
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 1820 **Hearing Date:** June 28, 2022
Author: Arambula
Version: June 21, 2022
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Division of Labor Standards Enforcement: Labor Trafficking Unit*

HISTORY

Source: Loyola Law School, Sunita Jain Anti-Trafficking Policy Initiative;
Western Center on Law & Poverty

Prior Legislation: None

Support: AFSCME; California Catholic Conference; Little Hoover Commission; National Association of Social Workers, California Chapter

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to establish the Labor Trafficking Unit (LTU) within the Division of Labor Standards Enforcement to receive and investigate complaints alleging labor trafficking and refer them for criminal prosecution by the Department of Justice or for civil action by the Department of Fair Employment and Housing.

Existing law provides that any person who deprives or violates the personal liberty of another with the intent to effect or maintain specified felony prostitution-related offenses or obtain forced labor or services is guilty of human trafficking. (Penal Code § 236.1)

Existing law provides that a victim of human trafficking may bring a civil action for damages, compensatory damages, punitive damages, injunctive relief, and combination thereof, or any other appropriate relief. (Civil Code § 52.5.)

Existing law provides that when the Attorney General deems it advisable or necessary in the public interest, or when directed to do so by the Governor, the Attorney General shall assist any district attorney in the discharge of the district attorney's duties, and may, if deemed necessary, take full charge of any investigation or prosecution of violations of law of which the superior court has jurisdiction. In this respect the Attorney General has all the powers of a district attorney. (Government Code § 12550)

Existing law authorizes the DFEH to receive, investigate, conciliate, mediate, and prosecute complaints alleging, and to bring civil actions for a violation of the crime of human trafficking, as specified. (Government Code §12930 (f)(3).)

Existing law establishes the Labor Enforcement Task Force (LETF) under the direction of Department of Industrial Relations (DIR) to enforce activities regarding labor, tax, and licensing law violators operating in the underground economy. (Unemployment Insurance Code, §329.)

This bill establishes the LTU and directs it to coordinate with the Labor Enforcement Task Force (LETF), the Criminal Investigation Unit, the Department of Justice (DOJ), and the Department of Fair Employment and Housing (DFEH) to combat labor trafficking.

This bill requires the LTU to receive and investigate complaints alleging labor trafficking, as well as take steps to prevent it.

This bill requires the LTU to coordinate with, or refer cases to, LETF or DEFH for potential civil actions relating to labor trafficking violations.

This bill requires the LTU to coordinate with, or refer cases to, DOJ for potential criminal prosecution related to labor trafficking violations. The unit may also coordinate with local law enforcement agencies or district attorney's offices when investigating criminal actions relating to labor trafficking.

This bill requires the LTU to follow protocols to ensure survivors are victimized by the process of prosecuting traffickers and are informed of services available to them. The unit may coordinate with both state and local agencies to connect survivors with services available.

This bill requires the Division of Occupational Safety and Health to notify the LTU when they find evidence of labor trafficking in the course of investigating businesses.

This bill requires, beginning January 1, 2025, and annually thereafter, LTU to submit a report to the Legislature that contains the following:

- a) The number of complaints or referrals received;
- b) The number and type of complaints or referrals investigated;
- c) The number of complaints referred to DEFH.
- d) The number of complaints to the DOJ;
- e) The number of referrals and coordinates with local law enforcement agencies and district attorney's offices; and,
- f) The outcome of each complaint.

This bill provides that the unit shall also include in each annual report a discussion of the major challenge to addressing labor trafficking complaints, the ongoing efforts to address those challenges, and options to improve the state's claim process.

This bill sunsets the reporting requirement on January 1, 2035.

COMMENTS

1. Need for This Bill

According to the author:

The International Labour 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 million victims of state imposed forced labor. The United State is believed to be among the most common destination countries for trafficking. It is estimated that in 2019, the US Department of Health and Human Services (HHS) grantees that support human trafficking victims reported 68% of clients served were victims of labor trafficking. California has the highest rates of human trafficking victims, according to Polaris hotline, with 63,380 total situations of human trafficking and approximately 12,918 victims were identified in California.

California first enacted anti-trafficking laws to support victims and increase penalties more than fifteen years ago, yet no state agency currently has a mandate to combat, prevent, and address labor trafficking. Two state agencies that do have jurisdiction to prosecute trafficking crimes are the Department of Justice (DOJ) and Department of Fair Employment and Housing (DFEH). Both DOJ and DFEH coordinate with DIR when encountering labor trafficking cases on an as needed basis. Despite this coordination, DIR does not have authority to investigate labor trafficking.

The Little Hoover Commission released several reports on labor trafficking investigating the state's efforts in details and held hearings on the findings. The Commission found that each year, hundreds of known labor trafficking survivors seek help in California. Cases that bring traffickers to justice remain rare. The Commission reports can be found on their website: [Human Trafficking: Coordinating a California Response | Little Hoover Commission](#)

AB 1820 (Arambula) creates a Labor Trafficking Unit within the Department of Industrial Relations as a subdivision of Division of Labor Standards Enforcement. AB 1820 grants the Labor Trafficking Unit authority to receive and investigate complaints alleging labor trafficking and take steps to prevent labor trafficking. It also requires the Unit to coordinate with or refer cases to other state entities.

The Unit's responsibilities will be:

To coordinate with or refer cases to the Labor Enforcement Task Force or the Department of Fair Employment and Housing for civil actions;

To coordinate with or refer cases to DOJ for potential criminal actions relating to labor trafficking;

Prevent labor trafficking through coordination with current systems to identify opportunities for early identification of trafficking victims.

Provide support and inform victims of labor trafficking of the services available to them.

AB 1820 also requires the Labor Trafficking Unit to report to the Legislature data on the status of labor trafficking cases received by the Unit.

2. Labor Trafficking

According to the Attorney General’s Website: “Labor trafficking involves the recruitment, harboring, or transportation of a person for labor services, through the use of force, fraud, or coercion. It is modern day slavery. Labor trafficking arises in many situations, including domestic servitude, restaurant work, janitorial work, factory work, migrant agricultural work, and construction. It is often marked by unsanitary and overcrowded living and working conditions, nominal or no pay for work that is done, debt bondage, and document servitude. It occurs in homes and workplaces, and is often perpetrated by traffickers who are the same cultural origin and ethnicity as the victims, which allows the traffickers to use class hierarchy and cultural power to ensure the compliance of their victims. Labor traffickers often tell their victims that they will not be believed if they go to the authorities, that they will be deported from the United States, and that they have nowhere to run. Traffickers teach their victims to trust no one but the traffickers, so victims are often suspicious of genuine offers to help; they often expect that they will have to give something in return.” (*What is Human Trafficking?*, California Attorney General. Available at: <https://oag.ca.gov/human-trafficking/what-is>.)

3. Little Hoover Commission Reports

In 2020 the Little Hoover Commission released three reports reviewing the state’s response to labor trafficking. The Commission noted that state efforts to combat human trafficking have focused mainly on sex trafficking. In the second report, *Labor Trafficking: Strategies to Uncover this Hidden Crime*, the Commission found that while several state agencies play a role in combatting human trafficking, there is no coordinated strategy to target the crime statewide. No state agency has a mandate to look for labor trafficking and government agencies are siloed. The Commission noted that while issues related to labor exploitation in California fall under the jurisdiction of the DIR, the agency does not proactively look for labor trafficking cases, in part because it does not have the authority to investigate labor trafficking cases. However, members of the Labor Enforcement Task Force – a multi-agency effort led by DIR to combat the underground economy – have observed signs of potential trafficking during inspections or received labor trafficking complaints and made nearly close to one dozen referrals of potential cases to the Department of Justice to investigate. (*Labor Trafficking: Strategies to Uncover this Hidden Crime*, Little Hoover Commission (Sept. 2020), at pp. 6-9. Available at: <https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/251/Report251.pdf>.)

Consistent with these recommendations, this bill would establish LTU to receive and investigate complaints alleging labor trafficking and subsequently refer them for criminal prosecution by the DOJ or for civil action by the DEFH.

4. Other Legislation

AB 2553 (Grayson) which is also scheduled to be heard at the same hearing as this bill, also is in response to one of the Little Hoover reports. It creates the California Multidisciplinary Alliance to Stop Trafficking.

5. Judiciary Committee

This bill was also referred to Judiciary Committee as a 3rd Committee but 3rd referrals are not being heard this year so the Judiciary Committee as submitted the following comment:

This bill does not appear to raise any issues of concern with respect to policy within the jurisdiction of the Senate Judiciary Committee. The proposed Labor Trafficking Unit should facilitate more effective enforcement of labor laws in California, which is to the benefit of both impacted workers and all employers whose competitive position in the marketplace is undermined by these abhorrent labor practices.

6. Argument in Support

The cosponsors Sunita Jain Anti-Trafficking Initiative (SJI) a project at Loyola Law School and Western Center on Law & Poverty state:

Human trafficking is the world's fastest-growing criminal enterprise and is an estimated to be a \$150 billion- annual global industry. On a global scale, the International Labour Organization estimates that of the 20.9 million forced laborers worldwide, 68 percent are victims of forced labor exploitation.

Unfortunately, COVID- 19 has worsened the current status quo. A State Department report underscored that COVID 19 increased the number of people at risk of human trafficking and highlighted "monumental" challenges laid bare by the pandemic, which "may be long lasting, requiring sustained collaboration among governments, civil society organizations, private sector leaders, survivor leaders, and other anti-trafficking actors to adjust and respond aptly to overcome these challenges."

California has the highest number of human trafficking cases in the nation reported to the National Human Trafficking Hotline. Despite its prevalence, human trafficking is a "hidden crime." Many victims do not self- identify or self-report, and many do not even recognize they are being trafficked. A report published by the Little Hoover Commission concluded that California's efforts to prevent labor trafficking are fragmented and a major issue is a lack of a directive to current state agencies to lead efforts to prevent labor trafficking and coordinate with other agencies such as California Department of Justice (DOJ) and Department of Fair Employment and Housing (DFEH)to stop trafficking before it starts.

AB 1820 (Arambula) - the California Labor Trafficking Prevention Act - seeks to protect California's most vulnerable workers from being taken advantage of by unscrupulous individuals and businesses who force them to work under duress with little to no pay. This bill will provide the Department of Industrial Relations (DIR) with statutory authority to investigate and prosecute claims of human labor trafficking and create a Labor Trafficking Unit to take necessary steps to properly prevent, investigate, and coordinate state efforts to put a stop to the abuses of workers.