
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2207 **Hearing Date:** June 19, 2018
Author: Eggman
Version: May 25, 2018
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Commercially Sexually Exploited Children*

HISTORY

Source: Children's Advocacy Institute

Prior Legislation: AB 223 (Eggman) Held in Assembly Appropriations 2017

Support: California Alliance of Caregivers; California Catholic Conference; Children's Law Center of California; Children Now; Family Law Section of the California Lawyers Association; Lynch Foundation for Children; National Association for Missing and Exploited Children; National Association of Social Workers, California Chapter; Saved in America; Survivor Leader Network of San Diego; individual

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to require the Department of Social Services (DSS), on a semi-annual basis beginning July 1, 2019, and until March 1, 2021, to report to the Legislature the progress of counties in implementing policies and practices to address the needs of commercially sexually exploited children (CSEC), and requires DSS to report to the Legislature no later than July 1, 2021, whether each county has fully implemented policies that consistently provide for the needs of CSEC victims.

Existing law states that "sexual exploitation" refers to a person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for the welfare of a child, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting or other pictorial depiction involving obscene sexual conduct. (Penal Code, § 11165.1 (c)(2).)

Existing law permits a city, county, or community-based nonprofit organization to 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 of abuse are able to access all needed services in one location in order to enhance victim safety, increase offender accountability, and improve access to services for victims of domestic violence, sexual

assault, elder or dependent adult abuse, and human trafficking. (Penal Code § 13750 (a).)

Existing law states that any person who causes or persuades, or attempts to cause or persuade, a person who is a minor to engage in a commercial sex act, with the intent to effect a violation of specified sex offenses, is guilty of human trafficking and shall be punished as specified. (Penal Code § 236.1 (c)(1) & (2).)

Existing law defines "commercial sex act" as "sexual conduct on account of which anything of value is given or received by any person." (Penal Code § 236.1 (h)(2).)

Existing law defines commercially sexually exploited children as a child who is sexually trafficked or receives food or shelter in exchange for the performance of certain sexual acts, as specified. (Welfare & Insti. Code, § 300)

Existing law establishes the Commercially Sexually Exploited Children Program, as administered by the Department of Social Services (DSS), to serve children who have been sexually exploited. (Welfare & Institutions Code §§ 16524.6-16524.11.)

Existing law requires DSS to, no later than April 1, 2017, report certain information to the Legislature related to the CSEC Program, including the participating counties, the number of victims served by each county, and the types of services provided, among others. (Welfare & Institutions Code § 16524.10.)

Existing law requires county child welfare agencies and probation departments to implement policies and procedures related to identification of and provision of services to CSEC victims, as specified. (Welfare & Institutions Code § 16501.35.)

Existing law provides that a CSEC may be adjudged a dependent child of the juvenile court and taken into temporary custody to protect the minor's health or safety. (Penal Code §§ 647 . (b)(5) & 653.22 (a)(2).)

Existing law allows the County of Alameda, contingent upon local funding, to establish a pilot project to develop a comprehensive, multidisciplinary model to address the needs and effective treatment of commercially sexually exploited minors who have been arrested or detained by local law enforcement for a violations of specified prostitution offenses. (Welfare And Institutions Code §18259 (a).)

Existing law allows the District Attorney of the County of Alameda, in collaboration with county and community-based agencies, to develop, as a component of the specified pilot project, protocols for identifying and assessing minors, upon arrest or detention by law enforcement, who may be victims of commercial sexual exploitation. (Welfare & Institutions Code § 18259 (b).)

Existing law specifies that the District Attorney of the County of Alameda, in collaboration with county and community-based agencies that serve commercially sexually exploited minors, may develop, as a component of the pilot project described in this chapter, a diversion program reflecting the best practices to address the needs and requirements of arrested or detained minors who have been determined to be victims of commercial sexual exploitation. (Welfare & Institutions Code § 18259 (c).)

Existing law permits the District Attorney of the County of Alameda, in collaboration with county and community-based agencies, to form, as a component of the pilot project described in this chapter, a multidisciplinary team including, but not limited to, city police departments, the county sheriff's department, the public defender's office, the probation department, child protection services, and community-based organizations that work with or advocate for commercially sexually exploited minors. (Welfare & Institutions Code, § 18259 (d).)

Existing law requires the District Attorney of the County of Alameda to submit a report to the Legislature by April 1, 2016 that summarizes the activities of the pilot project. (Welfare & Institutions Code § 18259.1.)

Existing law states that the authorization for the pilot project in Alameda County will expire on January 1, 2017, unless extended by the Legislature. (Welfare & Institutions Code § 18259.5.)

Existing law provides that a juvenile convicted of specified offenses related to prostitution may, upon reaching 18 years of age, petition the court to have those convictions sealed without having to demonstrate that they have not been convicted of a felony or of any misdemeanor involving moral turpitude, or that rehabilitation has been attained to the satisfaction of the court. (Penal Code, § 1203.47 (a).)

This bill requires DSS to convene a working group of relevant stakeholders, as specified, to examine the use of restraining orders in protecting CSEC and whether changes to statute may be necessary, and further requires the working group to make recommendations to the Legislature regarding the use of restraining orders, as specified.

This bill requires DSS to report to the Legislature on a quarterly basis, no later than July 1, 2019, and until March 1, 2021, the progress of each county toward fully implementing policies and practices that provide a safe environment, appropriate services, and specialized placements for each CSEC victim who is receiving child welfare services, and further requires the reports to include all of the following, broken down by county, as specified:

- a) The number of CSEC served and a description of the methodologies used to identify CSEC;
- b) A description of utilized CSEC services;
- c) A description of the placements provided for CSEC;
- d) The number of CSEC who identified as gender-fluid or LGBTQ, how this population is identified, and a description of the services or placements provided to them;
- e) The number of CSEC classified as runaways or missing, whether they returned home, and for how long they were absent and for how long they returned to their home;
- f) The number of CSEC who reached the age of majority or were adopted.
- g) The number of CSEC who died or suffered significant injury that could have caused their death;
- h) The number of CSEC who were arrested;

- i) CSEC-related staff turnover, and what steps, if any, each county is taking to reduce staff turnover;
- j) Classification of CSEC-related community and interagency partnership engagement rates;
- k) Difficulty in gathering and utilizing CSEC-related data; and,
- l) An accounting of how each county has expended General Fund allocations.

This bill requires DSS to report to the Legislature, no later than July 1, 2021, whether each county has fully implemented policies and practices for CSEC receiving child welfare services and whether those policies and practices consistently provide victims with safe environments, appropriate services, and specialized placements, and further, requires the report to include each county in the state regardless of whether the county has opted to receive certain funds, as specified.

This bill requires the policies, practices, services, and placements for each county to be compared to best practices, as specified, and include:

- a) Identification of and screening for CSEC and CSEC who are gender-fluid or LGBTQ;
- b) Services and placements provided to CSEC that are trauma informed; and,
- c) Sufficient resources and services to assist parents of CSEC.

This bill makes Legislative findings and declarations related to the commercial sexual exploitation of children in California, the intersection between CSEC and the child welfare system, and the provision of services to these youth by the state.

COMMENTS

1. Need for This Bill

According to the author:

California is home to three of the nation's thirteen high intensity trafficking areas as identified by the FBI: San Diego, Los Angeles, and San Francisco. The human trafficking industry is a criminal enterprise that leaves a trail of devastation throughout California, and whose victims suffer immeasurably at the hands of their abusers. California properly no longer treats CSEC victims as criminals but, properly, as abused and neglected children, needing tailored services. In CDSS's 2017 Report to the Legislature (seven months late) documenting how counties were offering services to these especially vulnerable children, promising strategies were identified, but significant disparities were discovered between counties, both in identifying CSEC and offering secure, trauma-informed placements. These disparities are especially prevalent among some of the most vulnerable subpopulations of CSEC, which include people of color, females, and LGBT. There was also no in-depth evaluation of how \$38 million for the benefit of these children was spent by the counties so we cannot identify which strategies worked and which did not. This bill will require the California Department of Social

Services (CDSS) to release progress reports detailing the results of services and programs implemented to help Commercially Sexually Exploited Children (CSEC).

2. Child Welfare Services

The primary objective of California's Child Welfare Services (CWS) system is to protect children from abuse and neglect while also providing for their health, safety, and overall well-being. When it is determined that a child is at risk of abuse, neglect, or abandonment, county juvenile courts hold legal jurisdiction and the CWS system appoints a social worker in order to best serve the needs of the child. Through CWS, multiple opportunities arise for the judicial system to evaluate, review and determine the custody of the child, or determine the best out of home placement for the youth. Together, the judicial system and the child's social worker work to ensure that the best possible services are provided to the child. The CWS system also, when appropriate, works to reunite children who have been removed from the custody of their parents or guardians with individuals they consider to be family. California's child welfare system currently serves over 60,000 children and youth.

3. Commercial Sexual Exploitation of Children

The commercial sexual exploitation of children is defined as the sexual exploitation of children entirely, or at least primarily, for financial or other economic reasons, and may be characterized by economic exchanges that are either monetary or non-monetary – e.g., for food, shelter, or drugs. Sex trafficking of minors is defined as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act” where the person is a United States citizen or a lawful permanent resident under the age of 18 years.

Nearly 98% of CSEC victims in the U.S. are female, and between 50 and 80% of child victims of commercial sexual exploitation have been involved with the child welfare system, according to the Alameda County Human Exploitation and Trafficking (H.E.A.T.) Watch Unit. It is also estimated that, in 2014, one in six endangered runaways were likely sex trafficking victims, according to the National Center for Missing and Exploited Children. Due to challenges associated with identifying victims, collecting and cross-referencing data, and deciding on common definitions in order to collect accurate statistics, many experts believe that these numbers underestimate the magnitude of the problem. Many youth also do not self-identify as victims, or may be reluctant to admit to victimization due to fears of retaliation from traffickers, deportation, or incarceration.

4. DSS report to the Legislature

In October 2017, DSS released a report entitled “Commercially Sexually Exploited Children Program 2017 Report to the Legislature” in compliance with requirements enumerated in SB 855 (Senate Committee on Budget), Chapter 29, Statutes of 2014. SB 855 required DSS to report to the Legislature on the implementation of the CSEC Program, as well as provide information on: participating counties; the number of victims served by each county; the types of services provided; strategies promoting collaboration between relevant stakeholders regarding prevention, training, and services; and the identification of barriers and challenges to serving CSEC victims. The study found that between July 1, 2015 and July 1, 2016, 1,911 victims were identified and served by the CSEC Program throughout the 38 participating counties, though the report acknowledges that the prevalence of CSEC is likely much higher due to underreporting and hesitancy of victims to self-identify.

The study identified a number of challenges that have emerged since the inception of the CSEC Program, including: difficulty in identifying and documenting the rates of CSEC victims in certain counties; lack of involvement of critical or mandated stakeholders; the rates of staff turnover and high levels of training required of staff; limitations of existing systems for purposes of documentation and data reporting; and timelines spending limitations in entering and executing contracts with community service providers.

This bill would require follow-up reports by requiring the Department of Social Services (DSS), on a quarterly basis beginning July 1, 2019, and until March 1, 2021, to report to the Legislature the progress of counties in implementing policies and practices to address the needs of commercially sexually exploited children (CSEC), and requires DSS to report to the Legislature no later than July 1, 2021, whether each county has fully implemented policies that consistently provide for the needs of CSEC victims.

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