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AMENDED IN SENATE JUNE 16, 2005

AMENDED IN ASSEMBLY MAY 4, 2005

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 22

**Introduced by Assembly Members Lieber and Liu and Senator
Kuehl**

(Principal coauthor: Senator Alquist)

**(Coauthors: Assembly Members Bermudez, ~~Chavez~~, Chan,
Chavez, Cohn, DeVore, Goldberg, Hancock, Shirley Horton,
Koretz, Leno, Leslie, Levine, Matthews, Pavley, Sharon
Runner, and Ruskin)**

(Coauthor: ~~Senator Escutia~~ Coauthors: Senators Escutia and Romero)

December 6, 2004

An act to add Section 52.5 to the Civil Code, to add Article 8.8 (commencing with Section 1038) to Chapter 4 of Division 8 of the Evidence Code, to amend Sections 13955 and 13956 of the Government Code, and to amend Sections ~~181~~, 186.2, 273.7, and 14023 of, to add Sections ~~181.1 and 181.2 to~~, to add a Chapter heading in Title 7 (commencing with Section 181) of Part 1 of 236.1 and 236.2 to, and to add and repeal Section 13823.18 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 22, as amended, 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 *or for effecting or maintaining other specified felonies*, and the crime of trafficking of a minor *for those purposes*, both punishable as felonies punishable by terms of imprisonment in the state prison of 3, 4, or 5 years, or 4, 6, or 8 years, respectively. The bill would provide for restitution, and punitive damages, and would establish a victim-caseworker privilege.~~

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

The bill would require state and local law enforcement agencies to issue a Law Enforcement ~~Authority~~ Agency 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 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. This act shall be known and may be cited as, the
2 California Trafficking Victims Protection Act.

3 SEC. 2. Section 52.5 is added to the Civil Code, to read:

4 52.5. (a) A victim of human trafficking, as defined in
5 ~~subdivision (b) of Section 181~~ *Section 236.1* of the Penal Code,
6 may bring a civil action for actual damages, compensatory
7 damages, punitive damages, injunctive relief, any combination of
8 those, or any other appropriate relief. A prevailing plaintiff may
9 also be awarded attorney's fees and costs.

10 (b) Treble damages may be awarded on proof of actual
11 damage.

12 (c) An action brought pursuant to this section shall be
13 commenced within 10 years of the date on which the trafficking
14 victim was freed from the trafficking situation, or if the victim
15 was a minor when the act occurred, within 15 years after the date
16 the plaintiff attains the age of majority.

17 (d) If a person entitled to sue is under a disability at the time
18 the cause of action accrues, so that it is impossible or
19 impracticable for him or her to bring an action, then the time of
20 the disability is not part of the time limited for the
21 commencement of the action. Disability will toll the running of
22 the statute of limitation for this action.

23 (1) Disability includes being a minor, insanity, imprisonment,
24 or other incapacity or incompetence.

25 (2) The statute of limitations shall not run against an
26 incompetent or minor plaintiff simply because a guardian ad
27 litem has been appointed. A guardian ad litem's failure to bring a
28 plaintiff's action within the applicable limitation period will not
29 prejudice the plaintiff's right to do so after his or her disability
30 ceases.

31 (3) If a person entitled to sue lacks knowledge of his or her
32 rights under this law at the time the cause of action accrues and
33 could not have reasonably consulted legal counsel to become

1 aware of his or her rights, the running of the statute of limitations
2 shall be suspended until such knowledge of his or her rights can
3 be reasonably obtained.

4 (4) A defendant is estopped to assert a defense of the statute of
5 limitations when the expiration of the statute is due to conduct by
6 the defendant inducing the plaintiff to delay the filing of the
7 action, or due to threats made by the defendant causing duress
8 upon the plaintiff.

9 (5) The suspension of the statute of limitations due to
10 disability, lack of knowledge, or estoppel applies to all other
11 related claims arising out of the trafficking situation.

12 (6) The running of the statute of limitations is postponed
13 during the pendency of any criminal proceedings against the
14 victim.

15 (e) A prevailing plaintiff may also be awarded attorney's fees
16 and litigation costs including, but not limited to, expert witness
17 fees and expenses as part of the costs.

18 SEC. 3. Article 8.8 (commencing with Section 1038) is added
19 to Chapter 4 of Division 8 of the Evidence Code, to read:

20

21 Article 8.8. Human Trafficking Victim-Caseworker Privilege

22

23 1038. (a) A trafficking victim, whether or not a party to the
24 action, has a privilege to refuse to disclose, and to prevent
25 another from disclosing, a confidential communication between
26 the victim and a human trafficking caseworker if the privilege is
27 claimed by any of the following persons:

28 (1) The holder of the privilege.

29 (2) A person who is authorized to claim the privilege by the
30 holder of the privilege.

31 (3) The person who was the human trafficking caseworker at
32 the time of the confidential communication. However, that
33 person may not claim the privilege if there is no holder of the
34 privilege in existence or if he or she is otherwise instructed by a
35 person authorized to permit disclosure. The human trafficking
36 caseworker who received or made a communication subject to
37 the privilege granted by this article shall claim the privilege
38 whenever he or she is present when the communication is sought
39 to be disclosed and he or she is authorized to claim the privilege
40 under this section.

1 (b) A human trafficking caseworker shall inform a trafficking
2 victim of any applicable limitations on confidentiality of
3 communications between the victim and the caseworker. This
4 information may be given orally.

5 1038.1. (a) The court may compel disclosure of information
6 received by a human trafficking caseworker that constitutes
7 relevant evidence of the facts and circumstances involving a
8 crime allegedly perpetrated against the victim and that is the
9 subject of a criminal proceeding, if the court determines that the
10 probative value of the information outweighs the effect of
11 disclosure of the information on the victim, the counseling
12 relationship, and the counseling services. The court may compel
13 disclosure if the victim is either dead or not the complaining
14 witness in a criminal action against the perpetrator.

15 (b) When a court rules on a claim of privilege under this
16 article, it may require the person from whom disclosure is sought
17 or the person authorized to claim the privilege, or both, to
18 disclose the information in chambers out of the presence and
19 hearing of all persons except the person authorized to claim the
20 privilege and those other persons that the person authorized to
21 claim the privilege consents to have present.

22 (c) If the judge determines that the information is privileged
23 and shall not be disclosed, neither he nor she nor any other
24 person may disclose, without the consent of a person authorized
25 to permit disclosure, any information disclosed in the course of
26 the proceedings in chambers. If the court determines that
27 information shall be disclosed, the court shall so order and
28 inform the defendant in the criminal action. If the court finds
29 there is a reasonable likelihood that any information is subject to
30 disclosure pursuant to the balancing test provided in this section,
31 the procedure specified in paragraphs (1), (2), and (3) of Section
32 1035.4 shall be followed.

33 1038.2. (a) As used in this article, “victim” means any
34 person who is a “trafficking victim” as defined in Section ~~181.2~~
35 ~~236.1~~.

36 (b) As used in this article, “human trafficking caseworker”
37 means any of the following:

38 (1) A person who is employed by any organization providing
39 the programs specified in Section 18294 of the Welfare and
40 Institutions Code, whether financially compensated or not, for

1 the purpose of rendering advice or assistance to victims of human
2 trafficking, who has received specialized training in the
3 counseling of human trafficking victims, and who meets one of
4 the following requirements:

5 (A) Has a master's degree in counseling or a related field; or
6 has one year of counseling experience, at least six months of
7 which is in the counseling of human trafficking victims.

8 (B) Has at least 40 hours of training as specified in this
9 paragraph and is supervised by an individual who qualifies as a
10 counselor under subparagraph (A), or is a psychotherapist, as
11 defined in Section 1010. The training, supervised by a person
12 qualified under subparagraph (A), shall include, but need not be
13 limited to, the following areas: history of human trafficking, civil
14 and criminal law as it relates to human trafficking, societal
15 attitudes towards human trafficking, peer counseling techniques,
16 housing, public assistance and other financial resources available
17 to meet the financial needs of human trafficking victims, and
18 referral services available to human trafficking victims. A portion
19 of this training must include an explanation of privileged
20 communication.

21 (2) A person who is employed by any organization providing
22 the programs specified in Section 13835.2 of the Penal Code,
23 whether financially compensated or not, for the purpose of
24 counseling and assisting human trafficking victims, and who
25 meets one of the following requirements:

26 (A) Is a psychotherapist as defined in Section 1010, has a
27 master's degree in counseling or a related field, or has one year
28 of counseling experience, at least six months of which is in rape
29 assault counseling.

30 (B) Has the minimum training for human trafficking
31 counseling required by guidelines established by the employing
32 agency pursuant to subdivision (c) of Section 13835.10 of the
33 Penal Code, and is supervised by an individual who qualifies as a
34 counselor under subparagraph (A). The training, supervised by a
35 person qualified under subparagraph (A), shall include, but not
36 be limited to, law, victimology, counseling techniques, client and
37 system advocacy, and referral services. A portion of this training
38 must include an explanation of privileged communication.

39 (c) As used in this article, "confidential communication"
40 means information transmitted between the victim and the

1 caseworker in the course of their relationship and in confidence
2 by a means which, so far as the victim is aware, discloses the
3 information to no third persons other than those who are present
4 to further the interests of the victim in the consultation or those to
5 whom disclosures are reasonably necessary for the transmission
6 of the information or an accomplishment of the purposes for
7 which the human trafficking counselor is consulted. It includes
8 all information regarding the facts and circumstances involving
9 all incidences of human trafficking.

10 (d) As used in this article, “holder of the privilege” means the
11 victim when he or she has no guardian or conservator, or a
12 guardian or conservator of the victim when the victim has a
13 guardian or conservator.

14 SEC. 4. Section 13955 of the Government Code is amended
15 to read:

16 13955. Except as provided in Section 13956, a person shall
17 be eligible for compensation when all of the following
18 requirements are met:

19 (a) The person for whom compensation is being sought is any
20 of the following:

21 (1) A victim.

22 (2) A derivative victim.

23 (3) A person who is entitled to reimbursement for funeral,
24 burial, or crime scene cleanup expenses pursuant to subdivision
25 (i) of Section 13957.

26 (b) Either of the following conditions is met:

27 (1) The crime occurred within the State of California, whether
28 or not the victim is a resident of the State of California. This
29 paragraph shall apply only during those time periods during
30 which the board determines that federal funds are available to the
31 State of California for the compensation of victims of crime.

32 (2) Whether or not the crime occurred within the State of
33 California, the victim was any of the following:

34 (A) A resident of the State of California.

35 (B) A member of the military stationed in California.

36 (C) A family member living with a member of the military
37 stationed in California.

38 (c) If compensation is being sought for a derivative victim, the
39 derivative victim is a resident of California, or resident of another
40 state, who is any of the following:

- 1 (1) At the time of the crime was the parent, grandparent,
2 sibling, spouse, child, or grandchild of the victim.
- 3 (2) At the time of the crime was living in the household of the
4 victim.
- 5 (3) At the time of the crime was a person who had previously
6 lived in the household of the victim for a period of not less than
7 two years in a relationship substantially similar to a relationship
8 listed in paragraph (1).
- 9 (4) Is another family member of the victim, including, but not
10 limited to, the victim's fiancé or fiancée, and who witnessed the
11 crime.
- 12 (5) Is the primary caretaker of a minor victim, but was not the
13 primary caretaker at the time of the crime.
- 14 (d) The application is timely pursuant to Section 13953.
- 15 (e) (1) Except as provided in paragraph (2), the injury or
16 death was a direct result of a crime.
- 17 (2) Notwithstanding paragraph (1), no act involving the
18 operation of a motor vehicle, aircraft, or water vehicle that results
19 in injury or death constitutes a crime for the purposes of this
20 chapter, except when the injury or death from such an act was
21 any of the following:
- 22 (A) Intentionally inflicted through the use of a motor vehicle,
23 aircraft, or water vehicle.
- 24 (B) Caused by a driver who fails to stop at the scene of an
25 accident in violation of Section 20001 of the Vehicle Code.
- 26 (C) Caused by a person who is under the influence of any
27 alcoholic beverage or drug.
- 28 (D) Caused by a driver of a motor vehicle in the immediate act
29 of fleeing the scene of a crime in which he or she knowingly and
30 willingly participated.
- 31 (E) Caused by a person who commits vehicular manslaughter
32 in violation of subdivision (c) of Section 192 or Section 192.5 of
33 the Penal Code.
- 34 (f) As a direct result of the crime, the victim or derivative
35 victim sustained one or more of the following:
- 36 (1) Physical injury. The board may presume a child who has
37 been the witness of a crime of domestic violence has sustained
38 physical injury. A child who resides in a home where a crime or
39 crimes of domestic violence have occurred may be presumed by

1 the board to have sustained physical injury, regardless of whether
2 the child has witnessed the crime.

3 (2) Emotional injury and a threat of physical injury.

4 (3) Emotional injury, where the crime was a violation of any
5 of the following provisions:

6 (A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a,
7 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the
8 Penal Code.

9 (B) Section 270 of the Penal Code, where the emotional injury
10 was a result of conduct other than a failure to pay child support,
11 and criminal charges were filed.

12 (C) Section 261.5 of the Penal Code, and criminal charges
13 were filed.

14 (D) Section 278 or 278.5 of the Penal Code, where the
15 deprivation of custody as described in those sections has endured
16 for 30 calendar days or more. For purposes of this paragraph, the
17 child, and not the nonoffending parent or other caretaker, shall be
18 deemed the victim.

19 (E) Section ~~181~~ 236.1 of the Penal Code, where the emotional
20 injury was a result of human trafficking and one of the following
21 occurred:

22 (i) Criminal charges were filed.

23 (ii) The victim received a Law Enforcement Agency
24 Endorsement pursuant to Section ~~181.3~~ 236.2 of the Penal Code.

25 (iii) A human trafficking caseworker, as identified in Section
26 1038.2 of the Evidence Code, has attested by affidavit that the
27 individual was a victim of human trafficking.

28 (g) The injury or death has resulted or may result in pecuniary
29 loss within the scope of compensation pursuant to Sections
30 13957 to 13957.9, inclusive.

31 ~~SEC. 4.5—~~

32 *SEC. 5.* Section 13956 of the Government Code is amended
33 to read:

34 13956. Notwithstanding Section 13955, a person shall not be
35 eligible for compensation under the following conditions:

36 (a) An application shall be denied if the board finds that the
37 victim or, where compensation is sought by or on behalf of a
38 derivative victim, either the victim or derivative victim,
39 knowingly and willingly participated in the commission of the
40 crime that resulted in the pecuniary loss for which compensation

1 is being sought pursuant to this chapter. However, this
2 subdivision shall not apply if the injury or death occurred as a
3 direct result of a crime committed in violation of Section 261,
4 262, or 273.5 of, or a crime of unlawful sexual intercourse with a
5 minor committed in violation of subdivision (d) of Section 261.5
6 of, the Penal Code.

7 (b) (1) An application shall be denied if the board finds that
8 the victim or, where compensation is sought by, or on behalf of,
9 a derivative victim, either the victim or derivative victim failed to
10 cooperate reasonably with a law enforcement agency in the
11 apprehension and conviction of a criminal committing the crime.
12 However, in determining whether cooperation has been
13 reasonable, the board shall consider the victim's or derivative
14 victim's age, physical condition, and psychological state, cultural
15 or linguistic barriers, any compelling health and safety concerns,
16 including, but not limited to, a reasonable fear of retaliation or
17 harm that would jeopardize the well-being of the victim or the
18 victim's family or the derivative victim or the derivative victim's
19 family, and giving due consideration to the degree of cooperation
20 of which the victim or derivative victim is capable in light of the
21 presence of any of these factors.

22 (2) An application for a claim based on domestic violence may
23 not be denied solely because no police report was made by the
24 victim. The board shall adopt guidelines that allow the board to
25 consider and approve applications for assistance based on
26 domestic violence relying upon evidence other than a police
27 report to establish that a domestic violence crime has occurred.
28 Factors evidencing that a domestic violence crime has occurred
29 may include, but are not limited to, medical records documenting
30 injuries consistent with allegations of domestic violence, mental
31 health records, or the fact that the victim has obtained a
32 temporary or permanent restraining order, or all of these.

33 (3) An application for a claim based on human trafficking as
34 defined in Section ~~181~~ 236.1 of the Penal Code may not be
35 denied solely because no police report was made by the victim.
36 The board shall adopt guidelines that allow the board to consider
37 and approve applications for assistance based on human
38 trafficking relying upon evidence other than a police report to
39 establish that a human trafficking crime as defined in Section ~~181~~
40 236.1 has occurred. That evidence may include any reliable

1 corroborating information approved by the board, including, but
2 not limited to, the following:

3 (A) A Law Enforcement Agency Endorsement issued pursuant
4 to Section ~~181.3~~ 236.2 of the Penal Code.

5 (B) A human trafficking caseworker as identified in Section
6 1038.2 of the Evidence Code, has attested by affidavit that the
7 individual was a victim of human trafficking.

8 (c) An application for compensation may be denied, in whole
9 or in part, if the board finds that denial is appropriate because of
10 the nature of the victim's or other applicant's involvement in the
11 events leading to the crime or the involvement of the persons
12 whose injury or death gives rise to the application. In the case of
13 a minor, the board shall consider the minor's age, physical
14 condition, and psychological state, as well as any compelling
15 health and safety concerns, in determining whether the minor's
16 application should be denied pursuant to this section. The
17 application of a derivative victim of domestic violence under the
18 age of 18 years of age or a derivative victim of trafficking under
19 18 years of age may not be denied on the basis of the denial of
20 the victim's application under this subdivision.

21 (d) (1) Notwithstanding Section 13955, no person who is
22 convicted of a felony may be granted compensation until that
23 person has been discharged from probation or has been released
24 from a correctional institution and has been discharged from
25 parole, if any. In no case shall compensation be granted to an
26 applicant pursuant to this chapter during any period of time the
27 applicant is held in a correctional institution.

28 (2) A person who has been convicted of a felony may apply
29 for compensation pursuant to this chapter at any time, but the
30 award of that compensation may not be considered until the
31 applicant meets the requirements for compensation set forth in
32 paragraph (1).

33 (3) Applications of victims who are not felons shall receive
34 priority in the award of compensation over an application
35 submitted by a felon who has met the requirements for
36 compensation set forth in paragraph (1).

37 ~~SEC. 5. The heading of Chapter 7.5 (commencing with~~
38 ~~Section 181) is added to Title 7 of Part 1 of the Penal Code,~~
39 ~~immediately preceding Section 181, to read:~~

CHAPTER 7.5. HUMAN TRAFFICKING

1
2
3 SEC. 6. Section 181 of the Penal Code is amended to read:

4 181. (a) ~~Every person who holds, or attempts to hold, any~~
5 ~~person in involuntary servitude, or assumes, or attempts to~~
6 ~~assume, rights of ownership over any person, or who sells, or~~
7 ~~attempts to sell, any person to another, or receives money or~~
8 ~~anything of value, in consideration of placing any person in the~~
9 ~~custody, or under the power or control of another, or who buys,~~
10 ~~or attempts to buy, any person, or pays money, or delivers~~
11 ~~anything of value, to another, in consideration of having any~~
12 ~~person placed in his or her custody or under his or her power or~~
13 ~~control, or who knowingly aids or assists in any manner any one~~
14 ~~thus offending, is punishable by imprisonment in the state prison~~
15 ~~for two, three, or four years.~~

16 (b) ~~Every person who knowingly subjects, or attempts to~~
17 ~~subject, another person to forced labor or services, or who~~
18 ~~knowingly participates in, recruits, entices, harbors, transports,~~
19 ~~provides, or obtains by any means, or attempts to recruit, entice,~~
20 ~~harbor, transport, provide, or obtain by any means, another~~
21 ~~person, intending or knowing that the person will be subjected to~~
22 ~~forced labor or services, or who benefits financially or by~~
23 ~~receiving anything of value, from participation in a venture~~
24 ~~which has engaged in an act described in this subdivision, is~~
25 ~~guilty of human trafficking, punishable by three, four, or six~~
26 ~~years in the state prison.~~

27 (c) ~~If the person trafficked is under 18 years of age, the~~
28 ~~offense is punishable by three, six, or eight years in the state~~
29 ~~prison.~~

30 (d) ~~Upon conviction of any person for a violation of this~~
31 ~~section, the court shall, in addition to any other penalty or~~
32 ~~restitution, order the defendant to pay restitution to the victim~~
33 ~~based upon the greater of the gross value of the victim's labor or~~
34 ~~services based upon the comparable value of similar services in~~
35 ~~the labor market in which the crime occurred, or the value of the~~
36 ~~victim's labor as guaranteed under California law, or the actual~~
37 ~~income derived by the defendant from the victim's labor or~~
38 ~~services. This restitution order shall be enforceable as if the order~~
39 ~~were a civil judgment.~~

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

1 181.1. For purposes of this chapter, the following definitions
2 apply:

3 (a) “Extortion” as defined in Section 518.

4 (b) “Financial harm” includes credit extortion and criminal
5 violation of usury provisions.

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

9 (1) Causing or threatening to cause serious harm to any
10 person.

11 (2) Physically restraining or threatening to physically restrain
12 another person.

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

14 (4) Knowingly destroying, concealing removing, confiscating,
15 or possessing any actual or purported passport or other
16 immigration document, or any other actual or purported
17 government identification document, of another person in the
18 course of a violation of Section 181 or with the intent to violate
19 Section 181.

20 (5) Extortion.

21 (6) Causing or threatening to cause financial harm to any
22 person.

23 (d) “Labor” means work of economic or financial value.

24 (e) “Maintain” means in relation to labor services, to secure
25 continued performance thereof, regardless of any initial
26 agreement on the part of the victim to perform that type of
27 service.

28 (f) “Obtain” means, in relation to labor or services, to secure
29 performance thereof.

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

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

38 SEC. 8. Section 181.2 is added to the Penal Code, to read:

39 181.2. (a) The Legislature finds that victims meeting the
40 definition of trafficking victim as defined in Section 181 meet the

1 federal definition of a victim of a severe form of trafficking
2 found at Section 7102(8) of Title 22 of the United States Code.

3 (b) Within 15 business days of the first encounter of a
4 trafficking victim as defined in Section 181, law enforcement
5 agencies shall provide brief letters that satisfy the following Law
6 Enforcement Agency Endorsement (LEA) regulations as found in
7 Section 214.11 (f)(1) of Chapter 8 of the Code of Federal
8 Regulations.

9 (c) The LEA must be submitted on Supplement B, Declaration
10 of Law Enforcement Officer for Victim of Trafficking in
11 Persons, of Form I-914. The LEA endorsement must be filled out
12 completely in accordance with the instructions contained on the
13 form and must attach the results of any name or database inquiry
14 performed. In order to provide persuasive evidence, the LEA
15 endorsement must contain a description of the victimization upon
16 which the application is based, including the dates the trafficking
17 in persons and victimization occurred, and be signed by a
18 supervising official responsible for the investigation or
19 prosecution of trafficking in persons. The LEA endorsement
20 must address whether the victim had been recruited, harbored,
21 transported, provided, or obtained specifically for either labor or
22 services, or for the purposes of a commercial sex act.

23 (d) Where state law enforcement agencies find the grant of a
24 LEA endorsement to be inappropriate for a victim of trafficking
25 in persons, the agency shall within 15 days provide the victim
26 with a letter explaining the grounds of the denial of the LEA. The
27 victim may submit additional evidence to the law enforcement
28 agency, which must reconsider the denial of the LEA within one
29 week of the receipt of additional evidence.

30 ~~SEC. 9.—~~

31 *SEC. 6.* Section 186.2 of the Penal Code is amended to read:

32 186.2. For purposes of this chapter, the following definitions
33 apply:

34 (a) “Criminal profiteering activity” means any act committed
35 or attempted or any threat made for financial gain or advantage,
36 which act or threat may be charged as a crime under any of the
37 following sections:

38 (1) Arson, as defined in Section 451.

39 (2) Bribery, as defined in Sections 67, 67.5, and 68.

- 1 (3) Child pornography or exploitation, as defined in
2 subdivision (b) of Section 311.2, or Section 311.3 or 311.4,
3 which may be prosecuted as a felony.
- 4 (4) Felonious assault, as defined in Section 245.
- 5 (5) Embezzlement, as defined in Sections 424 and 503.
- 6 (6) Extortion, as defined in Section 518.
- 7 (7) Forgery, as defined in Section 470.
- 8 (8) Gambling, as defined in Sections 337a to 337f, inclusive,
9 and Section 337i, except the activities of a person who
10 participates solely as an individual bettor.
- 11 (9) Kidnapping, as defined in Section 207.
- 12 (10) Mayhem, as defined in Section 203.
- 13 (11) Murder, as defined in Section 187.
- 14 (12) Pimping and pandering, as defined in Section 266.
- 15 (13) Receiving stolen property, as defined in Section 496.
- 16 (14) Robbery, as defined in Section 211.
- 17 (15) Solicitation of crimes, as defined in Section 653f.
- 18 (16) Grand theft, as defined in Section 487.
- 19 (17) Trafficking in controlled substances, as defined in
20 Sections 11351, 11352, and 11353 of the Health and Safety
21 Code.
- 22 (18) Violation of the laws governing corporate securities, as
23 defined in Section 25541 of the Corporations Code.
- 24 (19) Any of the offenses contained in Chapter 7.5
25 (commencing with Section 311) of Title 9, relating to obscene
26 matter, or in Chapter 7.6 (commencing with Section 313) of Title
27 9, relating to harmful matter that may be prosecuted as a felony.
- 28 (20) Presentation of a false or fraudulent claim, as defined in
29 Section 550.
- 30 (21) False or fraudulent activities, schemes, or artifices, as
31 described in Section 14107 of the Welfare and Institutions Code.
- 32 (22) Money laundering, as defined in Section 186.10.
- 33 (23) Offenses relating to the counterfeit of a registered mark,
34 as specified in Section 350.
- 35 (24) Offenses relating to the unauthorized access to
36 computers, computer systems, and computer data, as specified in
37 Section 502.
- 38 (25) Conspiracy to commit any of the crimes listed above, as
39 defined in Section 182.

1 (26) Subdivision (a) of Section 186.22, or a felony subject to
2 enhancement as specified in subdivision (b) of Section 186.22.

3 (27) Any offenses related to fraud or theft against the state's
4 beverage container recycling program, including, but not limited
5 to, those offenses specified in this subdivision and those criminal
6 offenses specified in the California Beverage Container
7 Recycling and Litter Reduction Act, commencing at Section
8 14500 of the Public Resources Code.

9 (28) Human trafficking, as defined in Section ~~181~~ 236.1.

10 (b) "Pattern of criminal profiteering activity" means engaging
11 in at least two incidents of criminal profiteering, as defined by
12 this act, that meet the following requirements:

13 (1) Have the same or a similar purpose, result, principals,
14 victims, or methods of commission, or are otherwise interrelated
15 by distinguishing characteristics.

16 (2) Are not isolated events.

17 (3) Were committed as a criminal activity of organized crime.

18 Acts that would constitute a "pattern of criminal profiteering
19 activity" may not be used by a prosecuting agency to seek the
20 remedies provided by this chapter unless the underlying offense
21 occurred after the effective date of this chapter and the prior act
22 occurred within 10 years, excluding any period of imprisonment,
23 of the commission of the underlying offense. A prior act may not
24 be used by a prosecuting agency to seek remedies provided by
25 this chapter if a prosecution for that act resulted in an acquittal.

26 (c) "Prosecuting agency" means the Attorney General or the
27 district attorney of any county.

28 (d) "Organized crime" means crime that is of a conspiratorial
29 nature and that is either of an organized nature and seeks to
30 supply illegal goods and services such as narcotics, prostitution,
31 loan-sharking, gambling, and pornography, or that, through
32 planning and coordination of individual efforts, seeks to conduct
33 the illegal activities of arson for profit, hijacking, insurance
34 fraud, smuggling, operating vehicle theft rings, fraud against the
35 beverage container recycling program, or systematically
36 encumbering the assets of a business for the purpose of
37 defrauding creditors. "Organized crime" also means crime
38 committed by a criminal street gang, as defined in subdivision (f)
39 of Section 186.22. "Organized crime" also means false or

1 fraudulent activities, schemes, or artifices, as described in
2 Section 14107 of the Welfare and Institutions Code.

3 (e) “Underlying offense” means an offense enumerated in
4 subdivision (a) for which the defendant is being prosecuted.

5 *SEC. 7. Section 236.1 is added to the Penal Code, to read:*

6 *236.1. (a) Any person who deprives or violates the personal*
7 *liberty of another with the intent to effect or maintain a felony*
8 *violation of Section 266, 266h, 266i, 267, 311.4, or Section 518,*
9 *or to obtain forced labor or services, is guilty of human*
10 *trafficking.*

11 *(b) Except as provided in subdivision (c), a violation of this*
12 *section is punishable by imprisonment in the state prison for*
13 *three, four, or five years.*

14 *(c) A violation of this section where the victim of the*
15 *trafficking was under 18 years of age at commission of the*
16 *offense is punishable by imprisonment in the state prison for*
17 *four, six, or eight years.*

18 *(d) Upon conviction for a violation of this section, the court*
19 *shall, in addition to any other penalty or restitution, order the*
20 *defendant to pay restitution to the victim based upon the greater*
21 *of the following:*

22 *(1) The gross value of the victim’s labor or services based*
23 *upon the comparable value of similar services in the labor*
24 *market in which the offense occurred.*

25 *(2) The value of the victim’s labor as guaranteed under*
26 *California law.*

27 *(3) The actual income derived by the defendant from the*
28 *victim’s labor or services.*

29 *(e) Any restitution order issued pursuant to subdivision (d)*
30 *shall be enforceable as if the order were a civil judgment.*

31 *(f) (1) For purposes of this section, unlawful deprivation or*
32 *violation of the personal liberty of another includes substantial*
33 *and sustained restriction of another’s liberty accomplished*
34 *through fraud, deceit, coercion, violence, duress, menace, or*
35 *threat of unlawful injury to the victim or to another person,*
36 *under circumstances where the person receiving or*
37 *apprehending the threat reasonably believes that it is likely that*
38 *the person making the threat would carry it out.*

1 (2) Duress includes knowingly destroying, concealing,
2 removing, confiscating or possessing any actual or purported
3 passport or immigration document of the victim.

4 (g) For purposes of this section, “forced labor or services”
5 means labor or services that are performed or provided by a
6 person and are obtained or maintained through force, fraud, or
7 coercion, or equivalent conduct that would reasonably overbear
8 the will of the person.

9 (h) The Legislature finds that the definition of human
10 trafficking in this section is equivalent to the definition of a
11 pursuant to Section 236.1 meet the federal definition of a severe
12 form of trafficking found in Section 7102(8) of Title 22 of the
13 United States Code.

14 SEC. 8. Section 236.2 is added to the Penal Code, to read:

15 236.2. (a) Within 15 business days of the first encounter of a
16 victim of human trafficking, victim pursuant to Section 236.1, law
17 enforcement agencies shall provide brief letters that satisfy the
18 following Law Enforcement Agency Endorsement (LEA)
19 regulations as found in Section 214.11 (f)(1) of Chapter 8 of the
20 Code of Federal Regulations.

21 (b) The LEA must be submitted on Supplement B, Declaration
22 of Law Enforcement Officer for Victim of Trafficking in Persons,
23 of Form I-914. The LEA endorsement must be filled out
24 completely in accordance with the instructions contained on the
25 form and must attach the results of any name or database inquiry
26 performed. In order to provide persuasive evidence, the LEA
27 endorsement must contain a description of the victimization upon
28 which the application is based, including the dates the trafficking
29 in persons and victimization occurred, and be signed by a
30 supervising official responsible for the investigation or
31 prosecution of trafficking in persons. The LEA endorsement must
32 address whether the victim had been recruited, harbored,
33 transported, provided, or obtained specifically for either labor or
34 services, or for the purposes of a commercial sex act.

35 (c) Where state law enforcement agencies find the grant of an
36 a LEA endorsement to be inappropriate for a victim of trafficking
37 in persons, the agency shall within 15 days provide the victim
38 with a letter explaining the grounds of the denial of the LEA. The
39 victim may submit additional evidence to the law enforcement

1 *agency, which must reconsider the denial of the LEA within one*
2 *week of the receipt of additional evidence.*

3 ~~SEC. 10.—~~

4 *SEC. 9.* Section 273.7 of the Penal Code is amended to read:

5 273.7. (a) Any person who maliciously publishes,
6 disseminates, or otherwise discloses the location of any
7 trafficking shelter or domestic violence shelter or any place
8 designated as a trafficking shelter or domestic violence shelter,
9 without the authorization of that trafficking shelter or domestic
10 violence shelter, is guilty of a misdemeanor.

11 (b) (1) For purposes of this section, “domestic violence
12 shelter” means a confidential location which provides emergency
13 housing on a 24-hour basis for victims of sexual assault, spousal
14 abuse, or both, and their families.

15 (2) Sexual assault, spousal abuse, or both, includes but is not
16 limited to, those crimes described in Sections 240, 242, 243.4,
17 261, 261.5, 262, 264.1, 266, 266a, 266b, 266c, 266f, 273.5,
18 273.6, 285, 288, and 289.

19 (c) Nothing in this section shall apply to confidential
20 communications between an attorney and his or her client.

21 ~~SEC. 11.—~~

22 *SEC. 10.* Section 13823.18 is added to the Penal Code, to
23 read:

24 13823.18. There is hereby created an antitrafficking advisory
25 task force that shall assist the Legislature with guiding and
26 coordinating antitrafficking efforts.

27 (a) The task force shall be chaired and convened by a designee
28 of the Attorney General.

29 (b) The members of the task force shall serve at the pleasure of
30 their respective appointing authority, without compensation,
31 except for reimbursement of necessary expenses.

32 (c) The task force shall be composed of the following
33 representatives:

34 (1) One representative of the State Department of Social
35 Services.

36 (2) One representative of the State Department of Health
37 Services.

38 (3) Two representatives of local law enforcement, one selected
39 by the California State Sheriffs’ Association and one selected by
40 the California Police Chiefs’ Association.

1 (4) One representative of the Judicial Council.

2 ~~(5) Two representatives of the State Bar of California, one of~~
3 ~~whom practices criminal defense and one of whom represents~~
4 ~~person in immigration proceedings.~~

5 *(5) One representative of the State Bar of California who*
6 *represents persons in immigration proceedings.*

7 (6) One representative of the California District ~~Attorney's~~
8 *Attorneys' Association*, and one representative of a city attorney;
9 appointed by California League of Cities.

10 (7) Two representatives of a recognized organization involved
11 in immigrant ~~worker's~~ *workers'* rights, civil liberties advocacy,
12 or legal aid, one of whom is appointed by the Speaker of the
13 Assembly and one of whom is appointed by the Senate
14 Committee on Rules.

15 (8) Three representatives of organizations with experience and
16 expertise in serving survivors of human trafficking, at least one
17 of whom shall be located in northern California, and one of
18 whom shall be located in southern California, selected by the
19 California Anti-Trafficking Initiative.

20 (9) Two members of the public appointed by the Governor, at
21 least one of whom shall be a survivor of human trafficking.

22 (10) One representative of the medical profession with
23 expertise in mental health services and experience working with
24 immigrant and refugee populations, selected by a majority of the
25 task force.

26 (11) One representative of higher education with research
27 experience on forced labor and human trafficking, selected by a
28 majority of the task force.

29 *(12) One criminal defense practitioner, designated by the*
30 *California Public Defenders Association.*

31 (d) The task force shall, at a minimum, do all of the following:

32 (1) Make recommendations for improving the public's
33 awareness and understanding of trafficking victims.

34 (2) Implement an independent, comprehensive study on the
35 prevalence of trafficking in the state.

36 (3) Conduct public hearings on the issue of trafficking.

37 (4) Evaluate proposed antitrafficking legislation.

38 (5) Create working protocols for collaborative work between
39 government and nongovernment organizations.

1 (6) Review statewide implementation of state and federal
2 antitrafficking laws and make recommendations to the
3 Legislature for improving laws, regulations, and social services
4 for trafficking victims.

5 (7) Create a subcommittee on shelters to conduct an
6 assessment of existing shelters that meet the unique needs of
7 trafficking survivors, and make recommendations on ways to
8 increase the capacity of trafficking shelters and shelter programs
9 specifically designed for trafficking survivors.

10 ~~(d)~~

11 (e) The Department of Justice shall provide staff and support
12 for the task force.

13 ~~(e)~~

14 (f) The task force shall meet at least once every three months.
15 Subcommittees may be formed and meet as necessary. All
16 meetings shall be open to the public.

17 ~~(f)~~

18 (g) On or before July 1, 2007, the task force shall report its
19 findings and recommendations to the Governor, the Attorney
20 General, the Speaker of the Assembly, and the Senate Committee
21 on Rules. At the request of any member, the report may include
22 minority findings and recommendations.

23 ~~(g)~~

24 (h) This section shall become inoperative on July 1, 2007, and
25 is repealed as of January 1, ~~2007~~ 2008, unless a later enacted
26 statute, that becomes operative before January 1, ~~2007~~ 2008,
27 deletes or extends that date.

28 ~~SEC. 12.—~~

29 *SEC. 11.* Section 14023 of the Penal Code is amended to
30 read:

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

37 ~~SEC. 12.5.—~~

38 *SEC. 12.* Nothing in this act shall be construed as prohibiting
39 or precluding prosecution under any other provision of law or to
40 prevent punishment pursuant to any other provision of law that

1 imposes a greater or more severe punishment ~~that~~ *than* provided
2 for in this act.

3 SEC. 13. No reimbursement is required by this act pursuant
4 to Section 6 of Article XIII B of the California Constitution for
5 certain costs that may be incurred by a local agency or school
6 district because, in that regard, this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.

12 However, if the Commission on State Mandates determines
13 that this act contains other costs mandated by the state,
14 reimbursement to local agencies and school districts for those
15 costs shall be made pursuant to Part 7 (commencing with Section
16 17500) of Division 4 of Title 2 of the Government Code.

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CORRECTIONS:
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