



Senator Anna M. Caballero

12th District

SB 382- CSEC: Exploiter Restrictions

SUMMARY

SB 382 would clarify for criminal court cases that involve a sexual predator who has been charged with commercial sexual exploitation of a minor, a restraining order should be routinely considered prohibiting the predator from contacting the minor they exploited.

PROBLEM

The commercial sexual exploitation of children (CSEC) encompasses any type of sexual activity involving a child in exchange for goods, services, or money, given to the child or in almost all cases, to the exploiter. Children are often groomed by an exploiter, and believe they are in an intimate relationship, rather than being used and treated as a commercial sexual object. Not all child victims are coerced in this manner, as trafficking victims throughout the world are also kidnapped or sold to exploiters.

Estimates by the International Labor Organization report there are close to 25 million individuals being trafficked worldwide, and 4.8 million of those individuals are victims of sexual exploitation¹. Of those 4.8 million, it is estimated over 99% of victims are young women and girls¹. California, as home to several of the nation's busiest ports, likely experiences the most child trafficking in the United States. The true rate at which children are trafficked is under reported, so the full extent to which California's children are under threat of this violence is unknown.

However, when the law does catch up to an exploiter and criminal charges are brought, a small oversight often occurs that can have dire consequences. Restraining orders are not routinely requested during a criminal case where an exploiter is charged with child sexual exploitation, which denies the child

certain protections. Once the perpetrator is out of prison after completing his or her sentence, having a restraining order in effect gives law enforcement the ability to arrest the individual at the first moment an exploiter makes contact with a child- and not after the exploiter has coerced the child to return to a state of sexual exploitation.

Keeping these children away from their exploiters is a life-and-death matter for them as "the average life expectancy of an exploited child is a shockingly short time: seven years. Homicide and HIV/AIDS account for a majority of the deaths", followed by deaths from other STI's, malnutrition, overdose or suicide.²

CURRENT LAW

Mention of CSEC children is very much lacking in current law, a situation that was once the same for victims of domestic violence. Before additions to the Penal Code explicitly permitted -- and therefore motivated -- DAs and judges to seek restraining orders in domestic violence cases, the law permitted such orders to issue under the general statute permitting for so-called Criminal Protective Orders or "Stay-Away" Orders. Such orders in domestic violence cases were rare, however, which is why the law was amended. Specifically, there are now eight different explicit mentions of domestic violence restraining orders in the statute.

Penal Code section 136.2 currently contains a means by which orders can be issued in CSEC cases, but it is so hard to find that the judges with whom we have consulted about this this bill made no mention of its existence. This leads to restraining orders not being routinely issued in criminal court cases involving children who have been sexually exploited, even though they should be.

SOLUTION

SB 382 will simply clarify that current law permits and sets standards for orders protecting CSEC as a part of criminal prosecutions. Given the unique vulnerability of CSEC to continued exploitation, and the seven year life expectancy for them, such a modest clarification of current law comparable to the welcome and needed clarity benefitting victims of domestic violence who face a similar risk, is overdue.

SUPPORT

The Children's Advocacy Institute at the University of San Diego, School of Law (co-sponsor)

San Diego County Office of the District Attorney
(co-sponsor)

California Catholic Conference

CONTACT

Michele Canales, Legislative Aide
Michele.Canales@sen.ca.gov | (916) 651 – 4012

Ed Howard, Sponsor
eh4@sbcglobal.net | (916) 844-5646

SOURCES

1. State of California, Department of Justice: Office of the Attorney General FAQ on Human Trafficking
2. <https://arkofhopeforchildren.org/child-trafficking/child-trafficking-statistics>