



CALIFORNIA

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Cal. Penal Code § 236.1 (2017) – Human Trafficking

i. Summary

A person is criminally liable for human trafficking if the person:

- (1) deprives or violates the personal liberty of another with the intent to obtain forced labor or services from that individual; Cal. Penal Code § 236.1(a); or
- (2) deprives or violates the personal liberty of another with the intent to violate California Penal Code Sections 266 (enticing minor for sex), 266h (pimping), 266i (pandering), 266j (lewd acts with minor), 267 (abduction for prostitution), 311.1 (child pornography), 311.2 (sale or distribution of child pornography), 311.3 (sexual exploitation of a child), 311.4 (employing minor for pornography), 311.5 (creation or solicitation of obscene material), 311.6 (production of obscene live performances), or 518 (extortion/blackmail); Cal. Penal Code § 236.1(b); or
- (3) causes, induces, or persuades, or attempts to cause, induce, or persuade a minor¹ to engage in any of the offenses listed in Section 236.1(b). Cal. Penal Code § 236.1(c).

In determining whether a person caused, induced, or persuaded a minor to engage in a commercial sex act, “the totality of the circumstances, including the age of the victim, his or her relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.” Cal. Penal Code § 236.1(d).

Neither consent by a minor nor mistake of fact as to the age of a victim is a defense to the crime of human trafficking. Cal. Penal Code § 236.1(e)–(f).

“Human trafficking” as defined in Cal. Penal Code Section 236.1 as “equivalent” to the federal definition of a severe form of trafficking found in 22 U.S.C. § 7102(11). Cal. Penal Code § 236.1(g).

“‘Coercion’ includes a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse of the legal process; debt bondage;

¹ The California legislature is considering proposed changes to several provisions of its human trafficking laws that are at various stages in the legislative process as of July 2021. While those proposed changes are noted in this chapter, the reader should check the California Bill Tracking Website (available at: <https://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>) for updated information. Cal. Assem. B. 560 (2021) proposes to change Cal. Penal Code § 236.1(c) from “a minor” to “another person who is either a minor or an adult whom the person reasonably believes to be a minor at the time of commission of the offense ...”.

or providing and facilitating the possession of a controlled substance to a person with the intent to impair the person’s judgment.” Cal. Penal Code § 236.1(h)(1).

“Commercial sex act” means “sexual conduct on account of which anything of value is given or received by a person.” Cal. Penal Code § 236.1(h)(2).

“Minor” is an individual who is under 18 years of age. Cal. Fam. Code § 6500.

“Deprivation or violation of the personal liberty of another” is defined as creating a substantial and sustained restriction of another’s liberty through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person. Cal. Penal Code § 236.1(h)(3).

“Duress” includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which the person would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess an actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or immigration document of the victim.” Cal. Penal Code § 236.1(h)(4).

“Forced labor or services” is defined as “labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.” Cal. Penal Code § 236.1(h)(5).

“The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of ‘deprivation or violation of the personal liberty of another,’ ‘duress,’ and ‘coercion’ as described in [Cal. Penal Code Section 236.1].” Cal. Penal Code § 236.1(i).

ii. Sentencing

The crime of human trafficking is a felony under California law. Cal. Penal Code § 236.1.

A person who is convicted under section 236.1(a) shall be imprisoned for five, eight, or 12 years and pay a fine of not more than USD 500,000. Cal. Penal Code § 236.1(a).

A person who is convicted under section 236.1(b) shall be imprisoned for eight, 14, or 20 years and pay a fine of not more than USD 500,000. Cal. Penal Code § 236.1(b).

A person who is convicted under section 236.1(c) shall be imprisoned for a term not to exceed five, eight, or 12 years and pay a fine of not more than USD 500,000. Cal. Penal Code § 236.1(c)(1). When this offense involves “force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person,” the sentence is imprisonment for 15 years to life and a fine of not more than USD 500,000. Cal. Penal Code § 236.1(c)(2).

Any person who inflicts great bodily injury on a victim while violating Cal. Penal Code Section 236.1 shall be punished by an additional and consecutive prison term of five, seven, or 10 years. Cal. Penal Code § 236.4(b).

Human trafficking committed by a member of a street gang warrants harsher punishment in California. Cal. Penal Code § 186.22.

A person convicted of human trafficking shall also receive an enhanced sentencing if the person used or had a firearm or deadly weapon while committing the offense. Cal. Penal Code § 12022.3(a)–(b).

In addition to any other fine or restitution, the court may order a person convicted of human trafficking to pay an additional fine of up to USD 1 million. This fine and all fines collected pursuant to a human trafficking conviction are

to be deposited in the Victim-Witness Assistance Fund to fund grants for victims of human trafficking. Cal. Penal Code § 236.4(a), (d).

iii. Statute of Limitations

There is no statute of limitations for offenses that are punishable by life imprisonment. Cal. Penal Code §§ 236.1(c), 799.

Prosecution for an offense punishable by imprisonment for eight years or more must be commenced within six years after the commission of the offense. Cal. Penal Code §§ 236.1(a), (c), 800.

Prosecution for an offense punishable by imprisonment for less than eight years must be commenced within three years after the commission of the offense. Cal. Penal Code §§ 236.1(a), (c), 801.

b. Cal. Penal Code § 1107.5 (2018) – Expert Testimony Regarding Effects of Human Trafficking on Human Trafficking Victims

In a criminal prosecution, expert testimony is admissible by either the prosecution or the defense regarding the effects of human trafficking on victims, including the nature and effect of physical, emotional, or mental abuse on their beliefs, perceptions, or behavior. Cal. Penal Code § 1107.5(a).

c. Cal. Penal Code § 236.3 (2011) – Real Property Used to Facilitate Human Trafficking

The procedures for determining whether a property constitutes a public nuisance shall apply to real property used in human trafficking. Cal. Penal Code § 236.3; see Cal. Penal Code § 11225 (place of illegal gambling, prostitution, etc.; place used for human trafficking; place used as bathhouse permitting conduct capable of transmitting AIDS; nuisance; injunction, abatement, and prevention).

If a nuisance is established, half of the civil penalties collected in human trafficking cases are to be deposited in the Victim-Witness Assistance Fund to fund grants for human trafficking victim services and prevention programs provided by community-based organizations. Cal. Penal Code § 11230(d).

d. Cal. Penal Code §§ 236.7–236.12 (2013) – Asset Forfeiture

The court may order forfeiture of a convicted person’s assets used in human trafficking involving a commercial sex act by victims less than 18 years of age. Cal. Penal Code § 236.7(a). The court also may order forfeiture of all proceeds received from a commercial sex act where the victim was less than 18 years of age at the time of the crime. Cal. Penal Code § 236.7(b)(2).

Vehicles, boats, airplanes, money, negotiable instruments, securities, real property, or other things of value are subject to forfeiture. Cal. Penal Code § 236.7(a).

“‘Commercial sex act’ means sexual conduct on account of which anything of value is given or received by a person.” Cal. Penal Code § 236.1(h)(2).

e. Cal. Penal Code § 236.14 (2017) – Vacatur of Arrest or Conviction

The court may vacate the conviction and expunge the arrests for non-violent offenses, such as prostitution,² if the court finds: (1) the person was a victim of human trafficking at the time the non-violent crime was committed; (2) the crime directly resulted because the person was a victim of human trafficking; (3) the victim is engaged in good

² Cal. Assem. B. 124 (2021) proposes to allow relief to people convicted of a violent offense.

faith efforts to distance themselves from the trafficking scheme; and (4) vacatur is in the best interest of the petitioner and justice. Cal. Penal Code § 236.14(a)–(b), (g).

There is a rebuttable presumption that the other requirements for vacatur relief are met if a juvenile proves that the arrest resulted because of human trafficking. Cal. Penal Code § 236.14(j).

A petition seeking vacatur shall be made and heard within a reasonable time after the person has ceased to be a victim of human trafficking, or within a reasonable time after the petitioner has sought services for being a victim of human trafficking, whichever occurs later, subject to reasonable concerns for the safety of the petitioner, family members of the petitioner, or other victims of human trafficking who may be jeopardized by the bringing of the application for vacatur. Cal. Penal Code § 236.14(l).

f. Cal. Penal Code § 236.23 (2017) – Coercion to Commit Offense as a Direct Result of Being a Human Trafficking Victim; Affirmative Defense

It is a defense to a charge of a crime, other than a serious or violent felony, that the person was coerced to commit the offense as a direct result of being a human trafficking victim and had a reasonable fear of being harmed.³ Cal. Penal Code § 236.23(a).

A defendant asserting the affirmative defense of coercion as a result of being a human trafficking victim has the burden of establishing the affirmative defense. Cal. Penal Code § 236.23(b)–(c). If the affirmative defense is successful, all records in the case shall be sealed. Cal. Penal Code § 236.23(e).

g. Cal. Penal Code § 647.3 (2020) – Victim or Witness to Crimes Including Human Trafficking

“A person who reports being a victim of, or a witness to, ... human trafficking in violation of Section 236.1 ... shall not be arrested for any of the following offenses if that offense is related to the crime that the person is reporting or if the person was engaged in that offense at or around the time that the person was the victim of or witness to the crime they are reporting:

- (1) A misdemeanor violation of the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).
- (2) A violation of Section 372 [Public nuisance], subdivision (a) or (b) of Section 647 [disorderly conduct], or Section 653.22 [loitering], if the offense is related to an act of prostitution.”

Cal. Penal Code § 647.3(a).

h. Cal. Evid. Code § 1162 (2020) – Evidence that Victim or Witness to Human Trafficking Was Engaged in Prostitution

Evidence that a person was a victim of, or witness to, human trafficking “engaged in an act of prostitution at or around the time [the person] was the victim of or witness to the crime is inadmissible in a separate prosecution of that victim or witness to prove ... criminal liability for the act of prostitution.” Cal. Evid. Code § 1162.

³ Cal. Assem. B. 124 (2021) proposes to add: “This defense does not apply to crimes punishable by death, except in cases of felony murder pursuant to subdivision (e) of Section 189.”

i. Cal. Penal Code § 1203.49 (2015) – Defendants Convicted of Solicitation or Prostitution; Petition for Relief Due to Status as Victim of Human Trafficking

Defendants who have been convicted of solicitation or prostitution and who have completed any term of probation for that conviction may petition the court for relief. If they can show that their convictions resulted from human trafficking, the court may:

- (a) Find the petitioners were victims of human trafficking when they committed the crime;
- (b) Order any relief described in Cal. Penal Code Section 1203.4 [fulfillment of conditions of probation or discharge prior to termination]; and
- (c) Notify the Department of Justice that petitioners were victims of human trafficking when they committed the crime.

Cal. Penal Code § 1203.49.

j. Cal. Penal Code § 181 (2011) – Slavery; Infringement of Personal Liberty; Purchase of Custody

i. Summary

Every person “who holds, or attempts to hold, any person in involuntary servitude, or assumes, or attempts to assume, rights of ownership over any person, or who sells, or attempts to sell, any person to another, or receives money or anything of value, in consideration of placing any person in the custody, or under the power or control of another, or who buys, or attempts to buy, any person, or pays money, or delivers anything of value, to another, in consideration of having any person placed in his or her custody, or under his or her power or control, or who knowingly aids or assists in any manner any one thus offending,” shall be guilty of a crime. Cal. Penal Code § 181.

ii. Sentencing

A person who is convicted of slavery or infringement of personal liberty shall be sentenced to prison for two, three, or four years. Cal. Penal Code § 181.

iii. Statute of Limitations

A prosecution for this offense must be commenced within three years after the commission of the offense. Cal. Penal Code § 801.

k. Cal. Penal Code § 207 (2004) – Kidnapping

Kidnapping occurs when a person “forcibly, or by any other means of instilling fear, takes ...any person, with a design to take the person out of this state, ... or ... hires [or] persuades ... by false promises, misrepresentations, or the like, any person to go out of this state ... for the purpose or with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person ... without the free will and consent of that persuaded person.” Cal. Penal Code § 207(c).

l. Cal. Penal Code § 273.7 (2007) – Malicious Disclosure of Location of Trafficking Shelter or Domestic Violence Shelter

Any person who maliciously discloses the location of any trafficking shelter or domestic violence shelter without authorization is guilty of a misdemeanor. Cal. Penal Code § 273.7(a).

m. Cal. Penal Code § 14023 (2006) – Prioritization of Human Trafficking Matters

The Attorney General “shall give priority to matters involving organized crime, gang activities, drug trafficking, human trafficking, and cases involving a high degree of risk to the witness.” Cal. Penal Code § 14023.

2. Online Child Sexual Exploitation and Child Pornography Offenses

Cal. Penal Code § 311.1 – Sent or Brought into State for Sale or Distribution; Possessing, Preparing, Publishing, Producing, Developing, Duplicating, or Printing Within State; Matter Depicting Sexual Conduct by Minor; Penalty; Application; Telephone Services

Cal. Penal Code § 311.2 – Sending or Bringing into State for Sale or Distribution; Printing, Exhibiting, Distributing, Exchanging or Possessing Within State; Matter Depicting Sexual Conduct by Minor; Transaction with Minor; Exemptions

Cal. Penal Code § 311.3 – Sexual Exploitation of Child

Cal. Penal Code § 311.4 – Employment or Use of Minor to Perform Prohibited Acts; Previous Conviction; Exception

Cal. Penal Code § 311.11 – Possession or Control of Matter Depicting Minor Engaging in or Simulating Sexual Conduct; Punishment; Previous Conviction

Cal. Penal Code § 311.12 – Behavior Involving Minors in Certain Sexual Contexts; Use of Government-Owned Computers or Computer Network in the Commission of the Crime; Convictions Resulting in Additional Fines; Use of Revenue

Cal. Penal Code § 1054.10 – Disclosure of Copies of Child Pornography Evidence

Cal. Penal Code § 1170.71 – Lewd or Lascivious Acts with Child Under Age 14; Use of Obscene or Harmful Matter; Aggravation of Crime

Cal. Penal Code § 11165.1 – “Sexual Abuse,” “Sexual Assault,” and “Commercial Sexual Exploitation” Defined

3. Cal. Penal Code § 290(c) (2021) – Sex Offender Registration

A person convicted under Cal Penal Code Section 236.1(b) or (c) must register in California as a sex offender.

B. Civil Liability Statutes

1. Cal. Civ. Code § 52.5 (2017) – Civil Lawsuit for Damages to Victims of Human Trafficking

a. Summary

A victim of human trafficking may sue for actual damages, compensatory damages, injunctive relief, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney’s fees and costs. Cal. Civ. Code § 52.5(a).

b. Damages and Other Relief

In addition to the remedies allowed under Cal. Civ. Code § 52.5(a), the court may award plaintiffs up to three times their actual damages or USD 10,000, whichever is greater. Cal. Civ. Code § 52.5(b).

Punitive damages may be awarded upon proof of the defendant’s malice, oppression, fraud, or duress in committing the human trafficking. Cal. Civ. Code § 52.5(b).

Restitution paid by the defendant to the victim shall be credited against a judgment, award, or settlement obtained in a civil lawsuit. The California Victim Compensation Board must receive notice of the judgment, award, or settlement. Cal. Civ. Code § 52.5(g).

c. Statute of Limitations

A civil lawsuit seeking damages for human trafficking must be commenced within 10 years after the date a victim who was a minor attains the age of majority. If the victim was not a minor at the time of the offense, a civil lawsuit must be commenced within seven years of the date on which the trafficking victim was freed from the trafficking. Cal. Civ. Code § 52.5(c).

A “minor” is an individual who is under 18 years of age. Cal. Fam. Code § 6500.

A disability making it impossible or impractical for the victim to sue tolls the statute of limitations. Disability includes being a minor, lacking legal capacity to make decisions, imprisonment, or other incapacity or incompetence. Cal. Civ. Code § 52.5(d)(1).

A guardian ad litem’s failure to bring a plaintiff’s lawsuit within the applicable limitation period will not prejudice the plaintiff’s right to sue after the disability ceases. Cal. Civ. Code § 52.5(d)(2).

A defendant who induced or threatened the victim to delay filing a lawsuit cannot assert the statute of limitations defense. Cal. Civ. Code § 52.5(d)(3).

The statute of limitations is suspended for plaintiffs who could not have reasonably discovered their claims because of the trafficking, such as psychological trauma, cultural and linguistic isolation, and the inability to access services. Cal. Civ. Code § 52.5(e).

A victim’s civil lawsuit shall not proceed while any criminal action involving the victim and the same trafficking remains pending. A “criminal action” includes “the investigation and prosecution, and is pending until a final adjudication in the trial court or dismissal.” Cal. Civ. Code § 52.5(h).

2. Cal. Civ. Proc. Code § 354.8 (2016) – Crimes Against Humanity

For conduct occurring on or after January 1, 2016, a civil lawsuit for assault, battery, or wrongful death arising from conduct that would also constitute a crime against humanity may be commenced within 10 years. Cal. Civ. Proc. Code § 354.8(a)(E). A “crime against humanity” is an act, including enslavement, done “as part of a widespread or systematic attack directed against a civil population, with knowledge of the attack.” Cal. Civ. Proc. Code § 354.8(a)(E)(ii)(III).

A prevailing plaintiff may be awarded reasonable attorney’s fees and litigation costs including, but not limited to, expert witness fees and expenses as part of the costs. Cal. Civ. Proc. Code § 354.8(d).

C. Additional Statutes Specific to Human Trafficking

1. Cal. Civ. Code § 52.6 (2021) – Notice to Be Posted at Specific Businesses and Establishments; Slavery and Human Trafficking

Certain businesses and other establishments must post information about the national human trafficking hotline. Operators of rail stations and bus stations must provide human trafficking training to employees who may come into contact with victims of human trafficking or who are likely to receive reports from another employee about suspected human trafficking.

2. Cal. Civ. Code § 1670.7 (2010) – Provision Deducting from Wages for Cost of Emigrating and Transporting; Void

Any contract provision that allows a deduction from a person’s wages for the cost of emigrating and transporting that person to the United States is void as against public policy.

3. Cal. Civ. Code § 1714.43 (2012) – Retailers to Disclose Efforts to Eradicate Slavery and Human Trafficking from Direct Supply Chain for Tangible Goods

Every retail seller and manufacturer doing business in California and having annual worldwide gross receipts that exceed USD one hundred million must disclose its efforts to eradicate slavery and human trafficking from its direct supply chain for tangible goods. A lawsuit brought by the Attorney General for injunctive relief is the exclusive remedy for a violation of this section.

4. Cal. Civ. Proc. Code § 1161.3 (2019) – Termination of Lease

With limited exceptions, a landlord cannot terminate a lease because of an act of human trafficking against a tenant or a tenant’s household member, so long as the offender is not a tenant at the same dwelling. *See also* Cal. Civ. Code § 1946.7 (tenant may notify landlord that tenant or household member was victim of human trafficking and intends to terminate tenancy).

5. Cal. Educ. Code § 51950 (2018) – Education

A school district may provide abuse (including sexual abuse) and human trafficking prevention education. Cal. Educ. Code § 51950.

Pupils in grades 7 through 12 must receive information about human trafficking, including: (1) information on the prevalence, nature, and strategies to reduce the risk of human trafficking; techniques to set healthy boundaries; and how to safely seek assistance, and (2) information on how social media and mobile device applications are used for human trafficking. Cal. Educ. Code § 51934(a)(10).

In addition, the governing boards of school districts and charter school shall work with schools that have any of grades 6 to 12 to identify the most appropriate methods of informing those pupils’ parents and guardians of human trafficking prevention resources. Cal. Educ. Code § 49381.

6. Cal. Gov’t Code § 6206 (2019) – Application to Have Address Designated by Secretary of State Serve as Person’s Address

An adult person, a parent or guardian acting on behalf of a minor, or an incapacitated person domiciled in California may apply to have the Secretary of State designate an address to serve as the person’s address or the address of the minor or incapacitated person. The applicant must provide a sworn statement that there is good reason to believe that the applicant, minor, or incapacitated person: (1) is a victim of human trafficking, and (2) fears for their safety or the safety of their children or household members.

7. Cal. Gov’t Code § 8590.7 (2018) – Human Trafficking Victims Assistance Fund

California created a separate fund to support programs for victims of human trafficking.

8. Cal. Gov’t Code § 12950.3 (2019) – Human Trafficking Awareness Training for Hotel and Motel Employees

Hotel and motel employers must provide training and education regarding human trafficking to their employees.

9. Cal. Labor Code § 2810.5 (2015) – California Wage Theft Protection Act of 2011

California requires employers to provide specific employment-related information to employees at the time of hiring. Cal. Lab. Code § 2810.5(a)(1). Among other things, an employer must disclose its contact information and the contact and policy information for its workers' compensation carrier. Cal. Lab. Code § 2810.5(D)–(G). Employees also must be informed of their rate and basis of pay, pay day designation, and any allowances claimed as part of minimum wage. Cal. Lab. Code § 2810.5(a)(1)(A)–(B). An employer must notify its employees of any changes in these categories within seven days, unless employees' wage statements shows the changes. Cal. Lab. Code § 2810.5(b).

Noncompliant employers face criminal and civil penalties for non-payment of wages. Cal. Lab. Code § 1197.1–2. The Act requires restitution to the employee in addition to a civil penalty for failure to pay minimum wages. Cal. Lab. Code § 1197.1. Penalties under the Labor Code for failure to comply with wage-related statutes are minimum penalties, and employees may recover attorney's fees and costs incurred to enforce a court judgment for unpaid wages. Cal. Lab. Code §§ 1194.3, 1206.

More information can be found at <https://www.dir.ca.gov/dlse/FAQs-NoticeToEmployee.html>.

10. Cal. Penal Code § 236.2 (2012) – Identification of Victims of Human Trafficking; Indicators

Law enforcement agencies are to use due diligence to identify all victims of human trafficking, regardless of their citizenship. When a peace officer encounters persons deprived of their personal liberty, minors who have engaged in a commercial sex act, persons suspected of prostitution, or victims of domestic violence or sexual assault, the peace officer shall consider whether there are indicators of human trafficking.

11. Cal. Penal Code § 236.5 (2009) – Human Trafficking; Law Enforcement Agency Endorsement

Within 15 business days of the first encounter with a victim of human trafficking, law enforcement agencies shall provide brief letters that satisfy Law Enforcement Agency endorsement regulations.

12. Cal. Penal Code § 236.13 (2017) – Assistance from County Witness Assistance Center

In a case involving a charge of human trafficking under Cal. Penal Code section 236.1, the local Victim Witness Assistance Center shall provide a minor who is a victim of human trafficking with assistance if the minor so desires.

13. Cal. Penal Code § 679.11 (2020) – Certification of Victim Cooperation

Upon the request of the victim of human trafficking or the victim's family member, a certifying official from a certifying entity shall certify victim cooperation on the Form I-914 Supplement B declaration, when the victim cooperates with the investigation or prosecution of human trafficking.

14. Cal. Penal Code § 13516.5 (2019) – Course on Commercial Sexual Exploitation of Children

The commission on peace officer standards and training shall develop and implement course instruction to train peace officers on commercial sexual exploitation of children (CSEC) and victims of human trafficking. Some topics and activities are required:

- (1) The dynamics of commercial sexual exploitation of children.
- (2) The impact of trauma on child development and manifestations of trauma in victims of commercial sexual exploitation.
- (3) Strategies to identify potential victims of commercial sexual exploitation.
- (4) Mandatory reporting requirements related to commercial sexual exploitation.

- (5) Appropriate interviewing, engagement, and intervention techniques that avoid retraumatizing the victim and promote collaboration with victim-serving agencies.
- (6) Introduction to the purpose, scope, and use of specialized child victim interview resources.
- (7) Local and state resources that are available to first responders.
- (8) Perspectives of victims and their families.
- (9) Issues of stigma.
- (10) Any other critical topics identified by subject matter experts.

Cal. Penal Code § 13516.5(a).

The course of instruction shall include facilitated discussions and learning activities, including scenario-training exercises. Cal. Penal Code § 13516.5(b).

The training shall be developed with input from survivors of commercial sexual exploitation, the appropriate local and state agencies, and advocates that have expertise in CSEC and human trafficking. Cal. Penal Code § 13516.5(c).

15. Cal. Penal Code § 13519.14 (2012) – Course or Courses of Instruction for Training of Law Enforcement Officers in the Handling of Human Trafficking Complaints

There must be a course of instruction for law enforcement officers in the handling of human trafficking complaints, as well as guidelines for law enforcement response to human trafficking.

16. Cal. Penal Code § 13750 (2021) – Establishment of Family Justice Centers

A city, county, or community-based nonprofit organization may each establish a multiagency, multidisciplinary family justice center to assist victims of domestic violence, sexual assault, elder or dependent adult abuse, and human trafficking, to ensure that victims are able to access all needed services in one location.

17. Cal. Penal Code § 13753 (2019) – Human Trafficking Multidisciplinary Team

A city, county, or community-based nonprofit organization may establish a human trafficking multidisciplinary personnel team consisting of persons who are trained to prevent, identify, manage, or treat human trafficking victims.

18. Cal. Pub. Con. Code § 6108 (2007) – “Sweatfree” Procurement Policy and Code of Conduct

In California, “[e]very contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, shall require that a contractor certify that no apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor”

19. Cal. Welf. & Inst. Code § 18945 (2008) – Noncitizen Victims of Trafficking

Noncitizen victims of trafficking are eligible for state public services to the same extent as persons admitted to the United States as refugees. These services shall discontinue if there is a final administrative denial of a T visa or U visa application.

D. Significant Cases

1. *People v. Guyton*, 20 Cal. App. 5th 499 (2018)

The defendant identified a woman advertising on the internet as a prostitute and offered her a bus ticket from South Dakota to Orange County, California. There she operated as a prostitute, provided the proceeds to the defendant, and received only a stipend to cover food, clothes, a hotel room, and manicure costs. The defendant was convicted of pimping, pandering, and human trafficking but argued on appeal that he could not be guilty of trafficking because the victim “could have walked away at any time.” *Id.* at 506–07.

The Court of Appeal affirmed the defendant’s conviction for trafficking. It highlighted the defendant’s isolation of the victim, constant monitoring of her, the substantial work requirements he imposed on her, and the victim’s limited access to her child. The court reasoned that, “[w]hen a pimp keeps a woman’s baby away from her unless she makes enough money to satisfy the pimp, that is a substantial and sustained restriction of the women’s liberty accomplished through force, fear, fraud, deceit, duress or menace.” *Id.* at 507.

2. *People v. Brown*, 14 Cal. App. 5th 320 (2017)

The defendant was convicted of both pandering and human trafficking under California law.

The court ruled that prosecutors are entitled to seek the greater punishment when they charge a defendant with more than one trafficking offense. Although the defendant was both a panderer and a trafficker, the prosecutor was not obligated to charge him only with the more lenient of the two offenses.

3. *People v. Moses*, 10 Cal. 5th 893 (2020)

The defendant was convicted of attempting to recruit an undercover detective posing as a 17-year-old girl as a prostitute in violation of Cal. Penal Code § 236.1(c). A jury convicted the defendant of human trafficking of a minor, attempted pimping of a minor, and pandering. The Court of Appeal reversed the human trafficking conviction on the grounds that the defendant could not be convicted under Cal. Penal Code § 236.1, but only under the general law of attempt.

The Supreme Court of California reversed and held that the defendant can be convicted of an attempt under the trafficking statute, Cal. Penal Code § 236.1. The Court also held that the fact that the particular target of a defendant’s efforts is not actually a minor is not a defense to attempted inducement of a minor.

4. *People v. Oliver*, 54 Cal. App. 5th 1084 (2020)

A female worked for the defendant as a prostitute. The defendant was convicted of human trafficking with the intent to pimp her in violation of Cal. Penal Code § 236.1(b), among other offenses. On appeal, the defendant argued that his conviction for human trafficking an adult in violation of Cal. Penal Code § 236.1(b) must be reversed because the offense includes the element that the victim did not consent to his or her restraint or confinement.

The Court of Appeal affirmed the judgement and held that the lack of the victim’s consent is not an element of or an affirmative defense to the offense of human trafficking an adult in violation of § 236.1(b).

5. *In re D.C.*, 60 Cal. App. 5th 915 (2021)

A minor male lived on the streets and established a relationship with an older male. The older male allowed the minor to live in his home, gave the minor drugs in exchange for sex, and drove around with the minor in the trunk of his car. The minor was found by the police with a knife that he planned to use on the older male, and he was convicted for possession of the knife. The juvenile court held that the human trafficking defense, Cal. Penal Code § 236.23, did not apply in the absence of evidence that the trafficker directly coerced the accused to commit the specific offense. Subsequently, the court did not apply the defense to the minor because there was no evidence that

the older male coerced the minor to carry the knife. The minor, on appeal, argued that the human trafficking defense should apply.

The Court of Appeal reversed and held that the human trafficking defense did not require evidence that the minor was coerced to commit the offense by his trafficker for the defense to apply. The minor’s reasonable fear of suffering harm as a result of the trafficker’s scheme, plan, or pattern established the required showing of coercion.

E. Academic Research/Papers

Matthew Garber, *Chapter 240: Human Trafficking – Combating the Underground Slave Industry in California*, 37 MCGEORGE L. REV. 190, 190-198 (2006)

Rachel N. Busick, *Blurred Lines or Bright Line? Addressing the Demand for Sex Trafficking Under California Law*, 42 PEPP. L. REV. 333 (2014)

F. Resources

Bay Area Legal Aid, *Penal Code § 236.14 – Fact Sheet* (Apr. 2017):
<https://www.courts.ca.gov/documents/BTB24-4D-5.pdf>

California Against Slavery:
<http://californiaagainstsavery.org/>

California Department of Fair Employment and Housing, Human Trafficking:
<https://www.dfeh.ca.gov/HumanTrafficking>

California Human Trafficking Legislation:
<https://oag.ca.gov/human-trafficking/legislation>

Kamala D. Harris, Attorney General, California Department of Justice, *The California Transparency in Supply Chains Act: A Resource Guide* (2015):
<https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>

National Human Trafficking Hotline (California):
<https://humantraffickinghotline.org/state/california>

Santa Clara County District Attorney’s Office, *The Inquisitive Prosecutor’s Guide – New Human Trafficking Laws* (Feb. 2017):
<https://www.sccgov.org/sites/da/Documents/IPG%20Memos/2017-IPG28.pdf>

Shared Hope International, *California Analysis and Recommendations* (2019):
https://sharedhope.org/PICframe9/analysis/PIC_AR_2019_CA.pdf

Shared Hope International, *California Report Card* (2019):
https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_CA.pdf

U.S. Department of Health & Human Services, *California: Efforts to Combat Human Trafficking* (2017):
https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/california_profile_efforts_to_combat_human_trafficking.pdf

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