



COALITION TO
ABOLISH SLAVERY
& TRAFFICKING

Human Trafficking – Compensating Victims for Income Lost When Forced to Labor Without Pay

AB 900 As Amended January 22, 2018

**Crime victims: the California Victim Compensation Board
Gonzalez-Fletcher**

PURPOSE

California has a state fund—the Victim Compensation Program (VCP)—dedicated to compensating victims of violent crime for various categories of economic losses, specifically including “lost income,” that they suffer as a result of the crimes committed against them. At its core, human trafficking is about the exploitation of human beings for commercial purposes, and trafficking survivors have toiled for their traffickers benefits often without pay at all. This means that lost income is frequently a trafficking victim’s greatest category of economic loss—a loss that can and should be compensated by the VCP.

However, given the unique nature of trafficking crimes, clarifying language is needed to ensure that VCP has express guidance on its ability to compensate trafficking victims for income loss. The VCP statute should be clarified to expressly state that human trafficking victims can recover compensation for income loss suffered during the crime (i.e., while they are being trafficked) regardless of whether or not they can prove that they were employed before the crime occurred.

Trafficking victims simply do not have access to the formal documentation currently required by the Board to verify income loss because the requirements presume lawful recordkeeping of employment and the cooperation of employers (i.e., criminal traffickers). Therefore, the statute should also direct the VCP Board to adopt guidelines allowing the use of any reliable corroborating evidence, including victim and case worker affidavits, when verifying income loss for trafficking victims.



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WHY YOU SHOULD SUPPORT THE BILL

- Under currently regulatory guidance CAST has **NO** clients who can recover for lost income, despite the fact that they suffer economic loss as a direct result of the violent crime committed against them.
- The Chairperson of the Board has recognized that the “need is obvious” for lost income compensation for trafficking victims, and expressed that she “strongly” supports the reform. The Board has conveyed that it will support a legislative solution to compensate human trafficking victims for their earned but unpaid lost income.
- Clarification is needed regarding the Board’s authorization under the VCP to compensate human trafficking victims for economic losses caused by their crime, regardless of whether or not they were employed prior to the crime. Due to the unique labor-oriented nature of human trafficking (both sex and labor trafficking), which is akin to modern-day slavery, every trafficking victim is forced to labor for sustained periods with limited or no pay, regardless of their prior employment status.
- These victims suffer lost income in an even more direct and prolonged manner than victims of other violent crimes because they are deprived of wages during the commission of the crime, in addition to after the crime when they cannot return to work for a time.
- Victims that manage to escape their trafficking situation are often without any community support systems, far from their homes, cannot meet even the most basic necessities, and do not have access to the types of documents that victims of other crimes may use to establish income loss. As victims of a horrific crime that preys on society’s most vulnerable and leaves them even more vulnerable, they are very much in need of support and assistance to rebuild their lives.
- Recognizing the unique nature of this terrible crime and its acutely vulnerable victims, the Legislature **already** treats trafficking victims specially under the statute to ensure they can access compensation. The statute accepts lesser evidence as proof of the crime of human trafficking and accepts emotional injury as sufficient injury for recovery.
- To ensure that human trafficking victims can recover lost income compensation in practice, the Legislature should also instruct the CalVCP Board to adopt more flexible verification regulations for these victims. Current regulations require formal evidence of employment—e.g., documentation from the Tax Board, workers’ compensation carriers, or employers (the traffickers)—that are impossible to satisfy in nearly every human trafficking case. Requiring victims who are exploited for labor under slavery-like conditions to provide this type of evidence effectively precludes them from obtaining lost income compensation.
- The bill is fiscally conservative, limiting compensation to \$10,000 per year, for a maximum of two years, though the value of victims’ labor is typically much greater.



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- This issue also has the support of the State Controller’s Office, Attorney General’s Office, Labor Commissioner’s Office, and numerous organizations state-wide that provide services to victims of human trafficking. The State Controller is a member of the Board, and both the Attorney General’s Office and Labor Commissioner’s Office have testified before the Board in support of this reform.

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Lost Income for Trafficking Victims: The bill expressly states that the VCP Board may authorize compensation for income loss suffered by human trafficking victims for the period of time that they are forced to labor with little or no pay. To value the income lost, the bill directs the Board to calculate the value of the victim’s labor as guaranteed under California law (i.e., minimum wage) for the number of hours that services were performed, up to 40 hours per week. Compensation for lost income under this bill is limited to \$10,000 per year, for a maximum of two years. To ensure that the statute and regulations do not require documentary evidence that trafficking victims cannot realistically provide, the bill also instructs the Board to adopt guidelines that allow it to rely on evidence other than official employment documentation in considering and approving trafficking victims’ applications for lost income compensation.

Coalition to Abolish Slavery and Trafficking

Systemic change is at the core of CAST’s mission. Taking a survivor-centered approach to ending modern slavery, CAST has a proven track record of working directly with survivors of human trafficking which builds an important bridge between practice and policy to inform effective policy initiatives. By developing broad-based partnerships, CAST effectively advocates for policies that work to end human trafficking and help survivors rebuild their lives.

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