



Protecting All Child Victims of Human Trafficking

From 2018 through December 2022, there was a 69% increase in child labor violations across the nation.¹ This child labor force has been slowly growing for almost a decade, and has exploded since 2021 in the wake of the COVID-19 pandemic, while the systems meant to protect children have broken down.² Since at least 2011, child labor trafficking survivors have been identified in a diverse array of industries, including agricultural work, restaurant service, hair braiding, domestic work, forced peddling, and a range of illegal work activities.³ Today, there is an overwhelming number of reports which confirm that those who benefit from child labor exploitation include individual accountable parties and also large companies like General Mills, PepsiCo, Wal-Mart and Amazon who buy goods produced by children working in the United States, or contract with companies who produce their products using exploited child labor in the U.S.⁴

Many factors allow Human Trafficking to flourish in California including, but not limited to, its proximity to international borders, the number of ports and airports within the state, a significant immigrant population, and a large economy with diverse industries that attract forced labor and sex trafficking.⁵ In late 2023, the Department of Labor (DOL) uncovered three poultry processing factories in southern California were violating child labor laws and has received a court injunction against selling these illegally produced goods.⁶ This report comes in the wake of Federal inquiries made into the child exploitation and trafficking occurring at Tyson and Perdue factories, the nations' largest poultry producers, where children as young as 13 were working in hazardous, overnight jobs.⁷

The tragedy is that although child labor trafficking has long been just as prevalent as child sex trafficking in child welfare systems, advocates and legislators instead concluded that more data

¹ Hannah Dreier, "Migrant Children Were Put to Work, U.S. Ignored Warnings," *NEW YORK TIMES* (Apr. 17, 2023), *available at* <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html#:~:text=The%20White%20House%20and%20federal,warnings%20were%20ignored%20or%20missed>.

² Hannah Dreier, "Alone and Exploited, Migrant children Work Brutal Jobs Across the U.S." *NEW YORK TIMES* (Feb. 25, 2023), *available at* <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html#:~:text=New%20York%20Times,Alone%20and%20Exploited%2C%20Migrant%20Children%20Work%20Brutal%20Jobs%20Across%20the,and%20Fruit%20of%20the%20Loom>.

³ Child Trafficking for Labor in the United States: Overview, *FREEDOM NETWORK USA* (June 2011), *available at* http://freedomnetworkusa.org/wp-content/uploads/2012/05/FN_Child_Trafficking_Updated.pdf

⁴ Hannah Dreier, "Alone and Exploited, Migrant children Work Brutal Jobs Across the U.S." *NEW YORK TIMES* (Feb. 25, 2023), *available at* <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html#:~:text=New%20York%20Times,Alone%20and%20Exploited%2C%20Migrant%20Children%20Work%20Brutal%20Jobs%20Across%20the,and%20Fruit%20of%20the%20Loom>.

⁵ What is Human Trafficking, *The Coalition to Abolish Slavery and Trafficking (CAST)*, *available at* e

⁶ "Court Orders Poultry Processors to Stop Endangering Children, Withholding Pay, Retaliating, Shipping 'Hot Goods' at La Puente, City of Industry Locations," *DEPT. OF LABOR* (Oct. 23, 2023), *available at* <https://www.dol.gov/newsroom/releases/sol/sol20231023>

⁷ Juliana Kim, "Perdue Farms and Tyson Foods under Federal inquiry over reports of illegal child labor," *NATIONAL PUBLIC RADIO (NPR)* (Sept. 25, 2023), *available at* <https://www.npr.org/2023/09/25/1201524399/child-labor-perdue-farms-tyson-foods-investigation>

and research were needed before the issue could be addressed.⁸ The result is that ten years later, the state has not been addressed at all. Instead, we are witnessing an explosive number of cases involving child labor trafficking with no protective measures in place.

Only when our child welfare system fully responds to the complex and multifaceted faces of this crime will all of California's youth be equally protected, and California will have begun the difficult process of preventing this crime from happening to any young person.

GOALS

The primary goal of this legislation would be to recognize labor trafficking as a form of child abuse and by extension, provide the same model of care and protection to child survivors of labor trafficking that is currently provided to survivors of commercial sexual exploitation through Commercial Sexual Exploitation of Children Program (CSEC Program).

On January 5, 2023, the Trafficking Victims Protection Reauthorization Act of 2022 (TVPRA) added "labor trafficking" to the Child Abuse Prevention and Treatment Act (CAPTA) definition of "child abuse and neglect" and of "sexual abuse."⁹ Accordingly, to receive funding for abuse or neglect prevention and treatment programs under CAPTA section 106(b)(2)(B)(i): A State must certify in its state plan it "has in effect and is enforcing a State law, or has in effect and is operating a statewide program relating to child abuse and neglect that includes— provisions or procedures for an individual to report known and suspected instances of child abuse and neglect," which now includes labor trafficking.¹⁰

Though the current state definition of human trafficking includes both sex and labor trafficked victims and the Federal Government now mandates this inclusive definition, current CA law does not provide labor trafficked children with the same procedural services or protections as sexually trafficked children. Despite the current overlap of sex and labor trafficking, labor trafficked victims are often unidentified when in contact with county welfare professionals. In its current form, the CSEC Program lacks clarity and protocols to identify minors who have been victims of labor trafficking. As a result, many children who are at risk or are currently labor trafficked are unidentified and do not receive services. This need to improve identification and protections for children who are being forced to work becomes more salient when accounting for the many adults who report their trafficking victimization began when they were very young. To come into compliance with CAPTA's updated definition and Federal law, California must clarify its definition of human trafficking to provide children subjected to labor trafficking with the same protections as children subjected to sex trafficking.

⁸ See, e.g., California AB 2035 Veto Message, Sept. 29, 2014: "I am returning Assembly Bill 2035 without my signature. Efforts have just gotten underway with the passage of this year's budget to combat the commercial sexual exploitation of children, who are also victims of human trafficking. ***This bill, however, is premature. ***More investigation and discussion needs to take place before local authorities are in a solid position to curb the tragedy of young people who are forced to work...***" (*emphasis added*.)

https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201320140AB2035.

⁹ DEPARTMENT OF HEALTH AND HUMAN SERVICES, Office of Trafficking in Persons (OTIP), "OTIP Recipient FAQs: Working with Child Welfare" (August 27, 2024), *available at*: <https://www.acf.hhs.gov/otip/faq/otip-recipient-faqs-working-child-welfare>

¹⁰ *Id.* at Note 9

This discrepancy is even more concerning when examining the inability of California child welfare professionals to identify or determine if a youth has been subjected to labor trafficking – in a survey conducted by Annie Fukushima, Ph.D. found that of the 186 California child welfare professionals surveyed, 25% of respondents could not determine that they had worked with a child who was a victim of labor trafficking.¹¹ This fact is troubling considering research from the Coalition to Abolish Slavery and Trafficking (CAST) suggests that labor trafficking in California makes up 39% of all human trafficking in the state.

This oversight and gap in services can be achieved by first recognizing child labor trafficking as a form of child abuse and equipping county welfare officials with the knowledge and skills to better identify labor trafficking in tandem with sex trafficking. Through this legislation, the same model of care developed for the CSEC Program could be expanded to afford children who are victims of labor trafficking the same protections and services as children who have been sexually exploited thus ensuring protection and support for all youth who have been subjected to human trafficking.

EXISTING LAW & BACKGROUND

In 2014, the Department of Social Services (DSS) established and implemented the Commercially Sexually Exploited Children Program (CSEC Program). With the intent of identifying and providing services to sexually trafficked children, the CSEC Program authorized the distribution of funding and resources to counties through an opt-in basis. Counties electing to participate received funding to establish intervention activities and services for children who were victims or are at risk of becoming victims of sexual exploitation. In addition to funding, DSS also provided county welfare service professionals with training to effectively identify, intervene and provide case management services to child victims of sex trafficking. Since its inception, CSEC has fostered collaboration and coordination among local county and city agencies to create county task forces to identify victims and provide services to them and their families. As a result of these efforts in 2014, the current CSEC Program identifies minors who are victims of sexual trafficking and provides them with critical services.

In addition to the creation of the CSEC Program, existing law allows a child who has been sexually trafficked and whose parent/guardian failed or was unable to protect the child, to be adjudged a dependent of the juvenile court. Through this existing law, children who fall under these criteria can receive immediate protection and services from the CSEC Program.

While successful at its initial goal, the CSEC Program, in its current form, lacks clarity and protocols to identify minors who have been victims of labor trafficking. As a result, many children who are at risk or are currently labor trafficked are unidentified and do not receive services. A survey conducted in 2020 found that one-third of child welfare professionals, who were surveyed, were likely to have encountered cases of children who may have experienced labor trafficking, and another third did not know if they had worked with labor trafficked children.

California can begin to address this gap in protection first by recognizing child labor trafficking as a form of child abuse, and subsequently expanding upon the model of care developed through

¹¹ Annie Fukushima, A Survey of Child Welfare and Labor Trafficking in California, UNIVESRITY OF UTAH (Jan. 2020), *available at* https://pact.cfpic.org/wp-content/uploads/2022/02/childwelfare_2020_whitepaper_afukushimafinal-2.pdf

the Commercial Sexual Exploitation of Children Program to also serve and support labor trafficked youth. Presently, 13 other states have already enacted similar legislation.¹²

NEED FOR ACTION

California must adopt the same model of care for children who have been subjected to labor trafficking as it has for children who have been subjected to sexual exploitation in order to be in compliance with Federal guidance and because labor trafficking amongst children is a growing problem. Adolescents are twice as likely as adults to be seriously injured at work, yet reports reveal that preteens and teenagers are running industrial dough mixers, driving massive earthmovers, and burning their hands on hot tar as they lay down roofing shingles.¹³ These jobs — which are grueling and poorly paid, and thus chronically short-staffed — are exactly where many vulnerable children are ending up. Reports have established that there are minors who have had their legs torn off in factories and their spines shattered on construction sites, but most of these injuries go uncounted. Reviewing state and federal safety records and public reports, The New York Times found a dozen cases of young workers killed since 2017, the last year the Labor Department reported any data publicly.¹⁴

To provide services and protection for all child survivors of human trafficking, this legislation would revise the CSEC Program to the Trafficked Children Assistance Program (TCAP) in order to expand training and protocols to increase the effectiveness of identification of both sex and labor trafficking. Additionally, this legislation would also authorize a child who was/is a victim of human trafficking to be adjudged a dependent of the court as well as prohibit a social worker from taking custody of a child, in order to mirror existing law that currently applies to sexually trafficked children.

FISCAL ANALYSIS

In 2014, after California clarified that “sex trafficking” was a form of child abuse, the state provided CDSS with about \$5 million in one- time funding for training, technical support, and protocol development for the CSEC program.¹⁵ Initially the statewide plan included trainings and

¹² Connecticut, Hawai'i, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, North Carolina, North Dakota, Texas, and Utah

¹³ Hannah Dreier, “Alone and Exploited, Migrant children Work Brutal Jobs Across the U.S.” NEW YORK TIMES (Feb. 25, 2023), available at <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html#:~:text=New%20York%20Times-,Alone%20and%20Exploited%2C%20Migrant%20Children%20Work%20Brutal%20Jobs%20Across%20the,and%20Fruit%20of%20the%20Loom.>

¹⁴ Hannah Dreier, “Alone and Exploited, Migrant children Work Brutal Jobs Across the U.S.” NEW YORK TIMES (Feb. 25, 2023), available at <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html#:~:text=New%20York%20Times-,Alone%20and%20Exploited%2C%20Migrant%20Children%20Work%20Brutal%20Jobs%20Across%20the,and%20Fruit%20of%20the%20Loom.>

¹⁵ As reported by the Dept. of Social Services (DSS): \$1.91 million is received annually by the counties for CSEC Protocol and Program Development, (2) \$800,000 is currently spent annually on updating and providing trainings on CSEC only and (3) \$488,640 is allocated for Child and Family Policy Institute, Preventing and Addressing Child Trafficking (PACT), to provide technical assistance

educational materials pertaining to young U.S. Citizen girls who are vulnerable to sex trafficking but over the last decade, California has regularly updated these materials so that the counties have grown equipped to identify and work with boys, LGBT+ children, as well as immigrant and undocumented youth subjected to or at-risk of sex trafficking.

Despite the updates to these materials to make the statewide plan more inclusive, California has failed to include protocols and trainings on labor trafficking. However, given that it has updated its protocol and trainings for the last 10 years with existing resources, California has the framework and funding already in place to make this change.

Currently there is 21 million in continuing budget allocations for the CSEC program. Part of the money allocated to the CSEC Program is allocated to the technical assistance organization Preventing and Addressing Child Trafficking (PACT) which supports the counties work on sex and labor trafficking. PACT has already helped launch a 10-county pilot program focused on sex and labor trafficking and continues to provide on-going support to the counties who have expanded their trainings and protocol to address all forms of human trafficking. PACT has already developed resources and tools that can be utilized by the 37 other counties who will now need to update their protocols and training to address all forms of trafficking. These template resources are available online for Counties as highlighted in the ALL-COUNTY INFORMATION NOTICE NO. 1-17-21 released May 11, 2021.¹⁶

Furthermore, due to advocacy at the county level and support from PACT, several California counties have adopted a more inclusive definition of human trafficking which includes sex and labor trafficking and by extension, have updated their training and protocols to address sex and labor trafficking at the regional level.¹⁷ This includes Los Angeles County – the largest county in California with a population of nearly 10 million people – which updated their training and protocols in approximately 6 months.¹⁸

Unanimously, these counties have reported that training and protocols to serve children at-risk or subjected to sex and labor trafficking was done with existing resources through the CSEC program.¹⁹ Certain counties like Sacramento and Tulare have made these trainings mandatory for *all* social workers. Finally, these county workers have confirmed that the trainings and protocols for working with labor trafficking youth has been successfully accomplished through the CSEC program because children subjected to labor trafficking are 'at-risk for CSEC' as the dynamics underlying each form of exploitation are similar.²⁰ **Based on this evidence, California can update its definition to be more inclusive of all forms of human trafficking and can update its state-wide plan using the existing resources allocated annually to the CSEC program.**

and support to all Counties on sex AND labor trafficking. See California Dept. of Social Services, "CSEC Program Allowable Expenditures and Claiming" at Slide 2, available at <https://lmu.app.box.com/file/1519910939726>

¹⁶ The 10 pilot counties including Alameda, Los Angeles, Madera, Riverside, Sacramento, San Bernardino, San Joaquin, San Luis Obispo, Santa Barbara, and Ventura who participated in the PACT cohort. There were four distinct goals of the PACT project, including the goal to broaden the Commercially Sexually Exploited Children (CSEC) Program's collaborative structure, model, and protocols to serve children and youth who are at risk of or experiencing labor trafficking and/or the co-occurrence of commercial sexual exploitation and labor trafficking See https://cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACINs/2021/I17_21.pdfhttps://cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACINs/2021/I-17_21.pdf3

¹⁷ These counties include: Sacramento, Tulare, Fresno, San Luis Obispo, Trinity, and Los Angeles.

¹⁸ SJI Conversation with LA County administrator on April 22, 2024

¹⁹ This information was garnered through meetings with the Human Trafficking Coordinators or County Managers within each county who oversee the CSEC programs in each respective county. Meetings took place from April – May 2024. SJI Conversation with LA County administrator on April 22, 2024.

²⁰ *Id.* at note 16.

Finally, we believe that CDSS will not be overwhelmed with new cases that require additional funding. After California updated its definition of child abuse in 2014 to include “CSEC”, there was a gradual increase in cases over the last decade versus a flood of cases at the onset of this change. Similarly, the counties which have updated their regional protocols to address sex and labor trafficking have not experienced an influx of cases. We believe these same patterns will ensue when the State recognizes both sex and labor trafficking as forms of child abuse. In a few years when more cases are successfully identified, a budget request could be made to address this issue and an influx of cases, if needed.

For more details supporting how California can adopt a more inclusive definition and update its state-wide plan with existing resources, please see our [2024 fiscal analysis here](#).

BILL PROPOSAL

This bill updates Welfare & Institutions code Sections 16524.6 to 16524.10 to provide:

- **Clarity:** The definition of child abuse will be clarified to ensure that child labor trafficking meets this definition. This is the exact same update provided in 2014 for child victims of commercial sexual exploitation (CSEC) or child sex trafficking victims.
- **Inclusion:** The language establishing the “sexually exploited children’s program” will be changed to the “trafficked children’s program” as to ensure that data collection, training, protocol development, and county specialized services plans are inclusive of both sex and labor trafficking.
- **Protection:** A way for all trafficked children to be fully protected in the child welfare system

CONCLUSION

In order to comply with Federal regulations under CAPTA and to address the imploding problem of children subjected to forced labor and labor trafficking in the state, California must develop a response and protocols to identify minors who have been victims of labor trafficking.

This can be done by clarifying the definition of child abuse to include both sex and labor trafficking and by extension, updating the state-wide plan so that all county workers, probation officers and the like are trained and equipped to identify and support such cases – cases they are already coming into contact with given the populations they serve. As several California counties have demonstrated, these changes can be made with existing resources allocated to the CSEC program because the underlying vulnerabilities for each type of exploitation are similar.

In the absence of a clear definition, children who are subjected to labor trafficking are overlooked, dismissed, and often wrongfully criminalized by the very systems they are already coming into

contact with and the systems that have a duty to protect them. California must fix this over due oversight so that all children are protected from all forms of human trafficking.

ABOUT THE SUNITA JAIN ANTI-TRAFFICKING INITIATIVE

Sunita Jain Anti-Trafficking Policy Initiative (SJI) is an evidence-based and survivor-informed think tank based out of Loyola Law School. SJI intentionally works towards systemic change by taking an intersectional approach to develop and advocate for policies which prevent human trafficking and support survivors of trafficking.

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