
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1064 **Hearing Date:** April 12, 2016
Author: Hancock
Version: February 16, 2016
Urgency: No **Fiscal:** No
Consultant: ML

Subject: *Sexually Exploited Minors*

HISTORY

Source: Alameda County District Attorney; McGeorge Legislative and Public Policy Clinic; State Coalition of Probation Organizations

Prior Legislation: AB 799 (Swanson) – Ch. 51, Stats. 2011
SB 1279 (Pavley) – Ch. 116, Stats. 2010
AB 499 (Swanson) – Ch. 359, Stats. 2008

Support: Association of Deputy District Attorneys; Association of Orange County Deputy Sheriffs; California District Attorneys Association; California Police Chiefs Association; California State Association of Counties; California Statewide Law Enforcement Association; Fraternal Order of Police, Northern California; Kern County Probation Officers Association; L.A. County Deputy Probation Officers Union, AFSCME Local 685; Long Beach Police Officers Association; Madera Probation Peace Officers Association; National Association of Social Workers, California Chapter; Sacramento County Deputy Sheriff's Association; Sacramento County Probation Association; Sacramento Police Officers Association; San Diego Police Officers Association; San Joaquin County Probation Officers Association; Santa Clara County Probation Peace Officers' Union; Stanislaus County Deputy Probation Officers Association; University of the Pacific McGeorge School of Law; Ventura County Professional Peace Officers' Association

Opposition: Unknown

PURPOSE

The purpose of this bill is to expand the existing, discretionary “commercially sexually exploited minor” program in Alameda County to make it statewide, to eliminate the sunset in those provisions, and make additional changes as specified.

Existing law authorizes Alameda County, dependent on local funding, to create a pilot project to develop a model that will address the needs and effective treatment of sexually exploited minors until January 1, 2017, and the county's District Attorney to submit a report by April 1, 2016 to determine whether the program should be extended to additional counties. (Welfare and Institutions Code §§ 18259.1, 18259.5.)

Existing law authorizes a similar program in Los Angeles County and its District Attorney to submit a report by April 1, 2016 determining whether the program should be extended to additional counties. (Welfare and Institutions Code § 18259.7.)

This bill will authorize the expansion of the Alameda program to apply statewide.

This bill will expand the definition of commercial sexual exploitation of children to include minors found to be dependent of the juvenile court because he or she is a commercially sexually exploited child or was arrested for engaging in prostitution. The commercial sexual exploitation of children is currently defined as criminal practices that demean, degrade and threaten the physical and psycho-social integrity of children.¹

This bill repeals the January 1, 2017 sunset for the Alameda program and removes the authority for the county's district attorney to publish a report by April 1, 2016 that would have assessed whether the program should be extended to additional counties.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31,

¹ http://www.heatwatch.org/human_trafficking/about_csec

2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for The Bill

According to the author:

According to UNICEF, every 2 minutes a child is groomed for sexual exploitation. The California Children's Welfare Council reports that at least 100,000 children are commercially sexually exploited in the United States every year, with another 300,000 children identified as being at risk for exploitation. Despite current national, state, and local efforts, California faces a rapid increase in the number of children being sexually exploited, especially in the form of prostitution and child pornography. According to data collected by the FBI, more than 3,000 juveniles were arrested for prostitution in California between 2006 and 2012.

SB 1064 seeks to respond to the specialized needs of commercially sexually exploited children (CSEC) in a way that focuses on victimization rather than criminalization.

According to the U.S. Department of Justice, three of the nation's thirteen High Intensity Child Prostitution areas, as identified by the FBI, are located in California: the San Francisco, Los Angeles, and San Diego metropolitan areas. Despite the shift in treating CSEC as victims, rather than offenders, there were 174 prostitution-related arrests of children, some as young as 12 years old, in California in 2014.

In response to California's growing CSEC problem, Alameda County established a pilot project, H.E.A.T. Watch, authorized under AB 499 (Swanson 2008) to divert sexually exploited youth away from incarceration and into much needed support services. The program is highly acclaimed, and has garnered national awards for its comprehensive response to the unique needs of CSEC victims.

Moreover, Alameda County created the Young Women's Saturday Program, a weekly program that provides advocacy, case management, and life skills training to CSEC victims to restore and support their well-being, empower them to recover, and ensure that they are ready to lead a productive life free from exploitation.

The pilot project enabled the Alameda County District Attorney's Office to leverage existing resources and convene county agencies, such as law enforcement, probation, social services, public defenders, and CSEC-specific community based organizations, to create an effective local response to the commercial sex trafficking of children.

Existing law, until January 1, 2017, authorizes the Counties of Alameda and Los Angeles to create a pilot project, contingent upon local funding, for the purpose of developing a multi-disciplinary model to address the needs and effective treatment of commercially sexually exploited minors who have been arrested or detained by local law enforcement.

2. Effect of Legislation

The bill expands the operation of Alameda County's program statewide to all 58 counties, but the extension is contingent upon local funding and whether the county is willing to opt in. The bill also expands the definition of the commercial sexual exploitation of children to include minors who are dependents of the juvenile court because he or she is a commercially sexually exploited child or was arrested for engaging in prostitution. SB 1064 eliminates the sunset of the Alameda County pilot program from January 1, 2017.

Under the program, counties may establish a project to divert commercially sexually exploited minors from incarceration into support services. The bill also permits counties to plan, create, and implement the tools necessary to identify, treat, and rehabilitate commercially and sexually exploited children. The program in Alameda County currently works to assess and identify minors who are arrested or detailed by law enforcement and may be victims of commercial sexual exploitation. It serves as a diversion program consisting of best practices to address the needs and services of these youth.

3. Support

According to one of the sponsors of this legislation, the State Coalition of Probation Organizations states:

SB 1064 would allow every county in the state to voluntarily develop a comprehensive and multidisciplinary plan to address the needs of, and provide effective treatment to, CSEC victims.

Pursuant to Section 18259 of the Welfare and Institution code, the District Attorney of Alameda County created and successfully implemented its Human Exploitation and Trafficking "HEAT" Watch to provide a comprehensive and collaborative response to human trafficking. SB 1064 removes the sunset on the original enabling legislation, and allows other counties to utilize similar approaches. It is critical for all counties to create these plans to help assist these young victims of these incomprehensible crimes.

This bill will also expand the definition of "CSEC" to minors found to be "dependent of the juvenile court" as CSEC victims, as well as minors arrested for engaging in prostitution. This approach will allow these victims the ability to receive the necessary services to help them break out of prostitution and human trafficking.

4. Los Angeles Program

Senate Bill 1279 (Pavley, 2010) enacted a program similar to that of Alameda County in Los Angeles County, and also authorized the Los Angeles County District Attorney's office to publish a report by April 1, 2016 that will assessed whether the program should be extended to additional counties in California. This bill does not amend those provisions. The author may wish to consider whether the provision should be repealed since the bill would extend the Alameda program statewide.

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