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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 2419                      **Hearing Date:** July 2, 2024  
**Author:** Gipson  
**Version:** June 13, 2024  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** SC

**Subject:** *Search warrants: child prostitution*

## HISTORY

**Source:** Author

**Prior Legislation:** SB 64 (Umberg), held Sen. Approps., 2023  
AB 1638 (Oberholte), Ch., Stats. 2019  
AB 539 (Acosta), Ch. 342, Stats. 2017  
AB 1924 (Low), Ch. 511, Stats. 2016  
SB 178 (Leno), Ch. 651, Stats. 2015  
AB 929 (Chau), Ch. 204, Stats. 2015  
AB 539 (Levine), Ch. 118, Stats. 2015  
AB 1104 (Rodriguez), Ch. 124, Stats. 2015

**Support:** Brentwood Community Council – West Los Angeles; Peace Officers Research Association of California; Sacramento County Sheriff Jim Cooper

**Opposition:** All of Us or None Los Angeles; Californians United for a Responsible Budget; Legal Services for Prisoners with Children

**Assembly Floor Vote:** 57 - 0

## PURPOSE

***The purpose of this bill is to specify that a search warrant may be issued on the grounds that the property or things to be seized consists of evidence in furtherance of sex trafficking of a person under 18 years of age.***

*Existing law provides*, pursuant to the U.S. Constitution, that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched an the persons or things to be seized.” (U.S. Const., Fourth Amend; see also Cal. Const. art. 1, Sec. 13.)

*Existing law provides*, pursuant to the California Constitution, that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. (Cal. Const., art. I, § 13.)

*Existing law* governs search warrants, including the grounds upon which a search warrant may be issued. (Pen. Code, § 1523 et seq.)

*Existing law* defines a “search warrant” as a written order in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

*Existing law* authorizes a search warrant to be issued upon any of the following grounds:

- 1) When the property was stolen or embezzled.
- 2) When the property or things were used as the means of committing a felony.
- 3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- 4) When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- 5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, or possession of matter depicting sexual conduct of a person under the age of 18 years, has occurred or is occurring.
- 6) When there is a warrant to arrest a person.
- 7) When a provider of electronic communication service or remote computing service has records or evidence, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- 8) When a provider of electronic communication service or remote computing service has records or evidence showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- 9) When the property or things to be seized include an item or any evidence that tends to show a violation of the Labor Code, as specified.
- 10) When the property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault.

- 11) When the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.
- 12) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms under specified provisions of the Family Code.
- 13) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony or a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code.
- 14) When a sample of the blood of a person constitutes evidence that tends to show a violation of misdemeanor driving under the influence and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test.
- 15) When the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order. This final provision does not go into effect until January 1, 2016;
- 16) When the property or things to be seized are controlled substances or a device, contrivance, instrument or paraphernalia used for unlawfully administering a controlled substance as provided.
- 17) When the warrant is for a blood sample of a person that tends to show a violations related to the operation of a vessel, or manipulating water skis, an aquaplane, or a similar device, while under the influence of alcohol or drugs.
- 18) When the property or things to be seized consist of evidence that tends to show that a violation of the crime of disorderly conduct related to invasion of privacy has occurred or is occurring.
- 19) When the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury to any person.
- 20) When the property or things to be seized consists of evidence that tends to show unlawful photographing of a deceased person by a first responder has occurred or is occurring. (Pen. Code, § 1524, subd. (a).)

*Existing law* provides that a search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. (Pen. Code, § 1525.)

*Existing law* requires a magistrate to issue a search warrant if he or she is satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence. (Pen. Code, § 1528, subd. (a).)

*Existing law* states that a person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of the commission of the offense to engage in a commercial sex act, with the intent to effect or maintain specified sex crimes is guilty of human trafficking. (Pen. Code, § 236.1, subd. (c).)

*This bill* authorizes a search warrant to be issued when the property or things to be seized consists of evidence in furtherance of sex trafficking of a person under 18 years of age in violation of Penal Code section 236.1, subd. (c).

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

Search warrants are an essential tool for the reduction of crime and safety of our communities, specifically in the ones I represent. By adding this tool to help locate possible trafficking or solicitation of a minor will create an avenue towards combatting the entire ring of human trafficking. AB 2419 is essential towards combatting human trafficking and establishing safer communities.

### 2. Fourth Amendment and Search Warrant Requirements

Both the United States and the California Constitutions guarantee the right of all persons to be secure from unreasonable searches and seizures. (U.S. Const., amend. IV; Cal. Const., art. 1, sec. 13.) This protection applies to all unreasonable government intrusions into legitimate expectations of privacy. (*United States v. Chadwick* (1977) 433 U.S. 1, 7, overruled on other grounds by *California v. Acevedo* (1991) 500 U.S. 565.) In general, a search is not valid unless it is conducted pursuant to a warrant. A search warrant may not be issued without probable cause. "Reasonable and probable cause exists if a man of ordinary care and prudence would be led to conscientiously entertain an honest and strong suspicion that the accused is guilty." (*People v. Alvarado* (1967) 250 Cal.App.2d 584, 591.) The mere reasonableness of a search, assessed in light of the surrounding circumstances, is not a substitute for the warrant required by the Constitution. (*Arkansas v. Sanders* (1979) 442 U.S. 753, 758, overruled on other grounds by *California v. Acevedo*, supra.) There are exceptions to the warrant requirement, but the burden of establishing an exception is on the party seeking one. (*Arkansas v. Sanders* (1979) 442 U.S. 753, 760, overruled on other grounds by *California v. Acevedo*, supra.)

Penal Code section 1524 provides the statutory grounds for the issuance of warrants. Under these provisions, a search warrant may be issued for a variety of reasons, some being as broad as "[w]hen property or things were used as the means to commit a felony." (Pen. Code, § 1524, subd. (a)(2).) There are 20 specified grounds upon which a warrant may be issued under that section.

This bill would specify that a search warrant may be issued when the property or things to be searched and seized consists of evidence of sex trafficking of a person under 18 years of age in violation of subdivision (c) of Penal Code section 236.1. This would be added to the existing provision authorizing a search warrant for evidence that tends to show that sexual exploitation of a child, or possession of child pornography, as specified. (Pen. Code, § 1524, subd. (a)(5).) Under existing law, human trafficking is a felony—whether the victim is a minor or not. (Pen. Code, § 236.1.) Additionally, existing law allows a judge to issue an ex parte order for a wiretap if there is probable cause to believe that an individual has committed, is committing, or is going to commit human trafficking. (Pen. Code, § 629.52, subd. (a)(5).)

### 3. Human Trafficking

According to the California Department of Justice:

Human trafficking is among the world's fastest growing criminal enterprises and is estimated to be a \$150 billion-a-year global industry. It is a form of modern day slavery that profits from the exploitation of our most vulnerable populations. One common misperception is that human trafficking requires movement across borders. In reality, it involves controlling a person or group through force, fraud, or coercion to exploit the victims for forced labor, sexual exploitation, or both. This can occur entirely within a single country or it can cross borders. Human trafficking strips victims of their freedom and violates our nation's promise that every person in the United States is guaranteed basic human rights. It is also a crime. Attorney General's Office is focused on combating the pervasive issue of human trafficking in California and has made it one of his top priorities.

The International Labor Organization estimates that there are more than 24.9 million human trafficking victims worldwide at any time. This includes 16 million victims of labor exploitation, 4.8 million victims of sexual exploitation, and 4.1 million victims of state imposed forced labor. The victims of human trafficking are often young girls and women. Young girls and women are 57.6% of forced labor victims and 99.4% of sex trafficking victims.

(California Department of Justice, *Human Trafficking* <https://oag.ca.gov/human-trafficking> [as of June 24, 2024].)

Data on human trafficking and how it is handled is limited. According to the Public Policy Institute of California (PPIC):

Understanding the extent of human trafficking is challenging for several reasons. Trafficking typically happens through clandestine networks. Individuals, families, and businesses who enslave others often seem legitimate. People who experience trafficking are often among the most socially and economically vulnerable. Even if they have opportunities to report their situation, they may not for fear of retaliation.

The United States operates a national hotline through which people can report suspected trafficking or seek help. The hotline publishes data on human trafficking cases and trafficked people that have been identified from hotline reports.

Hotline data spanning 2015 through 2021 indicate that the reported number of people experiencing trafficking nationwide rose from 12,000 in 2015 to more than 22,200 in 2019 and then fell to 16,700 in 2021. In California, these numbers peaked a year earlier and more modestly, so that California now accounts for smaller shares of trafficking cases and trafficked people. In 2015, 18% of trafficking cases and 15% of trafficked people were in California. By 2021, 13% of both cases and people were in California.

(PPIC Blog Post, Human Trafficking in California (Feb. 2023)

<https://www.ppic.org/blog/human-trafficking-in-california/> [as of June 24, 2024].)

**-- END --**