



COALITION TO  
ABOLISH SLAVERY  
& TRAFFICKING

## Clarify Provisions of the Human Trafficking Victim-Caseworker Privilege AB1735 (Bauer-Kahan) Fact Sheet

### **BACKGROUND**

In 2005, AB 22 was enacted and established the human trafficking victim-caseworker privilege (California Evidence Code §§ 1038 *et seq.*). The privilege is designed to benefit survivors by establishing a qualified privilege that ensures information exchanged between a survivor and their caseworker is protected from disclosure to third parties or the court, absent the survivor's informed consent, a court ruling compelling disclosure, or certain circumstances unique to criminal proceedings. See § 1038.1.

The legislative history supporting the passage of the original human-trafficking victim-caseworker privilege explains:

- The privilege is paramount in obtaining services for victims of human trafficking. Silence is a crippling and sometimes deadly enemy to many victims, and the fear of confidences being exposed a great incentive to not share details of a perpetrator's actions.
- The privilege allows the victims to seek assistance confidentially with appropriately trained professionals, without fear of retribution from their former captors. It will also aid prosecution by allowing caseworkers to work with witnesses to pursue criminal charges and to protect the victim's communication from disclosure to those who have held them against their will.

### **NEED FOR ACTION**

While the courts have respected and upheld this critical safety provision, as currently written human trafficking services providers have met difficulties in ensuring that caseworkers who serve this population meet the requirements to claim privilege. Organizations have come together to address gaps in the current law that function to subject victims' confidential information to disclosure in court proceedings, contrary to the stated legislative intent.

## PROPOSED UPDATES

AB 1735 would:

- Identify who can claim the Human Trafficking Caseworker privilege, including the trafficked victim or their designee and the caseworker, whether providing services exclusively at the time the communication was made or at the time disclosure is sought;
- Further define the terms “human trafficking victim service organization” and “human trafficking caseworker.” AB 1735 details the basic services that a qualifying organization must deliver. The requirements for a caseworker to claim the privilege include minimum education and supervisory requirements for caseworkers during the first 6 months of their employment at a human trafficking victim service organization. The bill would also include caseworkers who has the training and experience to serve as either a domestic violence counselor or a sexual assault counselor as defined in the Evidence Code. The bill would also provide additional topics that must be included in human trafficking caseworkers’ mandatory 40-hour training.
- Clarify that nothing contained in the Human Trafficking Caseworker Privilege statute shall in any way interfere with statutory requirements for mandated child abuse reporting.

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#### **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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