

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1002

Introduced by Assembly Members Fong and Ma

February 27, 2009

An act to amend Section ~~236.1~~ of 186.8 of, and to add Section 236.4 to, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 1002, as amended, Fong. Human trafficking.

Existing law establishes the offense of human trafficking. *Existing law also authorizes the forfeiture of property in connection with human trafficking offenses, and the distribution of the proceeds of those forfeitures to, among others, various state and local entities, as specified.*

This bill would create the Human Trafficking Trust Fund, and provide that forfeiture proceeds from human trafficking would be deposited in that fund, for use, upon appropriation by the Legislature, for the purpose of funding services for the victims of human trafficking, and for providing training to law enforcement and prosecutorial personnel to help combat human trafficking.

~~This bill would make a technical, nonsubstantive change to those provisions:~~

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

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

1 SECTION 1. Section 186.8 of the Penal Code is amended to
2 read:

1 186.8. Notwithstanding that no response or claim has been
2 filed pursuant to Section 186.5, in all cases where property is
3 forfeited pursuant to this chapter and, if necessary, sold by the
4 Department of General Services or local governmental entity, the
5 money forfeited or the proceeds of sale shall be distributed by the
6 state or local governmental entity as follows:

7 (a) To the bona fide or innocent purchaser, conditional sales
8 vendor, or holder of a valid lien, mortgage, or security interest, if
9 any, up to the amount of his or her interest in the property or
10 proceeds, when the court declaring the forfeiture orders a
11 distribution to that person. The court shall endeavor to discover
12 all those lienholders and protect their interests and may, at its
13 discretion, order the proceeds placed in escrow for up to an
14 additional 60 days to ensure that all valid claims are received and
15 processed.

16 (b) To the Department of General Services or local governmental
17 entity for all expenditures made or incurred by it in connection
18 with the sale of the property, including expenditures for any
19 necessary repairs, storage, or transportation of any property seized
20 under this chapter.

21 (c) To the general fund of the state or local governmental entity,
22 whichever prosecutes.

23 (d) In any case involving a violation of subdivision (b) of
24 Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution
25 of the proceeds provided for by subdivisions (b) and (c), the
26 proceeds shall be deposited in the county children's trust fund,
27 established pursuant to Section 18966 of the Welfare and
28 Institutions Code, of the county that filed the petition of forfeiture.
29 If the county does not have a children's trust fund, the funds shall
30 be deposited in the State Children's Trust Fund, established
31 pursuant to Section 18969 of the Welfare and Institutions Code.

32 (e) *In any case involving a violation of Section 236.1, in lieu of*
33 *the distribution of the proceeds provided for by subdivisions (b)*
34 *and (c), the proceeds shall be deposited in the Human Trafficking*
35 *Trust Fund, established pursuant to Section 236.4.*

36 (e)

37 (f) In any case involving crimes against the state beverage
38 container recycling program, in lieu of the distribution of proceeds
39 provided in subdivision (c), the proceeds shall be deposited in the
40 penalty account established pursuant to subdivision (d) of Section

1 14580 of the Public Resources Code, except that a portion of the
2 proceeds equivalent to the cost of prosecution in the case shall be
3 distributed to the local prosecuting entity that filed the petition of
4 forfeiture.

5 *SEC. 2. Section 236.4 is added to the Penal Code, to read:*

6 *236.4. (a) The Human Trafficking Trust Fund is hereby*
7 *established within the General Fund, to be funded pursuant to*
8 *subdivision (e) of Section 186.8, for the purpose of funding services*
9 *for the victims of human trafficking as defined in Section 236.1,*
10 *and for providing training to appropriate personnel to help combat*
11 *human trafficking.*

12 *(b) Upon appropriation by the Legislature, 90 percent of the*
13 *funds deposited in the Human Trafficking Trust Fund shall be*
14 *distributed to nongovernmental nonprofit entities providing direct*
15 *services to the victims of human trafficking. Services eligible for*
16 *this funding shall include, but not be limited to, housing and*
17 *medical care, legal assistance, job training, case management,*
18 *mental health services, education and life skills training, and travel*
19 *expenses. Upon appropriation by the Legislature, 10 percent of*
20 *these funds shall be distributed to a combination of*
21 *nongovernmental nonprofit entities, law enforcement agencies,*
22 *and prosecutors for purposes of training law enforcement*
23 *personnel and prosecutors regarding human trafficking and the*
24 *laws pertaining to combating and prosecuting human trafficking.*

25 ~~SECTION 1. Section 236.1 of the Penal Code is amended to~~
26 ~~read:~~

27 ~~236.1. (a) Every person who deprives or violates the personal~~
28 ~~liberty of another with the intent to effect or maintain a felony~~
29 ~~violation of Section 266, 266h, 266i, 267, 311.4, or 518, or to~~
30 ~~obtain forced labor or services, is guilty of human trafficking.~~

31 ~~(b) Except as provided in subdivision (c), a violation of this~~
32 ~~section is punishable by imprisonment in the state prison for three,~~
33 ~~four, or five years.~~

34 ~~(c) A violation of this section where the victim of the trafficking~~
35 ~~was under 18 years of age at the time of the commission of the~~
36 ~~offense is punishable by imprisonment in the state prison for four,~~
37 ~~six, or eight years.~~

38 ~~(d) (1) For purposes of this section, unlawful deprivation or~~
39 ~~violation of the personal liberty of another includes substantial~~
40 ~~and sustained restriction of another's liberty accomplished through~~

1 ~~fraud, deceit, coercion, violence, duress, menace, or threat of~~
2 ~~unlawful injury to the victim or to another person, under~~
3 ~~circumstances where the person receiving or apprehending the~~
4 ~~threat reasonably believes that it is likely that the person making~~
5 ~~the threat would carry it out.~~

6 ~~(2) Duress includes knowingly destroying, concealing,~~
7 ~~removing, confiscating, or possessing any actual or purported~~
8 ~~passport or immigration document of the victim.~~

9 ~~(e) For purposes of this section, “forced labor or services” means~~
10 ~~labor or services that are performed or provided by a person and~~
11 ~~are obtained or maintained through force, fraud, or coercion, or~~
12 ~~equivalent conduct that would reasonably overbear the will of the~~
13 ~~person.~~

14 ~~(f) The Legislature finds that the definition of human trafficking~~
15 ~~in this section is equivalent to the federal definition of a severe~~
16 ~~form of trafficking found in Section 7102(8) of Title 22 of the~~
17 ~~United States Code.~~