

Date of Hearing: July 11, 2023
Counsel: Cheryl Anderson

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 14 (Grove) – As Amended April 27, 2023

SUMMARY: Adds human trafficking of a minor for purposes of a commercial sex act to the list of “serious” felonies subject to enhanced penalties, including under California’s Three-Strikes Law.

EXISTING LAW:

- 1) Specifies that a person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to commit specified crimes including pimping, pandering, or child pornography, is guilty of human trafficking. A violation is punishable by imprisonment in the state prison as follows:
 - a) Five, 8, or 12 years and a fine of not more than \$500,000; or
 - b) Fifteen years to life and a fine of not more than \$500,000 when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person. (Pen. Code, § 236.1, subd. (c).)
- 2) Defines the following offenses as “serious” felonies:
 - a) Murder or voluntary manslaughter;
 - b) Mayhem;
 - c) Rape;
 - d) Sodomy by force, violence, duress, menace, or threat or fear of bodily injury;
 - e) Oral copulation by force, violence, duress, menace or threat or fear of bodily injury;
 - f) Lewd act with child under fourteen years of age;
 - g) Any felony punishable by death or life imprisonment;
 - h) Any felony in which defendant personally inflicts great bodily injury on any person other than an accomplice or personally uses a firearm;
 - i) Attempted murder;

- j) Assault with intent to commit rape or robbery;
- k) Assault with a deadly weapon or instrument on a peace officer;
- l) Assault by a life prisoner on a non-inmate;
- m) Assault with a deadly weapon by an inmate;
- n) Arson;
- o) Exploding a destructive device or any explosive with intent to injure;
- p) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
- q) Exploding a destructive device or any explosive with intent to murder;
- r) Burglary of an inhabited dwelling;
- s) Robbery or bank robbery;
- t) Kidnapping;
- u) Holding a hostage by an inmate;
- v) Attempt to commit a crime punishable by life imprisonment or death;
- w) Any felony where defendant personally used a dangerous or deadly weapon;
- x) Sale or furnishing heroin, cocaine, PCP, or methamphetamine to a minor;
- y) Forcible penetration with a foreign object;
- z) Grand theft involving a firearm;
- aa) Any gang-related felony;
- bb) Assault with the intent to commit mayhem or specified sex offenses;
- cc) Maliciously throwing acid or flammable substances;
- dd) Witness intimidation;
- ee) Assault with a deadly weapon or firearm or assault on a peace officer or firefighter;
- ff) Assault with a deadly weapon on a public transit employee;
- gg) Criminal threats;

- hh) Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft;
 - ii) Commission of rape or sexual penetration in concert;
 - jj) Continuous sexual abuse of a child;
 - kk) Shooting from a vehicle;
 - ll) Any attempt to commit a “serious” felony other than assault;
 - mm) Any violation of the 10 years, 20 years, 25 years to life gun law;
 - nn) Possession or use of any weapon of mass destruction; and,
 - oo) Any conspiracy to commit a “serious” felony. (Pen. Code, § 1192.7, subd. (c).)
- 3) Prohibits plea bargaining in any case in which the indictment or information charges a “serious” felony unless there is insufficient evidence to prove the charge, the testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. (Pen. Code, § 1192.7, subd. (a)(2).)
 - 4) Provides that any person convicted of a “serious” felony who has previously been convicted of a “serious” felony receives, in addition to the sentence imposed by the court, an additional and consecutive five-year enhancement for each such prior conviction. (Pen. Code, § 667, subd. (a)(1).)
 - 5) States that a conviction of a violent or serious felony counts as a prior conviction for sentencing under the Three Strikes Law. (Pen. Code, § 667.)
 - 6) Specifies all references to existing statutes in specified portions of the Three Strikes Law, are to statutes as they existed on November 7, 2012. (Pen. Code, § 667, subd. (h).)
 - 7) Provides that if a defendant is convicted of a felony offense and it is pled and proved that the defendant has been convicted of one prior serious or violent offense as defined, the term of imprisonment is twice the term otherwise imposed for the current offense. (Pen. Code, § 667.)
 - 8) Provides that a defendant, who is convicted of a serious or violent felony offense or a specified sex offense, and it is pled and proved that the defendant has been convicted of two or more prior violent or serious offenses, the term is life in prison with a minimum term of 25 years. (Pen. Code, §§ 667, subds. (a) & (d)(2)(i); 1170.12, subd. (c)(2)(A).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, “The fastest growing criminal industry in the world is the buying and selling of human beings and California is one of the largest hubs for human trafficking. SB 14 will include sex trafficking of minors in the lists of crimes that are

defined as serious under California law, making the crime a strike under the Three Strikes law. It will also help strengthen protections for the millions of victims of sex trafficking and serve as a deterrent for those that wish to perpetuate this horrendous crime.”

- 2) **Current Penalties:** The offense addressed by this bill already carries very steep sentences. These punishments can often be further enhanced by any number of existing sentence enhancements.

Human trafficking of a minor for purposes of commercial sex is punishable by up to 12 years in prison. If the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, the penalty is 15-years-to-life. The court may also impose up to a \$1.5 million fine on a person convicted of human trafficking. (Pen. Code §§ 236.1 and 236.4.) If [great bodily injury](#) is inflicted on the victim to commit the human trafficking crime, an enhancement of up to 10 more years in state prison can be added. (Pen. Code, § 236.4, subd. (b).) A person convicted of human trafficking for sexual conduct is also required to register as a sex offender. (Pen. Code, § 290, subd. (c).) Any property or money used to facilitate human trafficking is subject to seizure. (Pen. Code, § 236.8.)

This bill would add human trafficking of a minor for purposes of commercial sex to the list of “serious” felonies and make it a strike under California’s Three Strikes law. While this crime is not listed as a “serious,” if great bodily injury is inflicted it is already both a “violent” and a “serious” felony. (Pen. Code, §§ 667.5, subd. (c)(8), 1192.7, subd. (c)(8).) Moreover, the act of human trafficking could include crimes that are already designated as a “violent” or “serious” felony such as kidnapping, threatening a victim or witness, personal use of a dangerous or deadly weapon, among others. Additionally, any felony punishable by life in prison is already a “serious” felony (see Pen. Code, § 1192.7 subd. (c)(7)) which applies to human trafficking of minor victims for commercial sex acts when the crime involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person. (Pen. Code, § 236.1, subd. (c)(2).) Any number of sexual offenses involving minors are also already on the “serious” or “violent” felony list. (See generally, Pen. Code §§ 667.5, subd. (c), 1192.7, subd. (c).)

A person who has a conviction for a strike (“serious” or “violent” felony) faces increased prison time for any future felony conviction. Any future felony conviction when a person has a prior conviction for a single strike results in a doubling of the prison sentence. A person, with two prior convictions for strikes faces a minimum sentence of 25 years-to life for a felony conviction, if certain criteria are met. (Pen. Code § 667, subds. (a) and (d)(2)(i); Pen. Code § 1170.12, subd. (c)(2)(A).)

- 3) **Three Strikes Implications:** In general, serious felonies as specified in Penal Code section 1192.7, subdivision (c) are considered “strikes” for purposes of California’s Three Strikes law. However, Proposition 36, which was passed by California voters on November 6, 2012, specifies that only the crimes that were included in the “serious felonies” list as of November 7, 2012, shall be treated as strikes for purposes of the Three Strikes law.

Notwithstanding subdivision (h) of Section 667, for all offenses committed on or after November 7, 2012, all references to existing statutes in subdivisions (c) to

(g), inclusive, of Section 667 (Three Strikes Law), are to those statutes as they existed on November 7, 2012.

(Pen. Code, § 667.1; see also Pen. Code, § 1170.125 [“Notwithstanding Section 2 of Proposition 184, as adopted at the November 8, 1994, General Election, for all offenses committed on or after November 7, 2012, all references to existing statutes in Sections 1170.12 and 1170.126 are to those sections as they existed on November 7, 2012].)

This bill would make human trafficking of a minor for purposes of commercial sex, generally, a strike under California law because this bill would amend the date which defines the list of strikes to include the provisions of this bill. However, as discussed *ante*, by virtue of its 15-to-life penalty, where the human trafficking of the minor for purposes of commercial sex involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, it is already a strike. (Pen. Code, §§ 236.1, subd. (c)(2), 1192.7, subd. (c)(8).)

- 4) **Increased Penalties and Lack of Deterrent Effect:** The National Institute of Justice (NIJ) has looked into the concept of improving public safety through increased penalties. (<https://nij.ojp.gov/about-nij>.) As early as 2016, the NIJ has been publishing its findings that increasing punishment for given offenses does little to deter criminals from engaging in that behavior. (“Five Things About Deterrence,” NIJ, May 2016, available at: <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.) The NIJ has found that increasing penalties are generally ineffective and may exacerbate recidivism and actually reduce public safety. (*Ibid.*) These findings are consistent with other research from national institutions of renown. (See Travis, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, National Research Council of the National Academies of Sciences, Engineering, and Medicine, April 2014, at pp. 130 -150 available at: https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=jj_pubs, [as of Feb. 25, 2022].) Rather than penalty increases, the NIJ, advocates for polices that “increase the perception that criminals will be caught and punished” because such perception is a vastly more powerful deterrent than increasing the punishment. (“Five Things About Deterrence,” *supra*.)
- 5) **Argument in Support:** According to *3Strands Global Foundation*, the sponsor of this bill, “California consistently ranks number one in the nation in the number of human trafficking cases reported to the National Human Trafficking Hotline. The California Attorney General notes that California is one of the largest sites for human trafficking in the United States, recognizes the serious nature of this crime, and has defined it as “modern day slavery.” Human trafficking is among the world’s fastest growing criminal enterprises and is estimated to be a \$150 billion-a-year global industry. It is a form of modern slavery that profits from the exploitation of our most vulnerable populations.

“SB 14 will give a voice to the millions of victims that have suffered from this horrific abuse. This bill will fight to protect victims, strengthen prevention and increase the prosecution of those who buy and sell human beings. It is about time that California starts to prosecute these horrendous acts as a serious crime.”

- 6) **Argument in Opposition:** According to the *Ella Baker Center for Human Rights*, “The Three Strikes model of sentencing enhancements is fundamentally flawed and should be

repealed, not built upon. Three Strikes is ineffective in preventing crime or protecting our communities. It does not make victims whole or provide them with the healing that they need and deserve. Three Strikes has been proven to be applied in a manner that punishes Black, Latinx, and Indigenous people more severely than white people who commit similar acts. [¶]...[¶]

“For each additional year of incarceration, the California Legislature takes an additional \$150,000 from the state General Fund. Multiplied by approximately 97,000 incarcerated people in state prisons serving very long sentences, the 2023-2024 fiscal year will spend 14.1 billion dollars from the state General Fund on prisons.. [sic] The state locks far too many billions of dollars into punishment schemes that could be better spent on mental health services in the community, the type of services that prevent crime and treat survivors of trauma.

“When reading what leaders in trauma treatment write, it is notable that punishment is not typically considered an essential element of recovery from sexual assault. In March 2017, UC-San Francisco Trauma Recovery Center (TRC) published its ‘Integrated, Evidence-Based Approach for Survivors of Violent Crime.’ In their Goals and Objective section, they wrote:

“‘The overarching goal of TRC is to support the healing of the client’s emotional and physical wounds along with restoration of their disrupted life circumstances. At the close of treatment, the client’s health, broadly defined, will be stabilized and improving. Goals include working toward having safe housing; having an income sufficient to meet their needs; safety from further violence; the emotional health to cope with daily life, including a sense of hope for the future; access to needed physical or behavioral health treatments; incorporating healthy self-care strategies; employment or school, as appropriate; and being meaningfully engaged with others, such as family, church, and community.’

“In their 228-page manual, nowhere do they advocate for greater punishment as a means of healing a survivor’s trauma. The word ‘punish’ does not appear. The only references to jail or prison was to acknowledge that decreased spending on mass incarceration due to Prop 47 would result in greater investment in mental health and drug diversion programs, as well as other services.

“The Ella Baker Center respectfully asserts that we have adequate means to punish sex trafficking of a minor. What we lack is adequate investment in schools, jobs, mental health and other services that can prevent acts of violence, and inadequate investment in trauma services. This bill will further exacerbate these fiscal inequities.”

7) **Related Legislation:** AB 229 (Joe Patterson), would have expanded the crimes that are within the definition of a violent felony subject to additional penalties, including for purposes of California’s Three Strikes Law, to include additional forms of sexual crimes, human trafficking, and felony domestic violence. AB 229 failed passage in this committee.

8) **Prior Legislation:**

a) AB 1655 (Seyarto), of the 2021-2022 Legislative Session, would have prohibited plea bargaining in cases charging human trafficking of a minor, except in specified

circumstances. AB 1665 was held in the Assembly Appropriations Committee.

- b) SB 1042 (Grove), of the 2021-2022 Legislative Session, would have added human trafficking to the list of “violent” felonies as well as to the list of “serious” felonies for all purposes, including for purposes of the Three Strikes Law. SB 1042 failed passage in the Senate Public Safety Committee.
- c) SB 1072 (Dahle), of the 2021-2022 Legislative Session, would have added human sex trafficking to the list of “violent” felonies. SB 1072 was not heard in the Senate Public Safety Committee at the author’s request.
- d) AB 537 (Acosta), of the 2017-2018 Legislative Session, would have added crimes, including human trafficking involving sexual exploitation, to the list of “serious” felonies. AB 537 failed passage in this committee.
- e) AB 1321 (Stone), of the 2013-2014 Legislative Session, would have added crimes, including human trafficking, to the list of “serious” felonies. AB 1321 was held in this committee.
- f) AB 1188 (Pan), of the 2011-2012 Legislative Session, would have added four new offenses relating to child abuse to the list of “violent” felonies, and added five new offenses related to human trafficking and the abuse of a child to the “serious” felony list. AB 1188 failed passage in this committee.
- g) AB 16 (Swanson), of the 2009-2010 Legislative Session, would have added human trafficking to the list of “serious” and “violent” felonies. AB 16 failed passage in the Assembly Appropriations Committee.
- h) SB 440 (Denham), of the 2009-2010 Legislative Session, would have added the crimes of child abuse likely to produce great bodily injury or death, physical child abuse, killing, mutilating, or torturing a domestic animal, elder abuse for which the defendant was incarcerated in state prison, and escape or attempted escape by force or violence to the lists of “serious” felonies as well as to the list of “violent” felonies, as specified; and added the crimes of human trafficking, stalking, solicitation to commit murder, fleeing or attempting to elude a pursuing peace officer, willful flight or attempting to elude a pursuing peace officer, and felon in possession of a firearm, to the list of “serious felonies,” as specified. SB 440 failed passage in the Senate Public Safety Committee.
- i) AB 426 (Galgiani), of the 2007-2008 Legislative Session, would have added human trafficking to the list of “serious” and “violent” felonies. AB 426 failed passage in the Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

3strands Global Foundation (Sponsor)
Bakersfield Crisis Pregnancy Center, INC.

Bakersfield Mayor Karen Goh
Bakersfield Police Department
Bakersfield Republican Women Federated
Bear Valley Police Department
Bridge Network
California Association of Highway Patrolmen
California Capitol Connection
California Catholic Conference
California District Attorneys Association
California Faculty Association
California Family Council
California Massage Therapy Council
California Medical Association
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Chief Probation Officers' of California (CPOC)
Church without Walls
City of Bakersfield
City of Clovis
City of Fresno
City of Needles
City of Roseville Police Department
City of San Juan Capistrano
City of Santa Clarita
City of Taft
City of Tehachapi
City of Visalia
City of Yuba City
Clovis Police Department
Concerned Women for America
Connect 2 Change
Cornerstone Synergy
County of Fresno
County of Kern
Crime Victims United of California
Empowerment (dessa Perkins Foundation)
Exeter Police Department
Flood Bakersfield Ministries, INC.
Fresno County District Attorneys Office
Fresno Police Department
Harvest International Ministry
Helping US
Hoffman Hospice
Homestead Valley Community Council
Hope for Justice
Kern County Board of Supervisors
Kern County Department of Human Services
Kern County District Attorney's Office

Kern County Probation Department
Kern County Sheriff's Office
Lake Isabella & Bodfish Property Owner's Association
Love Never Fails
Lucerne Valley Economic Development Association (LVEDA)
Merced County District Attorney's Office
Mom Army
Monterey County District Attorney's Office - ODA - Salinas, CA
National Center for Missing & Exploited Children
National Center on Sexual Exploitation (NCOSE)
Orange County Sheriff's Department
Peace Officers Research Association of California (PORAC)
Project 14:14 INC.
Project Rescue
Real Impact.
Sacramento County District Attorney
San Bernardino County Sheriff's Department
San Diego County District Attorney's Office
San Diego County Supervisor Joel Anderson's Office
Santa Clara County District Attorney's Office
Saving Innocence
Soroptimist International of North San Diego
Table Mountain Rancheria
The Light House Recovery Program, INC.
Treasures
Tulare County Child Abuse Prevention Council
Tulare County District Attorney's Office
Tulare County Supervisor Dennis Townsend
Tulare County Supervisor Larry Micari
Tule River Indian Tribe of California
UPS
Ventura County District Attorney
Veterans for Child Rescue
Visalia Police Department
Woman Ii Woman INC
Women's Center-high Desert, INC.
Yolo County District Attorney
Zoe International

13 Private Individuals

Opposition

California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice
San Francisco Public Defender

Sister Warriors Freedom Coalition

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