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# Beginning to Seize the Instrumentalities of Human Trafficking: Chapter 514 Allows Criminal Forfeiture of Property Used to Facilitate the Sex Trafficking of Minors

Scott Davidson Dyle  
*Pacific McGeorge School of Law*

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## **Beginning to Seize the Instrumentalities of Human Trafficking: Chapter 514 Allows Criminal Forfeiture of Property Used to Facilitate the Sex Trafficking of Minors**

*Scott Davidson Dyle*

### *Code Sections Affected*

Penal Code §§ 236.7, 236.8, 236.9, 236.10, 236.11, 236.12 (new),  
§ 186.6 (amended).  
SB 1133 (Leno); 2012 STAT. Ch. 514.

### I. INTRODUCTION

Both the California<sup>1</sup> and United States<sup>2</sup> Constitutions explicitly prohibit slavery and involuntary servitude, except as punishment for a crime. Despite these constitutional provisions, slavery still exists in the form of human trafficking.<sup>3</sup> Human trafficking involves the deprivation of personal liberties by forcing a person to perform labor or services, often sexual in nature, usually by means of force, fraud, or coercion.<sup>4</sup>

Due in part to their vulnerability, children, especially girls, comprise a disproportionate segment of human trafficking victims, particularly in sexual exploitation.<sup>5</sup> “Human trafficking crimes involving minors are reprehensible and convicted perpetrators should not be able to keep the financial rewards from trafficking.”<sup>6</sup> Between 2009 and 2010, 195,644 children ran away from home in California, and scholars estimate that one-third of those children will be lured or recruited into pornography or prostitution.<sup>7</sup> And while thousands of children are or will be victims of human trafficking that involves a commercial sex act, the

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1. CAL. CONST. art. I, § 6.

2. U.S. CONST. amend. XIII, § 2.

3. CAL. ALLIANCE TO COMBAT TRAFFICKING & SLAVERY TASK FORCE, HUMAN TRAFFICKING IN CALIFORNIA: FINAL REPORT 3 (2007), available at [http://oag.ca.gov/sites/all/files/pdfs/publications/Human\\_Trafficking\\_Final\\_Report.pdf](http://oag.ca.gov/sites/all/files/pdfs/publications/Human_Trafficking_Final_Report.pdf) [hereinafter TRAFFICKING IN CALIFORNIA] (on file with the *McGeorge Law Review*).

4. See CAL. PENAL CODE § 236.1(d) (West 2008 & Supp. 2012) (stating that the unlawful deprivation of another’s personal liberties may be accomplished by menace, duress, violence, coercion, fraud, deceit, or threat of unlawful injury).

5. See TRAFFICKING IN CALIFORNIA, *supra* note 3, at 16–17, 35 (describing how up to fifty percent of foreign human trafficking victims are minors and how women and children are apparently more susceptible to sexual exploitation).

6. Press Release, Cal. Office of the Att’y Gen., Attorney General Kamala D. Harris Announces the Passage of Human Trafficking Legislation (June 19, 2012) (on file with the *McGeorge Law Review*).

7. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 8 (Apr. 24, 2012).

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number of individuals sent to prison for such acts of human trafficking is alarmingly low.<sup>8</sup>

Lucrative profits drive the proliferation of human trafficking, a crime that deprives individuals of their most basic human rights.<sup>9</sup> The International Labour Office estimates that human trafficking generates at least \$32 billion annually.<sup>10</sup> “The Commercial sexual exploitation of children is big business. Sadly, today there is no better return on money than selling a child for sex.”<sup>11</sup> Chapter 514 aims to curb the sex trafficking of children,<sup>12</sup> and help the victims, by beginning to seize the instrumentalities of human trafficking when used to facilitate such an offense.<sup>13</sup> Senator Mark Leno, the author of Chapter 514, indicated that this legislation addresses these concerns when he stated, “proceeds from [property seized that was used during the commission of human trafficking] would rightfully be used to help victims begin to repair their lives.”<sup>14</sup>

## II. LEGAL BACKGROUND

In 2005, California enacted its first piece of legislation concerning human trafficking: the California Trafficking Victims Protection Act (CTVPA).<sup>15</sup> Pertinently, the CTVPA made it felonious to engage in or help facilitate the trafficking of persons in California.<sup>16</sup> Additionally, the legislation added human

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8. *See id.* (stating that from 2009 to 2010, only thirteen individuals were sent to prison for human trafficking).

9. Press Release, Cal. Office of the Att’y Gen., Attorney General Kamala D. Harris Announces Bills to Combat Human Trafficking Signed into Law (Sept. 24, 2012) [hereinafter Press Release, Announces Bills to Combat Human Trafficking] (on file with the *McGeorge Law Review*).

10. INT’L LABOUR OFFICE, ILO ACTION AGAINST TRAFFICKING IN HUMAN BEINGS 1 (2008), available at [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_090356.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_090356.pdf) (on file with the *McGeorge Law Review*).

11. ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF SB 1133, at 2 (Aug. 8, 2012) (internal quotations omitted) (quoting the Alameda County District Attorney’s Office).

12. This Article may use the phrase “sex trafficking” in lieu of Chapter 514’s specific language of “the crime of human trafficking that involves a commercial sex act . . .” CAL. PENAL CODE § 236.7(a) (enacted by Chapter 514). California has not specifically defined sex trafficking. *See id.* § 236.1 (West 2008 & Supp. 2012) (providing no definition of sex trafficking). However, the federal government defines sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act.” 22 U.S.C. § 7102(9) (2006).

13. *See generally* ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF SB 1133, at 1 (Aug. 8, 2012) (Chapter 514 “provides prosecutors a tool to ensure persons convicted of sex-trafficking do not retain financial benefits from this crime. [Chapter 514] allows for forfeiture for one instance of sex trafficking, rather than requiring a pattern, and it expands the property subject to forfeiture.”).

14. Press Release, Cal. Office of the Att’y Gen., Attorney General Kamala D. Harris’ Bill to Combat Human Trafficking Unanimously Passes out of State Senate (May 29, 2012) [hereinafter Press Release, Bill Passes to Combat Human Trafficking] (on file with the *McGeorge Law Review*).

15. 2005 Cal. Stat. ch. 240 (enacting CAL. CIV. CODE § 52.5; enacting CAL. EVID. CODE §§ 1038, 1038.1, 1038.2; amending CAL. GOV’T CODE § 13956; enacting CAL. PENAL CODE §§ 236.1, 236.2, 13990; amending CAL. PENAL CODE §§ 186.2, 273.7, 1202.4, 14023).

16. PENAL § 236.1(a) (“Any person who deprives or violates the personal liberty of another with the

trafficking to the list of offenses subject to forfeiture of profits or assets acquired through a pattern of criminal profiteering.<sup>17</sup>

While the CTVPA added human trafficking to the designated list of criminal profiteering activities, the California Control of Profits of Organized Crime Act provides the process through which profits or assets acquired may be forfeited.<sup>18</sup> The California Legislature stated that forfeiture of assets and property acquired through criminal profiteering is “an effective means of punishing and deterring criminal activities of organized crime.”<sup>19</sup> However, a prosecuting agency may only seize the assets and profits acquired during the commission of a crime subject to forfeiture by demonstrating “beyond a reasonable doubt that the defendant was engaged in a pattern of criminal profiteering activity.”<sup>20</sup> Thus, the prosecuting agency must prove that the criminal defendant engaged in at least two incidents of criminal profiteering.<sup>21</sup>

The prosecuting agency may seize all proceeds and tangible or intangible property interests “acquired through a pattern of criminal profiteering activity.”<sup>22</sup> Proceeds from property forfeited during a human-trafficking-of-minors case are deposited in the Victim-Witness Assistance Fund and appropriated to child sexual abuse and exploitation counseling centers and prevention programs.<sup>23</sup>

### III. CHAPTER 514

Chapter 514 expands the types of property subject to forfeiture when substantially used to facilitate the sex trafficking of a child.<sup>24</sup> As a result, Chapter 514 permits the forfeiture of “[a]ny interest in a vehicle, boat, airplane, money, negotiable instruments, securities, real property, or other thing of value”<sup>25</sup> and all

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intent to effect or maintain a felony violation of Section 266, 266h, 266i, 267, 311.4, or 518, or to obtain forced labor or services, is guilty of human trafficking.”).

17. *Id.* § 186.2(a)(28) (West Supp. 2012); 2005 Cal. Stat. ch. 240 (amending PENAL § 186.2). Criminal profiteering is defined as “any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged” under specified provisions. PENAL § 186.2(a) (West 1999 & Supp. 2012).

18. *See generally* PENAL §§ 186–186.8 (providing the specific processes and definitions by which prosecutors may seize property for certain crimes).

19. *Id.* § 186.1.

20. *Id.* § 186.5(d).

21. *See id.* § 186.2(b)(1)–(b)(1)(C) (West Supp. 2012) (stating that a pattern of criminal profiteering requires at least two specified incidents of criminal profiteering).

22. *Id.* § 186.3(a)–(b) (West 1999).

23. *Id.* § 186.8(f) (West Supp. 2012). The Victim-Witness Assistance Fund was established to finance local assistance centers for witnesses and victims of crimes from the proceeds of property seized from specified crimes. *Id.* §§ 13835–13835.4.

24. *See id.* § 236.7(a) (enacted by Chapter 514) (expanding the types of property forfeitable when substantially used to “facilitate[e] the crime of human trafficking that involves a commercial sex act . . . where the victim was less than 18 years of age at the time of the commission of the crime”).

25. *Id.*

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proceeds garnered from such an act.<sup>26</sup> However, certain types of real property<sup>27</sup> and vehicles<sup>28</sup> are not subject to forfeiture. The General Fund of the local or state entity that prosecuted the case and the Victim-Witness Assistance Fund will equally share the proceeds from any forfeited property.<sup>29</sup>

Chapter 514 also explains the process by which the prosecuting agency may file a petition of forfeiture, which is required before any property may be seized and ultimately forfeited.<sup>30</sup> Additionally, Chapter 514 describes the processes by which forfeiture proceeding is heard,<sup>31</sup> how interests in and status of property are preserved,<sup>32</sup> and how a governmental entity may take interest in forfeitable property.<sup>33</sup>

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26. *Id.* § 236.7(b)(2) (enacted by Chapter 514).

27. *See id.* § 236.7(d) (enacted by Chapter 514) (stating that “real property that is used as a family residence or for other lawful purposes, or that is owned by two or more persons” and at least one of the owners did not know of its unlawful use, cannot be forfeited).

28. *See id.* § 236.7(e) (enacted by Chapter 514) (stating that a vehicle that cannot lawfully be driven with a class C, M1, or M2 license is not subject to forfeiture when a person other than the defendant has a community property interest in the vehicle and is the only vehicle of this type available to the defendant’s immediate family).

29. *Id.* § 236.12(c)(1)–(2) (enacted by Chapter 514).

30. *See id.* § 236.8 (enacted by Chapter 514). A prosecuting agency has the option to file a forfeiture petition, but it must be done in conjunction with the criminal proceeding. *Id.* § 236.8(a) (enacted by Chapter 514). Notice of the forfeiture must be served upon every person with a property interest and the notice must state that the person may state a claim for their interest in the property and may dispute the prosecutor’s claim. *Id.* If notice cannot be served by mail or personal delivery, it must be in a newspaper for three consecutive weeks in the county in which the property is located. *Id.* If the property to be forfeited is real property, the prosecutor must record a lis pendens with the county recorder where the property is located. *Id.* The forfeiture judgment “shall not affect the interest in real property of a third party that was acquired prior to the recording of the lis pendens.” *Id.*

31. *Id.* § 236.9 (enacted by Chapter 514). Any person with an interest in the property has thirty days from when receiving notice, or when notice is published, to file a claim, in the court hearing the case, “stating his or her interest in the property . . .” *Id.* § 236.9(a) (enacted by Chapter 514). A copy of the claim must be given to the prosecuting agency. *Id.* If a person, either the defendant or third person, does not file a claim during that time period, a default judgment will be issued. *Id.* § 236.9(b)(1)–(2) (enacted by Chapter 514). A forfeiture proceeding must be heard in the court in which the criminal proceeding will be heard and “[i]f the defendant is found guilty,” the forfeiture proceeding will be heard afterwards by the same jury, or a new jury if the court so chooses, unless waived by all parties. *Id.* § 236.9(c)(1)–(2) (enacted by Chapter 514). The prosecuting agency has the burden to prove the necessary forfeiture elements beyond a reasonable doubt. *Id.* § 236.9(d) (enacted by Chapter 514). The property will not be released to the governmental agency if the trier of fact finds that property was not “used for a purpose for which forfeiture is permitted . . .” *Id.* § 236.9(e) (enacted by Chapter 514). Additionally, even if the property was used for a purpose for which forfeiture is permitted, the property will be released to an unknowing third party who has an interest in the property. *Id.*

32. A prosecuting agency may file a pendente lite order to preserve the status of the property, either concurrently or subsequently to filing the forfeiture petition. *Id.* § 236.10(a) (enacted by Chapter 514). The order may take the form of an injunction preventing disposing of the property or appointing a receiver to take possession and maintain the property. *Id.* § 236.10(a)(1)–(2) (enacted by Chapter 514). A preliminary injunction may not be granted without interested parties receiving notice and a hearing held to determine if such an order is necessary, but a temporary restraining order may be issued pending the hearing. *Id.* § 236.10(b) (enacted by Chapter 514). A court may order a surety bond to preserve the interested parties’ property interests. *Id.* § 236.10(c) (enacted by Chapter 514).

33. If the trier of fact finds the property was used for a forfeitable purpose, the property shall be forfeited

## IV. ANALYSIS

Proponents of Chapter 514 believe that increasing the types of property forfeitable when used to facilitate the sex trafficking of children will help in the fight against human trafficking.<sup>34</sup> However, the limited scope of when Chapter 514 applies<sup>35</sup> and types of property forfeitable<sup>36</sup> potentially limits the impact Chapter 514 can have on combating human trafficking.

A. *Why Chapter 514 Will Aid the Fight Against Human Trafficking*

Many believed it was time to make it easier for prosecutors to seize and forfeit to the government property used to facilitate the sex trafficking of children.<sup>37</sup> The legislature had already permitted the forfeiture of any property interest acquired and all proceeds from the sex trafficking of minors.<sup>38</sup> Chapter 514 expands the scope of forfeitable property to include certain instrumentalities substantially used to facilitate the sex trafficking of a minor.<sup>39</sup> This is the most important aspect of Chapter 514 because forfeiture of the instrumentalities of the crime will greatly reduce the perpetrator's ability to commit additional crimes.<sup>40</sup> Chapter 514 "aims to deprive convicted criminals of the financial resources and

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to the governmental agency prosecuting the case. *Id.* § 236.11(a) (enacted by Chapter 514). However, no property that is owned by a bona fide purchaser of value is forfeitable. *Id.* If an unknowing third party has an interest in the property, and the amount due to them is less than the appraised value, the party can pay the governmental agency the difference and take possession of the property. *Id.* § 236.11(b) (enacted by Chapter 514). If the third party does not wish to take possession of the property, after the property is valued, the government shall reimburse the value of the party's lost interest. *Id.* If the party with an interest less the property's value does not take possession, the property shall be sold at auction. *Id.* § 236.11(c) (enacted by Chapter 514). However, "a county may dispose of real property" as set forth in Section 25538.5 of the California Government Code. *Id.* § 236.11(d) (enacted by Chapter 514).

34. *See generally* ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF SB 1133, at 1 (Aug. 8, 2012) (Chapter 514 "provides prosecutors a tool to ensure persons convicted of sex-trafficking do not retain financial benefits from this crime. [Chapter 514] allows for forfeiture for one instance of sex trafficking, rather than requiring a pattern, and it expands the property subject to forfeiture.").

35. *See* PENAL § 236.7(a) (enacted by Chapter 514) (stating that this statute only applies when a person is convicted of "human trafficking that involves a commercial sex act where the victim is an individual under" the age of eighteen).

36. *See id.* § 236.7(d)–(e) (enacted by Chapter 514) (limiting the types of real property and vehicles that are subject to forfeiture).

37. *See generally* ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF SB 1133, at 1 (Aug. 8, 2012) (Chapter 514 "provides prosecutors a tool to ensure persons convicted of sex-trafficking do not retain financial benefits from this crime. [Chapter 514] allows for forfeiture for one instance of sex trafficking, rather than requiring a pattern, and it expands the property subject to forfeiture.").

38. PENAL §§ 186.2(A)(28), 186.3 (West 1999 & Supp. 2012). Section 186.3 of the California Penal Code provides what types of property interests are subject to forfeiture during the commission of a criminal profiteering activity. *Id.* § 186.3 (West 1999). Human trafficking is a criminal profiteering activity. *Id.* § 186.2(a)(28) (West Supp. 2012).

39. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 10 (Apr. 24, 2012).

40. *Id.*

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assets that would allow them to continue luring young people into the sex trade.”<sup>41</sup>

Chapter 514 also aids the fight against the sex trafficking of minors by removing the requirement that a pattern of human trafficking must be established to allow forfeiture.<sup>42</sup> Previously, a pattern of criminal profiteering was required,<sup>43</sup> and if the prosecutor could not establish such a pattern, “relatively little money or property would be forfeited as the proceeds or profits of human trafficking.”<sup>44</sup> Additionally, Chapter 514 makes it easier to increase the amount of proceeds available from forfeiture because the instrumentalities of the sex trafficking of minors are forfeitable “even where the prosecutor cannot trace a defendant’s assets to trafficking profits.”<sup>45</sup>

A major hurdle to combating human trafficking and providing victims of this crime the help they need is the unwillingness of victims to report the crimes against them.<sup>46</sup> The legislature took steps to alleviate this problem.<sup>47</sup> Prior law had provided more services for victims of human trafficking by requiring the proceeds of the sex trafficking of minors be entirely distributed to the Victim-Witness Assistance Fund.<sup>48</sup> Specifically, fifty percent of the proceeds had to be given to community-based organizations that aid minor victims of human trafficking.<sup>49</sup>

Victims of human trafficking can only receive aid from Victim-Witness Assistance Fund-funded service providers after an individual is convicted of human trafficking.<sup>50</sup> Unfortunately, “investigating and prosecuting human trafficking cases are costly.”<sup>51</sup> Chapter 514 alters the distribution of the forfeited property proceeds in a case involving the sex trafficking of a minor.<sup>52</sup> The

41. Press Release, Bill Passes to Combat Human Trafficking, *supra* note 14.

42. PENAL § 236.7(g) (enacted by Chapter 514)

43. *Id.* § 186.5(d) (West 1999 & Supp. 2012).

44. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 10 (Apr. 24, 2012).

45. *Id.*

46. TRAFFICKING IN CALIFORNIA, *supra* note 3, at 33.

47. *See* PENAL § 186.8(f) (providing funding for the Victim-Witness Assistance Fund).

48. *Id.*

49. *Id.*

50. *See id.* § 186.3 (“[I]n any case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, upon a conviction of the underlying offense, the assets listed in subdivisions (b) and (c) shall be subject to forfeiture upon proof of the provisions of subdivision (d) of Section 186.5.”); *see also id.* § 236.7(a) (enacted by Chapter 514) (stating that certain property interests may be seized and forfeited “upon the conviction of a person guilty of human trafficking that involves a commercial sex act where the victim is an individual under 18 years of age, pursuant to Section 236.1”).

51. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 10 (Apr. 24, 2012).

52. *Compare* PENAL § 236.12(c)(1)–(2) (enacted by Chapter 514) (stating that fifty percent of the proceeds from the sale of forfeited property shall go to the local or state prosecuting agency and fifty percent shall be allotted to community-based organizations that aid victims of human trafficking), *with id.* § 186.8(f) (West 2012) (“[I]n any case involving human trafficking of minors for purposes of prostitution . . . the proceeds shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs under Section 13837.

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governmental agency that prosecuted the case is provided financial relief by distributing fifty percent of the proceeds from the sale of forfeited property to that governmental agency's General Fund.<sup>53</sup>

Even though the amount of funds per conviction distributed to the Victim-Witness Assistance Fund is being cut in half, there is likely going to be an increase in overall revenue to the Victim-Witness Assistance Fund.<sup>54</sup> The revenue would increase because Chapter 514 expands forfeitable property to include the instrumentalities of the crime in addition to the proceeds from the crime.<sup>55</sup> There is hope that by amending the distribution of the proceeds of forfeited property more cases will be investigated and prosecuted.<sup>56</sup> As fifty percent of the proceeds of forfeited property will be distributed into the General Fund of the governmental entity prosecuting the case,<sup>57</sup> there is a clear incentive for local and state law enforcement and prosecutorial agencies to investigate and prosecute more human trafficking cases.<sup>58</sup>

*B. Limited Scope of Chapter 514*

The scope of forfeitable instrumentalities in Chapter 514 is limited.<sup>59</sup> Real property is not subject to forfeiture if it is used as a family residence, is owned by two or more persons and at least one of those persons did not know about the illegal use, or if the real property is being used for other lawful purposes.<sup>60</sup> This limited scope is true even if the real property is substantially used to facilitate the sex trafficking of a minor.<sup>61</sup>

Proponents of Chapter 514 assert that the increase in forfeitable property will allow prosecutors to cripple human traffickers' operations.<sup>62</sup> However, Chapter 514 applies only to the sex trafficking of a minor.<sup>63</sup> Human trafficking,

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Fifty percent of the funds deposited in the Victim-Witness Assistance Fund pursuant to this subdivision shall be granted to community-based organizations that serve minor victims of human trafficking.”)

53. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 10 (Apr. 24, 2012).

54. SENATE APPROPRIATIONS COMMITTEE, FISCAL SUMMARY OF SB 1133, at 3 (May 14, 2012).

55. *Id.*

56. *See generally* TRAFFICKING IN CALIFORNIA, *supra* note 3, at 47 (stating that a major barrier to the successful investigation and prosecution of human trafficking is a lack of funding).

57. PENAL § 236.12(c)(1) (enacted by Chapter 514).

58. *See* SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1133, at 10–11 (Apr. 24, 2012) (stating that part of the justification for allowing the distribution of forfeiture proceeds to government entities is to help offset the cost of the investigation and prosecution of cases).

59. *See* PENAL § 236.7(d)–(e) (enacted by Chapter 514) (limiting the types of real property and vehicles subject to forfeiture).

60. *Id.* § 236.7(d) (enacted by Chapter 514).

61. *Id.*

62. Press Release, Announces Bills to Combat Human Trafficking, *supra* note 9.

63. *See* PENAL § 236.7(a) (enacted by Chapter 514) (stating that this statute only applies when a person is convicted of “human trafficking that involves a commercial sex act where the victim is an individual under” the age of eighteen).



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conversely, more greatly involves forced labor, such as “domestic servitude, agriculture, manufacturing, janitorial services, [and] hotel services.”<sup>64</sup> As Chapter 514 does not address the entirety of this list, an untold amount of property will escape forfeiture.<sup>65</sup>

## V. CONCLUSION

Chapter 514 will not simply increase the types of forfeitable property used to facilitate the sex trafficking of children.<sup>66</sup> By providing half of the proceeds from forfeited instrumentalities of the sex trafficking of minors to victim-oriented, community-based organizations,<sup>67</sup> Chapter 514 proponents believe that more victims will report crimes<sup>68</sup> and greater services will be provided to those victims.<sup>69</sup> Also, by providing additional funding to law enforcement and prosecuting agencies,<sup>70</sup> proponents of Chapter 514 hope more perpetrators of human trafficking will be investigated, prosecuted, and ultimately convicted,<sup>71</sup> for choosing to deprive innocent children of their liberty by forcing them to perform commercial sex acts.<sup>72</sup>

However, there is cause to temper the belief that Chapter 514 will significantly impact human trafficking.<sup>73</sup> There are some significant limitations on the types of property forfeitable under Chapter 514.<sup>74</sup> Additionally, while human trafficking impacts persons of all ages and occurs in a number of situations, relating to both sex and labor services, Chapter 514 applies only to the sex trafficking of children.<sup>75</sup>

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64. ALISON SISKIN & LIANA SUN WYLER, CONG. RESEARCH SERV., RL 34317, TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS 20 (2010).

65. PENAL § 236.7(d)–(e) (enacted by Chapter 514) (limiting the types of real property and vehicles subject to forfeiture).

66. *See id.* § 236.7(a) (enacted by Chapter 514) (allowing the forfeiture of specific types of property substantially used in facilitating the human trafficking of a minor that involves a commercial sex act).

67. *See id.* § 236.12(c)(2) (enacted by Chapter 514) (stating that fifty percent of the proceeds from the sale of forfeited property shall go to community-based organizations that aid victims of human trafficking).

68. TRAFFICKING IN CALIFORNIA, *supra* note 3, at 45.

69. *Id.*

70. *See* PENAL § 236.12(c)(1) (enacted by Chapter 514) (stating that fifty percent of the proceeds from the sale of forfeited property shall go to the local or state prosecuting agency).

71. *See generally* TRAFFICKING IN CALIFORNIA, *supra* note 3, at 37 (stating that a major barrier to the successful investigation and prosecution of human trafficking is a lack of funding).

72. *See generally* Press Release, Announces Bills to Combat Human Trafficking, *supra* note 9 (“Attorney General Harris is committed to the fight against this fast-growing crime that deprives persons of basic human rights.”).

73. *See generally* PENAL § 236.7(d)–(e) (enacted by Chapter 514) (limiting the types of real property and vehicles subject to forfeiture).

74. *Id.*

75. *See id.* § 236.7(a) (enacted by Chapter 514) (stating that this statute only applies when a person is convicted of “human trafficking that involves a commercial sex act where the victim is an individual under” the age of eighteen).