
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 236 **Hearing Date:** March 28, 2023
Author: Jones
Version: January 24, 2023
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Human trafficking: vertical prosecution program*

HISTORY

Source: Author

Prior Legislation: AB 959 (Melendez), 2019-20 Leg. Sess., held in Assem. Approps.
AB 229 (Baker), 2017-18 Leg. Sess., held in Sen. Approps.
AB 2124 (Rubio), 2017-18 Leg. Sess., held in Sen. Approps.
AB 2202 (Baker), 2015-16 Leg. Sess., held in Assem. Approps.

Support: California District Attorneys Association

Opposition: None known

PURPOSE

The purpose of this bill is to require the Office of Emergency Services (CalOES), to the extent that funds are available for this purpose and until January 1, 2029, to allocate and award funds to district Attorney offices that employ a vertical prosecution methodology for human trafficking crimes, as specified.

Existing law states that the CalOES 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 states that the Director of Emergency Services shall, to the extent that funds are available for this purpose, allocate and award funds to up to 11 district attorney offices that apply for funding.

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;
- 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 crimes;
- Provide the office 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 a memorandum of understanding, with an advocacy agency funded by the office 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 states that CalOES shall select applications based upon a competitive process and may establish selection criteria.

This bill states that at minimum, an applicant shall demonstrate the ability to comply with the specified criteria and include an estimate of the number of potential human trafficking crimes in that county.

This bill requires, on or before January 1, 2026, CalOES to submit to the Legislature and the Governor's office a report that describes:

- The counties that received the funding;
- 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 specifies that "human trafficking" includes any violation of Penal Code section 236.1 or the offense of soliciting a minor to engage in an act of prostitution.

This bill provides that not more than 10 percent of funds appropriated for this program shall be retained by CalOES for administrative costs, including technical assistance, training, and the cost of producing the required report.

This bill includes a sunset date of January 1, 2029.

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

COMMENTS

1. Need for This Bill

According to the author of this bill:

Human trafficking is a modern form of slavery that exploits thousands of individuals each year within the United States. Vertical prosecution involves the use of specialized attorneys who follow the whole case, from inception to conclusion, instead of the standard practice of different attorneys handling individual stages of the case. The implementation of vertical prosecution has been highly successful and has contributed to increased conviction rates.

Additionally, the programs ease strain on victims, as they are able to develop and maintain a relationship with a single prosecutor throughout the process as opposed to repeatedly having to redevelop their relationship with a new attorney at each step of the way. This program will help get criminals off our streets and compassionately deliver justice to the victims that so deeply deserve it.

San Diego County, along with several other, uses vertical prosecution as a strategy to address these types of cases. This bill will help secure funding for the continuation of their programs as well as encourage more counties to follow their lead.

2. CalOES

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. Starting January 2004, 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 CalOES. These programs include criminal justice and victim service grant programs administered by CalOES, including the Violence Against Women Vertical Prosecution Program, the Human Trafficking Advocacy Program, and Internet Crimes and Children Program. (<<https://www.caloes.ca.gov/category/grant-announcements-category/criminal-justice-programs/>> [as of Mar. 13, 2023].)

This bill would create a grant program, subject to funding, for CalOES to award and allocate funds to district attorney offices that employ a vertical prosecution methodology for the prosecution of human trafficking crimes. This bill also allocates \$2,600,000 from the General Fund to CalOES for the purpose of funding this program. This would be General Fund dollars allocated outside of the normal budget process.

3. 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. This methodology is often used for complex cases like homicide or gangs, or in cases where victims are particularly vulnerable such as child abuse, elder abuse, domestic violence or human trafficking. Several district attorney offices, including San Diego County, Contra Costa County, San Joaquin County, Ventura County, and Napa County, already use this methodology to prosecute these types of crimes.

4. 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 Mar. 13, 2023].)

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 Mar. 13, 2023].)

This bill requires the receiving district attorney offices to provide annual data to CalOES 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. CalOES would be required to provide a report to the Legislature and the Governor's office that contains this data.

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