Line 1.**

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**Text - Page 3.**

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