



PREVENTION OF CHILD LABOR TRAFFICKING IN THE CHILD WELFARE SYSTEM

Proposed Legislative Amendments To Treat All Child Trafficking Victims Equally In California's Child Welfare System

BACKGROUND & GOALS

The State of California leads the nation in all forms of human trafficking. However, in the last five years, the State has chosen to focus on child sex trafficking in terms of data collection, training, and resource allocation in its child welfare system. Child labor trafficking has been treated as “mostly an afterthought, if a thought at all.”¹ As a consequence of the disparate treatment, a large number of trafficked children in the child welfare system are unidentified and underserved.

Underlying the disparate treatment between commercial sexual exploitation of children (CSEC) and child labor trafficking is California's legislation with respect to the definition of child abuse. CSEC is explicitly treated as a form of child abuse, while child labor trafficking is not. The State, via legislation over the past five years, has created CSEC task forces, trained child welfare and other workers about CSEC, and allocated millions of dollars to CSEC, while ignoring child labor trafficking, despite the similar dynamics and vulnerabilities to commercial exploitation.

Child labor trafficking is a significant problem in California, affecting many thousands of children. CAST's data shows that labor trafficking is nearly as prevalent as sex trafficking (48% vs. 52%), and this is consistent with data from San Francisco and Santa Clara County. A recent study of runaway and homeless youth found that in Oakland, more youth were labor trafficked than sex trafficked.² In Los Angeles, the same study found that youth were trafficked for sex and labor at

¹ Miller, Leila, “Why Labor Trafficking is So Hard to Track,” *PBS Frontline* April 24, 2018, <https://www.pbs.org/wgbh/frontline/article/why-labor-trafficking-is-so-hard-to-track>, quoting Amy Fleischauer, director of survivor support services at the International Institute of Buffalo.

² Murphy, Laura, “Labor and Sex Trafficking Among Homeless Youth: A 10-City Study,” Loyola University New Orleans Modern Slavery Research Project (2016),

similar rates. Yet all of these Counties have focused only on CSEC in their response to addressing trafficking in their child welfare systems.

Labor trafficking is just as harmful as sex trafficking to children and youth. Traffickers in both scenarios use similar methods of recruitment, coercion, and control. The health and welfare consequences are similar: “The adverse health effects associated with child sex *and labor* trafficking are numerous . . .”³ In both the sex and labor trafficking scenarios, children and youth are often forced to commit crimes, which can lead to detentions and criminal records that follow them throughout their lives.⁴

Many other states are far ahead of California in identifying and serving child labor trafficking victims and survivors. As one example, at least 13 other states⁵ have included child sex and labor trafficking in their definitions of child abuse, paving the way for services for all trafficked children through the child welfare system. California has failed to do this.

California is falling further behind other states in addressing child labor trafficking. It needs to close the gap in the unequal treatment of child labor trafficking and CSEC, to ensure that labor trafficking in the child welfare system is prevented and early identified. The state has acknowledged with its focus on CSEC that for years the system ignored and blamed these victims—it must now acknowledge—all forms of commercial exploitation effecting the youth it serves. The first step is through updating child welfare legislation that focused on CSEC only. Proposed amendments to begin this process are outlined below.

PROPOSED STATUTORY LANGUAGE

Welfare & Institutions Code Section 300

Welfare & Institutions Code Section 300 is amended to read:

<https://static1.squarespace.com/static/5887a2a61b631bfbbc1ad83a/t/5a7490fdc8302508d6b76f1c/1517588734590/Labor+and+Sex+Trafficking+Among+Homeless+Youth.pdf>.

³ Greenbaum, Jordan, et al, “Global Human Trafficking And Child Victimization,” *American Academy of Pediatrics, Pediatrics* 2017:140 (italics added).

⁴ CAST’s client data reflect children being enslaved in all of the following: drug running, drug smuggling, drug trafficking, drug “mule” activity, and drug extortion. They also reflect stealing jewelry from persons, stealing checks from mailboxes, theft from jewelry stores, and other shoplifting. Many of CAST’s child labor trafficked clients were enslaved by drug cartels, gangs, and other organized criminal entities, in addition to family members and guardians.

⁵ Connecticut, Hawai’i, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, North Carolina, North Dakota, Texas, and Utah. In all these states, the word “trafficking” is used in the relevant statutes, and it is defined to include labor as well as sex trafficking. Other states could be added to this list — e.g. Delaware and Florida — if one looks beyond the word “trafficking.”

A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

* * *

(b)(2) The Legislature finds and declares that a child who is ~~sexually~~-trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially ~~sexually~~ exploited children. When the child is a victim of human trafficking but no parent or guardian has participated directly or indirectly in the trafficking, the child will not be removed from the home absent extenuating circumstances.

SB 855

Welfare & Institutions Code Sections 16524.6 to 16524.10

Welfare & Institutions Code Section 16524.6 is amended to read:

The Legislature finds and declares that in order to adequately serve children who have been ~~sexually-exploited~~trafficked, it is necessary that counties develop and utilize a multidisciplinary team approach to case management, service planning, and provision of services, and that counties develop and utilize interagency protocols to ensure services are provided as needed to this population.

Welfare & Institutions Code Section 16524.7 is amended to read:

(a) (1) There is hereby established the ~~Commercially Sexually Exploited-Trafficked~~ Children Program. This program shall be administered by the State Department of Social Services.

(2) The department, in consultation with the County Welfare Directors Association of California, shall develop an allocation methodology to distribute funding for the program. Funds allocated pursuant to this section shall be utilized to cover expenditures related to the costs of implementing the program, prevention and intervention services, and training related to children who are victims of ~~commercial-sexual-exploitation~~human trafficking.

(3) (A) Funds shall be provided to counties that elect to participate in the program for the provision of training to county children's services workers to identify, intervene, and

provide case management services to children who are victims of ~~commercial sexual exploitation and human~~ trafficking, and to foster caregivers for the prevention and identification of potential victims.

(B) The department shall contract to provide training for county workers and foster caregivers. Training shall be selected and contracted for in consultation with the County Welfare Directors Association, county children's services representatives, and other stakeholders. The department shall consult and collaborate with the California Community Colleges Chancellor's Office to provide training for foster parents of licensed foster family homes.

(4) Funds provided to the counties electing to participate in the program shall be used for prevention activities, intervention activities, and services to children who are victims, or at risk of becoming victims, of ~~commercial sexual exploitation~~ human trafficking. These activities and services may include, but are not limited to, all of the following:

(A) Training foster children to help recognize and help avoid ~~commercial sexual exploitation~~ human trafficking. Counties may target training activities to foster children who are at higher risk of sexual or labor exploitation.

(B) Engaging survivors of ~~commercial sexual exploitation~~ human trafficking to: (i) provide support to county staff who serve children who are victims of ~~commercial sexual exploitation~~ human trafficking; (ii) for activities that may include training and technical assistance; and (iii) to serve as advocates for and perform outreach and support to children who are victims of ~~commercial sexual exploitation~~ human trafficking.

(C) Consulting and coordinating with homeless youth shelters and other service providers who work with children who are disproportionately at risk of, or involved in, ~~commercial sexual exploitation~~ human trafficking, including, but not limited to, lesbian, gay, bisexual, and transgender youth organizations, regarding outreach and support to children who are victims of ~~commercial sexual exploitation~~ human trafficking.

(D) Hiring county staff trained and specialized to work with children who are victims of ~~commercial sexual exploitation~~ human trafficking to support victims and their caregivers, and to provide case management to support interagency and cross-departmental response.

(E) Providing supplemental foster care rates for placement of child victims of ~~commercial sexual exploitation~~ human trafficking adjudged to be within the definition of Section 300 to be paid to foster homes, relatives, foster family agency certified homes, or other specialized placements to provide for the increased care and supervision needs of the victim in accordance with Section 11460.

(b) Funds allocated for the program shall not supplant funds for existing programs.

(c) (1) In order to ensure timely access to services to which ~~commercially sexually exploited-trafficked~~ children are entitled to as dependents in foster care, in participating counties, county agency representatives from mental health, probation, public health, and substance abuse disorders shall participate in the case planning and assist in linking ~~commercially sexually exploited-trafficked~~ children to services that serve children who are in the child welfare system and that are identified in the child's case plan and may include other stakeholders as determined by the county.

(2) The entities described in paragraph (1) shall provide input to the child welfare services agency regarding the services and supports needed for children to support treatment needs and aid in their recovery and may assist in linking these children to services that are consistent with their county plans submitted to the department pursuant to subdivision (d).

(d) (1) A county electing to receive funding from the ~~Commercially Sexually Exploited Trafficked~~ Children Program pursuant to this chapter shall submit a plan describing how the county intends to utilize the funds allocated pursuant to paragraph (4) of subdivision (a).

(2) The county shall submit a plan to the department pursuant to a process developed by the department, in consultation with the County Welfare Directors Association. The plan shall include documentation indicating the county's collaboration with county partner agencies and children-focused entities, which shall include the formation of a multidisciplinary team to serve children pursuant to this chapter.

A multidisciplinary team serving a child pursuant to this chapter shall include, but is not limited to, appropriate staff from the county child welfare, probation, mental health, substance abuse disorder, and public health departments. Staff from a local provider of services to this population, local education agencies, and local law enforcement, and survivors of ~~commercial sexual exploitation and human~~ trafficking may be included on the team.

Welfare & Institutions Code Section 16524.8 is amended to read:

(a) Each county electing to receive funds from the ~~Commercially Sexually Exploited Trafficked~~ Children Program pursuant to this chapter shall develop an interagency protocol to be utilized in serving sexually exploited children. The county protocol shall be developed by a team led by a representative of the county human services department and shall include representatives from each of the following agencies:

- (1) The county probation department.
- (2) The county mental health department.
- (3) The county public health department.
- (4) The juvenile court in the county.

The team may include, but shall not be limited to, representatives from local education agencies, local law enforcement, survivors of ~~sexual exploitation and~~ human trafficking, and other providers as necessary.

- (b) At a minimum the interagency protocol shall address the provision of services to children who have been ~~sexually exploited~~ trafficked and are within the definition of Section 300, including, but not limited to, the use of a multidisciplinary team approach to provide coordinated case management, service planning, and services to children.

Welfare & Institutions Code Section 16524.9 is amended to read:

The State Department of Social Services, in consultation with the County Welfare Directors Association, shall ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are ~~commercially sexually exploited~~ trafficked, including children who are referred to the child abuse hotline, children currently served by county child welfare and probation departments who are subsequently identified as victims of ~~commercial sexual exploitation~~ human trafficking.

- (a) The department shall disseminate any necessary instructions on data entry to the county child welfare and probation department staff.
- (b) The department shall implement this section no later than June 1, ~~2015~~ 2021.

Welfare & Institutions Code Section 16524.10 is amended to read:

The State Department of Social Services, no later than April 1, ~~2017~~ 2022, shall provide the following information to the Legislature regarding the implementation of this chapter:

- (a) The participating counties.
- (b) The number of victims served by each county.
- (c) The types of services provided.

(d) Innovative strategies relating to collaboration with children, child service providers, and survivors of ~~commercial sexual exploitation~~human trafficking regarding prevention, training, and services.

(e) The identification of further barriers and challenges to preventing and serving ~~commercially sexually exploited~~trafficked children.

Welfare & Institutions Code Section 16524.11 is amended to read:

This chapter shall become operative on January 1, ~~2015~~2021.

SB 794

Welfare & Institutions Code Section 16501.1

Welfare & Institutions Code Section 16501.1 is amended to read:

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(19) The case plan for a child or nonminor dependent who is, or who is at risk of becoming, the victim of ~~commercial sexual exploitation~~human trafficking, shall document the services provided to address that issue.

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Welfare & Institutions Code Section 16501.35

Welfare & Institutions Code Section 16501.35 is amended to read:

(a) On or before September 29, 2016, county child welfare agencies and probation departments shall implement policies and procedures that require social workers and probation officers to do all of the following:

(1) Identify children receiving child welfare services, including dependents or wards in foster care, nonminor dependents, and youth receiving services pursuant to Section 677 of Title 42 of the United States Code, who are, or are at risk of becoming, victims of ~~commercial sexual exploitation~~human trafficking.

* * *

(b) (2) (D) Determine whether the child or nonminor dependent is a possible victim of ~~commercial sexual exploitation~~human trafficking.

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(c) In consultation with stakeholders, including, but not limited to, the County Welfare Directors Association of California, the Chief Probation Officers of California, former foster youth, and child advocacy organizations, the department shall develop model policies, procedures, and protocols to assist the counties to comply with this section. In addition, the department shall consult with the California Department of Education, the State Department of Health Care Services, state and local law enforcement, and agencies with experience serving children and youth at risk of ~~commercial sexual exploitation~~ human trafficking in the development of the model policies and procedures described in subdivision (a).

Welfare & Institutions Code Section 16501.45

Welfare & Institutions Code Section 16501.45 is amended to read:

(a) To ensure compliance with federal reporting requirements, including those of Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act, the State Department of Social Services shall ensure that the Child Welfare Services/Case Management System is capable of collecting all of the following information:

(1) The number of dependent children or wards in foster care who were victims of (a) commercial sexual exploitation, (b) labor trafficking, or (c) both, before entering foster care.

(2) The number of dependent children or wards in foster care who became victims of (a) commercial sexual exploitation, (b) labor trafficking, or (c) both, while in foster care.

(3) The number of dependent children or wards in foster care who go missing, run away, or are otherwise absent from care and were (a) commercially sexually exploited, (b) labor trafficked, or (c) both, during the time away from placement.

(4) The number of dependent children or wards in foster care who are at risk of becoming victims of (a) commercial sexual exploitation, (b) labor trafficking, or (c) both.

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