
UNFINISHED BUSINESS

Bill No: SB 14
Author: Grove (R), Caballero (D) and Rubio (D), et al.
Amended: 9/1/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/25/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Serious felonies: human trafficking

SOURCE: 3Strands Global Foundation

DIGEST: This bill designates human trafficking of a minor for purposes of a commercial sex act as a “serious felony,” making it a strike for purposes of the Three Strikes Law, except as specified.

Assembly Amendments exclude defendants who were victims of human sex trafficking at the time of the offense from receiving a strike, as provided, and add legislative declarations and findings.

ANALYSIS:

Existing law:

- 1) States that a person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than \$500,000. (Pen. Code, § 236.1, subd. (a).)
- 2) States that a person who deprives or violates the personal liberty of another with the intent to commit specified crimes including pimping, pandering, or child pornography, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than \$500,000. (Pen. Code, § 236.1, subd. (b).)
- 3) 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).)
- 4) Includes the following offenses within the definition of “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).)
- 5) 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).)

- 6) 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).)
- 7) Defines a "strike" prior as any “serious felony” listed in Penal Code sections 1192.7, subdivision (c) and 1192.8, and any “violent felony” listed in Penal Code section 667.5(c). (Pen. Code, §§ 667, subd. (d)(1) and 1170.12, subd. (b)(1).)
- 8) Provides that where a defendant is convicted of any felony with a prior conviction for a single serious or violent felony, the sentence imposed must be twice the term otherwise provided as punishment. (Pen. Code §§ 667, subd. (d)(1) and 1170.12, subd. (c)(1).)
- 9) Provides that a defendant, who is convicted of any current felony, with prior convictions of two or more "violent" or "serious" felonies, must receive a life sentence with a minimum term of 25 years. (Pen. Code § 667, subs. (a) and (d)(2)(i); Pen. Code § 1170.12, subd. (c)(2)(A).)
- 10) Requires a defendant affected by a prior strike to be committed to state prison, and disallows diversion or probation. (Pen. Code, §§ 667, subd. (c) and 1170.12, subd. (a).)
- 11) Requires consecutive rather than concurrent sentencing for multiple offenses committed by a defendant affected by a prior strike, unless the current felony convictions arise out of the same set of operative facts. (Pen. Code, §§ 667, subd. (c)(6) and 1170.12, subd. (a)(6).)
- 12) 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).)

This bill:

- 1) Adds human trafficking of a minor for purposes of a commercial sex act to the list of serious felonies, except where a person who committed the offense was a

victim of human sex trafficking at the time of the offense and the offense did not involve force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of injury.

- 2) Amends the statutory lock-in date for the Three Strikes Law to January 1, 2024 in order to make human trafficking of a minor for purposes of a commercial sex act a strike.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee: Costs (General Fund) to the California Department of Corrections and Rehabilitation (CDCR), likely in the millions of dollars annually. As described in more detail below, this bill will result in longer prison terms for a person convicted of trafficking a minor, both for that offense and any future offenses. CDCR estimates current costs of about \$128,000 to incarcerate one person for one year. Actual costs resulting from this bill will depend on the number of violations and convictions, defendants' criminal histories, and judicial discretion, but the overall effect will be a significant increase in incarceration costs.

SUPPORT: (Verified 9/11/23)

3Strands Global Foundation (source)
Bakersfield Crisis Pregnancy Center, Inc.
Bakersfield Mayor Karen Goh
Bakersfield Police Department
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 Police Chiefs Association
California State Sheriffs' Association
Chief Probation Officers' of California
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
County of Orange
Educate. Advocate.
Empowerment Dess Perkins Foundation
Crime Victims United of California
Exeter Police Department
Flood Bakersfield Ministries, Inc.
Fresno County District Attorney's 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 & Boldfish Property Owner's Association
Lucerne Valley Economic Development Association
Merced County District Attorney's Office
Mom Army
Monterey County District Attorney's Office
National Center for Missing & Exploited Children
National Center on Sexual Exploitation
Operation Underground Railroad

Orange County Sheriff's Department
Our Duty
Peace Officers Research Association of California
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
Saved in America
Saving Innocence
Soroptimist International of North San Diego
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
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
Individual

OPPOSITION: (Verified 9/11/23)

ACLU California Action
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
Ella Baker Center for Human Rights
Erotic Service Providers Legal, Education, and Research Project
Initiate Justice
San Francisco Public Defender
Sister Warriors Freedom Coalition

ARGUMENTS IN SUPPORT: According to 3Strands Global Foundation, the sponsor of this bill:

This important bill will include human trafficking in the lists of crimes that are defined as serious and violent 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 and labor trafficking.

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. 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 dehumanizing crime that profits from the exploitation of our most vulnerable populations.

ARGUMENTS IN OPPOSITION: According to Sister Warriors Freedom Coalition:

The penalties for human trafficking are already harsh, and there is no evidence that increasing criminal penalties will prevent or reduce human trafficking. The penalties for human trafficking are already significant, i.e. from 5 years in state prison and up to 15 years to life in state prison (depending on the age of the victim, the purpose for the trafficking, and manner in which the trafficking was carried out– i.e. force, duress, etc.) Further, many of the underlying offenses listed in P.C. 236.1 also require sex registration pursuant to P.C. section 290. Moreover, there is no evidence that long prison sentences deter or prevent crime. If anything, low-level individuals involved in human trafficking will be prosecuted under this legislation, many of them will be prosecuted for conduct done under duress or other pressures, and they will be easily and swiftly replaced.

SB 14 legitimizes “Three Strikes” which has proven to be ineffective at serving public safety and has contributed to the mass incarceration of Black Californians. California is one of 24 states, along with the federal government, that enacted a version of Three-Strikes sentencing in the 1990s. However, California’s law contained some of the most severe sentence enhancements, applied to an especially broad

group of felony offenses, and has been used more extensively in sentencing in criminal cases than in any other state. California's law was also unique in mandating a doubled-sentence enhancement for any felony (for people with at least one prior serious or violent felony) regardless of whether or not the new felony was categorized as serious or violent. Nearly one-in-three (29%) of people serving doubled-sentence enhancements in January 2022 (about 8,100 individuals) had a strike enhancement for a non-serious, non-violent offense.

ASSEMBLY FLOOR: 80-0, 9/11/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Stella Choe / PUB. S. /
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