

ASSEMBLY BILL

No. 2319

Introduced by Assembly Member Swanson

February 19, 2010

An act to amend Section 236.1 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 2319, as introduced, Swanson. Human trafficking: minors.

Existing law provides that any person who deprives or violates the personal liberty of another with the intent to effect or maintain certain felonies, or to obtain forced labor or services, is guilty of human trafficking.

This bill would provide in addition that depriving or violating a person's liberty with the intent to effect or maintain the provision of a person under the age of 16 to another person for the purpose of any lewd or lascivious act, or the procurement of minors in the preparation of material depicting sexual conduct by a minor, constitutes human trafficking.

This bill would also expand the scope of the offense of human trafficking to provide that any person who causes, induces, or persuades a person under 18 years of age to engage in a commercial sex act, as defined, with the intent to effect or maintain specified felonies, or who obtains forced labor or services from a minor, is guilty of human trafficking.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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. Section 236.1 of the Penal Code is amended to
2 read:

3 236.1. (a) ~~Any~~(1) *Except as provided in paragraph (2), any*
4 *person who deprives or violates the personal liberty of another*
5 *with the intent to effect or maintain a felony violation of Section*
6 *266, 266h, 266i, 266j, 267, 311.3, 311.4, or 518, or to obtain forced*
7 *labor or services, is guilty of human trafficking.*

8 (2) *Any person who causes, induces, encourages, or persuades*
9 *a person under 18 years of age to engage in a commercial sex act,*
10 *as defined in paragraph (3), with the intent to effect or maintain*
11 *a felony violation of Section 266, 266h, 266i, 266j, 267, 311.3,*
12 *311.4, or 518, or who obtains forced labor or services from a*
13 *minor, is guilty of human trafficking.*

14 (3) *“Commercial sex act” means any sexual conduct, as*
15 *specified in subdivision (a) of Section 288, subdivision (b) of*
16 *Section 311.3, or subdivision (a) or (b) of Section 647, on account*
17 *of which anything of value is given or received by any person.*

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

21 (c) A violation of this section where the victim of the trafficking
22 was under 18 years of age at the time of the commission of the
23 offense is punishable by imprisonment in the state prison for four,
24 six, or eight years.

25 (d) (1) For purposes of this section, unlawful deprivation or
26 violation of the personal liberty of another includes substantial
27 and sustained restriction of another’s liberty accomplished through
28 fraud, deceit, coercion, violence, duress, menace, or threat of
29 unlawful injury to the victim or to another person, under
30 circumstances where the person receiving or apprehending the

1 threat reasonably believes that it is likely that the person making
2 the threat would carry it out.

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

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

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

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.