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Current Laws Against Human Trafficking

Slated for the November 2012 ballot, Proposition 35 is an initiative that will fight back against human trafficking and the sexual exploitation of women and children.

"California law provides very limited options for prosecuting demand and victims of child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are provided with little protection under the law as victims." – [California Report Card](#), Protected Innocence Initiative, Shared Hope Int'l and American Center for Law & Justice, December 2011.

What are the current anti-trafficking laws?

Federal law

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." - U.S. Constitution Amendment XIII – Slavery Abolished (1865)

The U.S. Congress passed the ["Trafficking Victims Protection Act of 2000" \(TVPA\)](#). Since TVPA applies only to federal cases tried in federal courts, each state is responsible to enact its own legislation to handle cases within the state.

California state law

In 2005, California enacted the [AB 22 California Trafficking Victims Protection Act \(CTVPA\)](#), which established human trafficking for forced labor or services as a felony crime punishable by a sentence of 3, 4 or 5 years in state prison and a sentence of 4, 6 or 8 years for trafficking of a minor. Incredibly, there is no stated penalty for sex trafficking of a minor without force.

The CTVPA was written when domestic human trafficking was viewed as a crime impacting mainly foreign nationals brought into this country. It overlooked thousands of American minors and adults who were also exploited. The CTVPA needs to be updated to reflect the trafficking of Americans and foreign nationals alike.

How does California state law compare to federal law?

Under federal law, a convicted sex trafficker receives a sentence of 15 years to life, whereas under California law the same crime receives a sentence ranging from 3 – 8 years. In California, the burden of proof for sex trafficking of minors is the same as for adults, which is inconsistent with federal legislation.

Why change the law?

Human trafficking flourishes where the law is weak

International Justice Mission, an international human rights organization, in collaboration with the Gates Foundation conducted a [four-year study](#) in Cebu, Philippines. The study found a 79% reduction in minor sex trafficking "when anti-trafficking laws are enforced by well-trained and equipped police and courts."

"Current California law does not adequately reflect the severity of this heinous crime" - Brian Marvel, San Diego Police Officers Assoc. President

¹ Paid for by Californians Against Sexual Exploitation, Sponsored by California Against Slavery and Safer California Foundation, and a coalition of law enforcement, community groups and residents. Major funding by Chris Kelly.

Per the 2007 [Human Trafficking in California Report](#), California Alliance to Combat Trafficking and Slavery (CA ACTS) stated that prosecutors need a stronger incentive to file charges under California's human trafficking law. Currently, traffickers may escape full penalties and victims may not receive all the protections that were included in the CTVPA. Additionally, CA ACTS stated that California needs a stronger law to hold traffickers accountable, as the federal government often declines trafficking cases due to reasons such as limited resources.

"There's no bigger bang for your buck, no better job opportunity than to sell children for sex. It is far more lucrative than selling drugs. There's none of the risk, and none of the overhead. So why not?" - Sharmin Bock, Alameda County Deputy District Attorney

California receives an F

California received an F on protecting victims of child sex trafficking in the recent state [Protected Innocence Initiative](#) report card, December 2011. This comprehensive analysis, evaluating each state's existing laws, is conducted by Shared Hope International and the American Center for Law & Justice.

The punishment does not reflect the severity of the crime

Human trafficking is a brutality. It is the most severe form of human rights violation, child abuse and torture, and human exploitation in our country today.

The federal law applies only to federal cases, which are required to be tried in federal courts, by federal prosecutors. Each state is responsible for enacting its own legislation to handle cases within the state. Human trafficking carries a lighter penalty under California law than rape and kidnapping, despite the added financial benefits derived from the crime of human trafficking and the brutality so often involved.

Crime	Sentence (years)
Human trafficking (Section 236.1)	3, 4, 5 (4, 6, 8 if minor)
Rape (Section 264)	3, 6, 8
Rape in concert (Section 264.1)	5, 7, 9
Kidnapping (Section 208)	3, 5, 8 (5, 8, 11 if minor <14)
Kidnapping to commit sexual crime (Section 209)	life with the possibility of parole

How can we make this right?

Let Californians decide what's right

We can enact stiffer laws against human trafficking with California's direct initiative process, which lets voters bypass the Legislature and have an issue of concern put directly on the ballot. In the process, millions of Californians will be exposed to the issue of human trafficking.

Begin a movement for justice

Success in California—a bellwether state—could influence other states by inspiring citizens and legislators to take action. 17 million registered voters in California can make a firm statement to traffickers around the world that we take slavery seriously and care about those in bondage.