

**DEPARTMENT OF FINANCE BILL ANALYSIS**

**AMENDMENT DATE:** 06/27/2012  
**POSITION:** Neutral  
**SPONSOR:** Attorney General of California

**BILL NUMBER:** SB 1133  
**AUTHOR:** Leno, Mark

**BILL SUMMARY: Human trafficking.**

This bill would authorize, upon conviction of a person guilty of sex trafficking a minor, forfeiture of any interest in a vehicle, boat, airplane, money, negotiable instruments, securities, real property, or other thing of value that was put to substantial use for the purpose of facilitating the crime. This bill would also authorize the forfeiture of any property interest, tangible or intangible, and all proceeds acquired through sex trafficking of a minor.

**FISCAL SUMMARY**

To the extent that interests are forfeited, this bill could generate additional revenues for the General Fund of the state or local governmental entity that prosecutes or handles the forfeiture hearing, and for the state's Victim-Witness Assistance (VWA) Fund, as provided.

The Department of Justice (DOJ) and the California Emergency Management Agency, which administers the VWA Fund, indicate that any costs resulting from this measure would be minor and absorbable within existing resources. Revenue to the VWA is unknown at this time. Additional revenues to the VWA fund would be subject to an appropriation by the Legislature for programs that support victims of human trafficking.

The Judicial Branch indicates that this bill could add to the courts' caseload, which increases backlogs, and could create a pressure on the General Fund to handle the increased workload. However, Finance notes that the courts do not typically receive funding on a caseload basis. Therefore, unless this caseload becomes significant and is documented, it is likely to be absorbed.

While there could be unknown increased costs for the Department of General Services (DGS) to the extent they would have to sell forfeited property, as specified, these costs would be offset by the portion of proceeds that DGS would receive from the sale of the forfeited property.

**COMMENTS**

The Department of Finance is neutral on this bill because it would provide prosecutors a tool to ensure that convicted sex traffickers of minors are not able to retain profits of crime or the property used to commit the crime, and could provide more resources for community-based organizations that serve victims of human trafficking.

Finance notes that this bill would authorize a prosecuting agency to petition the court for forfeiture of an interest, as provided, but does not require any local or state prosecuting agency to do so.

According to the author's office, sex trafficking is estimated to be a \$31 billion industry and the second largest criminal enterprise in the world. Although an estimated 65,000 children were lured into the sex trade in California in 2009 and 2010, only 13 individuals were sent to prison in California for human trafficking

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Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
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**COMMENTS** (continued)

during that time. The author's office notes that many experts believe the low occurrence of human trafficking investigation and prosecution is related to the lack of resources available to victims and their inability to come forward. The author's office indicates that the intent of this bill is to provide resources to victims of human trafficking and their support groups and to enhance the reporting of this crime.

## Existing law:

- Makes it a felony, generally known as human trafficking, to deprive or violate the personal liberty of another with the intent to effect or maintain a felony violation of, among other things, pimping, pandering, and abducting a minor for the purpose of prostitution.
- States that property and assets acquired or received in exchange for the proceeds directly derived from a pattern of criminal profiteering, as specified, including human trafficking, are subject to forfeiture.
- Provides that forfeited money and proceeds of the sale of forfeited property shall be distributed as follows:
  - To the bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to the amount of his or her interest in the property or proceeds, as specified.
  - To the DGS or local governmental entity for expenditures incurred in connection with the sale of the forfeited property.
  - To the general fund of the state or local governmental entity, whichever prosecutes, except in certain cases.
  - In a case of child pornography, to the county or state Children's Trust Fund.
  - In a case of recycling fraud, to a special fund, as specified.
  - In a case involving human trafficking of minors for prostitution or lewd conduct, to the VWA Fund, as provided.

This bill, among other things, would expand the list of assets subject to forfeiture to include any interest in a vehicle, boat, airplane, money, negotiable instruments, securities, real property, or other thing of value that was put to substantial use for the purpose of facilitating the sex trafficking of a minor.

This bill would not require proof of a pattern of human trafficking (at least two instances) in order to authorize forfeiture of property. Only one proven instance of sex trafficking of a minor would be sufficient to authorize forfeiture of property, as provided.

This bill would prescribe the distribution of money forfeited or the proceeds of the sale of forfeited property by the state or local governmental entity, relating to sex trafficking, as follows:

- To a bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to to amount of his or her interest in the property or proceeds, as specified.
- To the DGS or local governmental entity for expenditures incurred in connection with the sale of the forfeited property.

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**COMMENTS** (continued)

- Fifty percent to the General Fund of the state or local governmental entity, whichever prosecutes or handles the forfeiture hearing.
- Fifty percent to the VWA Fund to be used upon appropriation for grants to community-based organizations to provide services for victims of human trafficking.

The author's office indicates that providing a distribution to the General Fund (state or local) would ultimately result in more funding being received by victims and community-based organizations. Given that investigating and prosecuting human trafficking cases can be costly, as noted by the DOJ, providing financial relief could enable more cases of sex trafficking of minors to be investigated and prosecuted.

We note that the committee analysis indicates that the American Civil Liberties Union is opposed to this bill because it believes that civil forfeiture laws raise serious civil liberties concerns and that this bill would set an unnecessary precedent for expansion of asset forfeiture to other crimes.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code
	LA	(Dollars in Thousands)					
	CO	PROP					
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015	
1614/Misc Revenue	RV	No		---- See Fiscal Summary ----			0001
1614/Misc Revenue	RV	No		---- See Fiscal Summary ----			0425
0250/Jud Branch	SO	No		---- See Fiscal Summary ----			0001
0690/Cal EMA	LA	No		---- No/Minor Fiscal Impact ----			0425
0820/Justice	SO	No		---- No/Minor Fiscal Impact ----			0001
1760/Dept Gen Svc	SO	No		---- See Fiscal Summary ----			0995
<u>Fund Code</u>	<u>Title</u>						
0001	General Fund						
0425	Victim - Witness Assistance Fund						
0995	Reimbursements						