
THIRD READING

Bill No: SB 236
Author: Jones (R)
Amended: 4/11/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 3/28/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SUBJECT: Human trafficking: vertical prosecution program

SOURCE: Author

DIGEST: This bill requires 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.

ANALYSIS:

Existing law:

- 1) States that the CalOES exists within the Governor's office. (Gov. Code, § 8585, subd. (a).)
- 2) 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).)
- 3) 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).)

- 4) 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:

- 1) 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.
- 2) Requires each county selected for funding to meet all of the following minimum requirements:
 - a) Employ a vertical prosecution methodology for human trafficking crimes;
 - b) 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;
 - c) 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;
 - d) 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,
 - e) Funding received by district attorney offices pursuant to this program shall be used to supplement, and not supplant, existing financial resources.
- 3) States that CalOES shall select applications based upon a competitive process and may establish selection criteria.
- 4) 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.

- 5) Requires, on or before January 1, 2026, CalOES to submit to the Legislature and the Governor's office a report that describes:
 - a) The counties that received the funding;
 - b) The number of prosecutions for human trafficking cases filed by the counties receiving funding;
 - c) The number of human trafficking convictions obtained by those counties; and,
 - d) The sentences imposed for human trafficking crimes in those counties.
- 6) 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.
- 7) 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.
- 8) Includes a sunset date of January 1, 2029.

Background

"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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, cost pressures of approximately \$2.6 million in order to fund grants to district attorney offices that

employ vertical prosecution strategies (General Fund). See Staff Comments for additional details.

SUPPORT: (Verified 5/18/23)

California District Attorneys Association
Peace Officers Research Association of California
San Diego County District Attorney

OPPOSITION: (Verified 5/18/23)

San Francisco Public Defender

ARGUMENTS IN SUPPORT: According to the San Diego County District Attorney:

Prosecution of human trafficking cases can pose significant challenges. This is due to the fact that the burden falls on prosecutors who often work with limited resources to secure a conviction. Additionally, the burden falls on victims who are compelled to relive the traumatic experience of the crime.

SB 236 aims to help get criminals off our streets and prevent them from continuing to traffic innocent victims. It will implement Vertical Prosecution as a solution, in which one prosecutor will stay with a case from start to finish. This is opposed to traditional prosecution where different prosecutors are responsible for each step of the process.

Vertical prosecution teams are the most effective in prosecuting human trafficking. SB 236 provides funding for county district attorneys to either develop or maintain vertical prosecution teams. Increasing funding to vertical prosecution programs in California will provide valuable resources to these operations and help further efforts to prosecute and convict human traffickers. These programs would 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.

ARGUMENTS IN SUPPORT: According to the San Francisco Public Defender:

The San Francisco Public Defender's Office remains sympathetic to community members who survive human trafficking and the devastation that experience entails. Indeed, many of our clients have been trafficked, harmed,

and abused before being funneled into our criminal legal system. However, we do not agree with the approach of SB 236.

First, district attorneys can use existing resources to employ a vertical prosecution methodology. According to the California Legislative Analyst's Office, district attorneys receive nearly \$1 billion more in funding than public defenders. District attorneys should be motivated on their own to employ what they deem as victim-centered methods, and should not be awarded additional funding for doing so.

Secondly, this bill ignores the "abuse-to-prison" pipeline, which is a recurring pattern in which trafficked individuals, particularly youth of color, are arrested on suspicion of prostitution or charged as traffickers themselves

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