

Date of Hearing: April 6, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2202 (Baker) – As Introduced February 18, 2016

SUBJECT: Human trafficking: vertical prosecution program

SUMMARY: Requires the Office of Emergency Services (CalOES) to allocate and award funds for the purposes of establishing the Human Trafficking Prevention Vertical Prosecution Program. Specifically, **this bill:**

- 1) Requires CalOES to allocate and award funds to up to 11 district attorney offices that employ a vertical prosecution methodology for the prosecution of human trafficking crimes.
- 2) Requires each county selected for funding meet all of the following minimum requirements:
 - (a) Employ a vertical prosecution methodology for human trafficking crimes.
 - (b) Require that a county selected for funding 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 crime.
 - (c) Provide Cal OES 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 by a memorandum of understanding, with an advocacy agency funded by CalOES 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.
 - (e) Funding received by district attorney offices pursuant to this program shall be used to supplement, and not supplant, existing financial resources.
- 3) Requires CalOES, on or before January 1, 2019, to submit to the Legislature and the Governor's Office a report that describes the counties that received funding pursuant to this program, 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.
- 4) Appropriates two million six hundred thousand dollars (\$2,600,000) from the General Fund to CalOES for the purpose of funding the Human Trafficking Prevention Vertical Prosecution Program
- 5) Sunsets the provisions of the bill on January 1, 2021

EXISTING LAW:

- 1) Establishes CalOES by the Governor's Reorganization Plan No.2, operative July 1, 2013.

- 2) Requires CalOES to perform a variety of duties with respect to specified emergency preparedness, mitigation, and response activities in the state, including emergency medical services.
- 3) Specifies that the State Emergency Plan (SEP) shall be in effect in each political subdivision of the state, and the governing body of each political subdivision shall take such action as may be necessary to carry out the provisions thereof.
- 4) Requires the Governor to coordinate SEP and those programs necessary to mitigate the effects of an emergency.
- 5) Requires the Governor to coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of the State of California, such plans and programs to be integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government and of other states to the fullest possible extent.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the author, human trafficking is a form of modern day slavery, one that involves the use of force, fraud, or coercion to recruit, harbor, transport, provide, or obtain a person for the purposes of labor or sexual exploitation. Approximately 14,000 to 17,000 victims are trafficked into the United States annually.

Vertical prosecution teams are the most effective in prosecuting human trafficking. Vertical prosecution units generally involve one or more staff attorneys who handle a specific type of case, here, human trafficking, from arraignment to conviction, rather than different attorneys handling different stages of prosecution. This means district attorneys (DA's) are able to specialize in the uniquely challenging features of prosecuting human trafficking. It also means the victim, who is already facing a difficult and emotional process, does not have to develop a new relationship with a new prosecutor at each stage of the case. Vertical prosecution units also work closely with law enforcement during investigations. This is a method that is often employed in human trafficking cases because it allows the prosecution team to give valuable feedback on the key evidence that law enforcement should seek to collect, and facilitates the victims' sustained participation in cases that are otherwise already difficult to prosecute.

The author states that increasing funding to supplement current vertical prosecution programs in California will provide valuable resources to these programs and help further efforts to prosecute and convict human traffickers. Providing this support to vertical prosecution is one of the single most effective ways to get perpetrators behind bars for the crime of human trafficking.

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.

Through the California District Attorneys Association (CDA), 13 counties were contacted and asked if they have at least one vertical prosecution unit in their District Attorney's office. Of the 13 counties that responded, 12 of them have at least one vertical unit – most using multiple. Of the respondents, the only county that does not have any vertical units is Inyo County, which only employs 3 deputy district attorneys.

DOJ Report: According to the California Department of Justice (DOJ), human trafficking is the world's fastest growing criminal enterprise and is an estimated \$32 billion-a-year global industry. In their 2012 report, "*The State of Human Trafficking in California*," DOJ states from mid-2010 to mid-2012, California's nine regional human trafficking task forces identified 1,277 victims, initiated 2,552 investigations, and arrested 1,798 individuals. The public perception is that human trafficking victims are from other countries, but data from California's task forces indicate that the vast majority are American—72% of human trafficking victims whose country of origin was identified were U.S. residents. The report also states that labor trafficking are under-reported and under-investigated as compared to sex trafficking—56% of victims who received services through California's task forces were identified as sex trafficking victims. Yet, data from other sources indicate that labor trafficking is 3.5 times as prevalent as sex trafficking worldwide.

The report also identifies ways to combat human trafficking; and opportunities in protecting and assisting victims and bringing traffickers to justice. Specifically, the report states that a vertical prosecution model run outside routine vice operations can help law enforcement better protect victims and improve prosecutions.

OCJP and 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. 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. Many of these programs include criminal justice and victim service grant programs administered by CalOES. Programs include:

- **Violence Against Women Vertical Prosecution Program (VV Program)** - The VV Program is designed to improve the criminal justice system's response to violent crimes against women through a coordinated multidisciplinary response. This is achieved through the creation or enhancement of a specialized unit, which focuses on the vertical prosecution of the defendant and services for the victim(s).
- **Unserved/Underserved Victim Advocacy and Outreach Program (UV Program)** - The primary purpose of the UV Program is to focus on service delivery to victims of violent crime within unserved/underserved and socially isolated populations. In addition, it is designed to promote awareness and to improve knowledge about accessing local services available to crime victims.
- **Human Trafficking Advocate Program (HA Program)** – The HA Program provides funding to 10 Victim/Witness Assistance Centers to provide additional support, such as, hiring additional staff, identifying additional human trafficking victims, and providing comprehensive services to victims of human trafficking.

Appropriation: AB 2202 would appropriate \$2.6 million to CalOES to fund up to 11 counties to participate in the Human Trafficking Prevention Vertical Prosecution Program. According to CalOES, using the minimum staffing requirements set forth in Section 13849 (b)(2), which requires a county selected for funding 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 crime, it will cost \$212,897 on average to fund the program in each county. The bill would allow for 11 counties to be funded, which totals \$2,576,053.70 (\$212,897 x 11). The author has chosen to round up from that number to \$2.6 million to ensure there is enough funding for 11 counties to participate.

Double referral: Should AB 2202 pass the Assembly Committee on Governmental Organization on Wednesday, April 6, 2016, this bill will be referred to the Assembly Committee on Public Safety for further consideration.

Related Legislation: AB 694 (Bloom), Chapter 126, Statutes of 2013. Prohibits the admissibility of evidence that a victim has engaged in any commercial sexual act as a result of being a victim of human trafficking in order to prove the victim's criminal liability for the commercial sexual act.

AB 528 (Aghazarian) of 2007/2008 Session. Would have established a graffiti prevention pilot program, to be known as the "Tag, You're It" Act of 2007, to fund, through grants, specified graffiti prevention and prosecution efforts in 5 counties, as specified and administered by the Office of Emergency Services. Additionally, this bill requires the district attorney to employ a vertical prosecution methodology to manage a dedicated graffiti vandalism caseload. (Died in Assembly Appropriations)

SB 180 (Kuehl), Statutes of 2005, Chapter 239. Establishes the California Alliance to Combat Trafficking and Slavery Task Force and require it to evaluate various programs available to victims of trafficking and various criminal statutes addressing human trafficking, and report to the Legislature, Governor, and Attorney General on or before July 1, 2007.

AB 22 (Lieber), Statutes of 2005, Chapter 240. Established civil and criminal penalties for trafficking in human beings, allowed for forfeiture of assets derived from human trafficking, makes legislative findings and required law enforcement agencies to provide Law Enforcement Agency Endorsement (LEAE) to trafficking victims, created California Alliance to Combat Trafficking and Slavery Task Force, and provided restitution to victims.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Nancy E. O'Malley, District Attorney of Alameda County
County of San Bernardino

Opposition

None on file

Analysis Prepared by: Kenton Stanhope / G.O. / (916) 319-2531