
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 229 **Hearing Date:** June 20, 2017
Author: Baker
Version: January 26, 2017
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Human Trafficking: Vertical Prosecution Program*

HISTORY

Source: Alameda County District Attorney's Office

Prior Legislation: AB 2202 (Baker), failed Assembly Appropriations, 2016
AB 1731 (Atkins), failed Senate Appropriations, 2015
AB 1623 (Atkins), Ch. 85, Stats. 2014
SB 1279 (Pavley), Ch. 116, Stats. 2010
AB 499 (Swanson), Ch. 359, Stats. 2008
SB 180 (Kuehl), Chapter 239, Statutes of 2005
AB 22 (Lieber), Chapter 240, Statutes of 2005

Support: California Catholic Conference; California District Attorneys Association;
California Police Chiefs Association; City of Oakland; Crime Victims United of
California; GFWC Woman's Club of Cypress; San Diego District Attorney's
Office

Opposition: California Public Defenders Association; Department of Finance

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to require the Office of Emergency Services (Cal OES) to allocate funds for the purposes of establishing the Human Trafficking Prevention Vertical Prosecution Program.

Existing law states that the Cal OES exists within the Governor's office. (Gov. Code, § 8585, subd. (a).)

Existing law states that Cal OES shall be responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property. (Gov. Code, § 8585, subd. (e).)

Existing law specifies that during a state of emergency or a local emergency, the secretary shall coordinate the emergency activities of all state agencies in connection with that emergency, and

every state agency and officer shall cooperate with the secretary in rendering all possible assistance in carrying out the provisions of this chapter. (Gov. Code, § 8587, subd. (a).)

Existing law specifies that in addition to the powers designated in this section, the Governor may delegate any of the powers vested in him or her under this chapter to the secretary except the power to make, amend, and rescind orders and regulations, and the power to proclaim a state of emergency. (Gov. Code, § 8587, subd. (b).)

This bill establishes within Cal OES a program of financial and technical assistance for county district attorney offices for the prosecution of human trafficking crimes.

This bill requires Cal OES to allocate and award funds to up to 11 district attorney offices that employ a vertical prosecution methodology for the prosecution of human trafficking crimes.

This bill requires each county selected for funding to meet all of the following minimum requirements:

- Employ a vertical prosecution methodology for human trafficking crimes;
- Require that a county selected for funding dedicate at least one-half of the time of one deputy district attorney and one-half of the time of one district attorney investigator solely to the investigation and prosecution of human trafficking crime;
- Provide Cal OES with annual data on the number of human trafficking cases filed by that county, the number of human trafficking convictions obtained, and the sentences imposed for those convicted of human trafficking in that county;
- Enter into an agreement, either by contract or by a memorandum of understanding, with an advocacy agency funded by Cal OES that provides services, counseling, or both, to victims of human trafficking in order to ensure that victims and witnesses of human trafficking, as appropriate, receive services; and,
- Funding received by district attorney offices pursuant to this program shall be used to supplement, and not supplant, existing financial resources.

This bill requires Cal OES, on or before January 1, 2020, to submit to the Legislature and the Governor's Office a report that describes the counties that received funding pursuant to this program, the number of prosecutions for human trafficking cases filed by the counties receiving funding, the number of human trafficking convictions obtained by those counties, and the sentences imposed for human trafficking crimes in those counties.

This bill appropriates two million six hundred thousand dollars (\$2,600,000) from the General Fund to Cal OES for the purpose of funding the Human Trafficking Prevention Vertical Prosecution Program.

This bill includes a sunset date of January 1, 2022.

COMMENTS

1. Need for This Bill

According to the author:

Human trafficking is a form of modern day slavery, one that involves the use of force, fraud, or coercion to recruit, harbor, transport, provide, or obtain a person for the purposes of labor or sexual exploitation. Approximately 14,000 to 17,000 victims are trafficked into the United States annually. Between 2010 and 2012, California's nine regional human trafficking task forces identified 1,277 victims, initiated 2,552 investigations, arrested 1,798 individuals, and provided critical training to more than 25,000 law enforcement, personnel, prosecutors, victim service providers, and first responders.

Vertical prosecution teams are the most effective in prosecuting human trafficking. Vertical prosecution units generally involve one or more staff attorneys who handle a specific type of case, here, human trafficking, from arraignment to conviction, rather than different attorneys handling different stages of prosecution. This means district attorneys (DA's) are able to specialize in the uniquely challenging features of prosecuting human trafficking. It also means the victim, who is already facing a difficult and emotional process, does not have to develop a new relationship with a new prosecutor at each stage of the case. Vertical prosecution units also work closely with law enforcement during investigations. This is a method that is often employed in human trafficking cases because it allows the prosecution team to give valuable feedback on the key evidence that law enforcement should seek to collect, and facilitates the victims' sustained participation in cases that are otherwise already difficult to prosecute.

2. Department of Justice's Report on Human Trafficking in California

According to the California Department of Justice (DOJ), human trafficking is the world's fastest growing criminal enterprise and is an estimated \$32 billion-a-year global industry. In their 2012 report, "*The State of Human Trafficking in California*," DOJ states from mid-2010 to mid-2012, California's nine regional human trafficking task forces identified 1,277 victims, initiated 2,552 investigations, and arrested 1,798 individuals. The public perception is that human trafficking victims are from other countries, but data from California's task forces indicate that the vast majority are American—72% of human trafficking victims whose country of origin was identified were U.S. residents. The report also states that labor trafficking are under-reported and under-investigated as compared to sex trafficking—56% of victims who received services through California's task forces were identified as sex trafficking victims. Yet, data from other sources indicate that labor trafficking is 3.5 times as prevalent as sex trafficking worldwide.

The report also identifies ways to combat human trafficking and opportunities in protecting and assisting victims and bringing traffickers to justice. Specifically, the report states that a vertical prosecution model run outside routine vice operations can help law enforcement better protect victims and improve prosecutions.

3. Former Governor's Office of Criminal Justice Planning and Cal OES

The former Governor's Office of Criminal Justice Planning (OCJP) was established in 1968 to provide funding for criminal justice and victim assistance programs. OCJP was abolished in the 2003-2004 State Budget on December 31, 2003. All of the programs, with the exception of those in the Juvenile Justice Delinquency Prevention Branch (which transferred to the California Department of Corrections and Rehabilitation), were incorporated into Cal OES. Many of these programs include criminal justice and victim service grant programs administered by Cal OES. Programs include:

- *Violence Against Women Vertical Prosecution Program (VV Program)* - The VV Program is designed to improve the criminal justice system's response to violent crimes against women through a coordinated multidisciplinary response. This is achieved through the creation or enhancement of a specialized unit, which focuses on the vertical prosecution of the defendant and services for the victim(s);
- *Unserved/Underserved Victim Advocacy and Outreach Program (UV Program)* - The primary purpose of the UV Program is to focus on service delivery to victims of violent crime within unserved/underserved and socially isolated populations. In addition, it is designed to promote awareness and to improve knowledge about accessing local services available to crime victims; and
- *Human Trafficking Advocate Program (HA Program)* – The HA Program provides funding to 10 Victim/Witness Assistance Centers to provide additional support, such as, hiring additional staff, identifying additional human trafficking victims, and providing comprehensive services to victims of human trafficking.

4. Federal Grant Money to Combat Human Trafficking

On September 24, 2015, U.S. Attorney General Loretta Lynch announced \$44 million in grant money to combat human trafficking and support survivors. The grants will be administered by the Office of Justice Programs' Bureau of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention, the Office of Victims of Crime and the National Institute of Justice. The grants are intended to fund efforts across the country to fight human trafficking, to provide services for survivors and to expand research going forward. More than \$22.7 million to support 16 anti-human trafficking task forces across the country. Within each task force location, the office of Justice Programs' Bureau of Justice Assistance, will make one award to a lead law enforcement agency and Office for Victims of Crime will make one to the lead victim service provider. The grantees will work collaboratively with other key members of the taskforce, including the U.S. Attorney's Office, local prosecutor's office, federal, state and local law enforcement agencies and community and system-based providers. (See <https://www.justice.gov/opa/pr/attorney-general-lynch-announces-44-million-grant-funding-combat-human-trafficking-and>) [as of June 12, 2017].)

Of that grant money \$1.5 million is directed to the Los Angeles County Area. \$750,000 goes to Los Angeles County and \$750,000 goes to Coalition Against Slavery and Trafficking. \$1.4 million goes to the Riverside County Area. \$900,000 to Riverside County and \$500,000 to Operations SafeHouse. (See http://ojp.gov/newsroom/pdfs/HT_Full_Chart_V.3.pdf) [as of June 12, 2017].)

4. Vertical Prosecution

“Vertical Prosecution” refers to a method in which a prosecutor is assigned to the case from the initial point of referral to the completion of the prosecution. Many argue this method of prosecution results in continuity and improved prosecution success, as well as benefits for crime victims, such as allowing prosecutors to build a rapport with victims by remaining with the case from intake to sentencing, which ensures that victims do not have to tell their story repeatedly to prosecutors at various stages of the case. The prosecutor may develop ongoing relationships with community organizations and be able to connect victims to appropriate resources.

5. Argument in Support

According to the California Police Chiefs Association:

Vertical prosecution teams have been shown to be effective in prosecuting human trafficking. Vertical prosecution units generally involve one or more staff attorneys who handle a specific type of case from arraignment to conviction, rather than different attorneys handling different stages of prosecution. This means District Attorneys are able to specialize in the uniquely challenging features of prosecuting human trafficking. It also means the victim, who is already facing a difficult and emotional process, does not have to develop a new relationship with a new prosecutor at each stage of the case. Vertical prosecution units also work closely with law enforcement during investigations. This is a method that is often employed in human trafficking cases because it allows the prosecution team to give valuable feedback on the key evidence that law enforcement should seek to collect, and facilitates the victims’ sustained participation in cases that are otherwise already difficult to prosecute.

Increasing funding to supplement current vertical prosecution programs in California will provide valuable resources to these programs and help further efforts to prosecute and convict human traffickers.

6. Arguments in Opposition

The Department of Finance writes in opposition to this bill:

The Department of Finance is opposed to this bill because it would appropriate General Fund dollars outside of the budget process, resulting in additional General Fund costs that are not included in the Administration’s fiscal plan. Finance believes that the budget process is the appropriate forum for a proposal of this kind.

According to the California Public Defenders Association:

The prosecution for human trafficking is already taking place in counties throughout the state. The manner in which individual prosecutor offices manage their resources for such prosecutions is based upon crime rates for such offenses in their communities. If prosecutor offices are entitled to additional state funded resources for such prosecutions as opposed to other types of crimes, for example

murder, rape, robbery or domestic violence without conferring an equal enhancement of funding and an equal creation of attorney positions in county Public Defender offices for the representation of defendants who will be charged for such offenses, then those presumed innocent defendants will be at an extreme constitutional disadvantage. The risk involved in convicting innocent people in such circumstances by over matched and over funded prosecutor offices in light of the already strapped and limited resources of indigent defendants in criminal cases cannot be overlooked.

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