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**SB-376 Human trafficking: victim rights.** (2023-2024)

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Date Published: 07/25/2023 09:00 PM

**Senate Bill No. 376**

**CHAPTER 109**

An act to add Section 236.21 to the Penal Code, relating to human trafficking.

[ Approved by Governor July 21, 2023. Filed with Secretary of State July 21, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 376, Rubio. Human trafficking: victim rights.

Under existing law, anyone who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, or with the intent to effect a violation of specified sex crimes, is guilty of human trafficking. Existing law requires law enforcement agencies to use due diligence to identify all victims of human trafficking regardless of the citizenship of the person.

This bill would provide that a victim of human trafficking or abuse has the right to have a human trafficking advocate, as defined, and a support person of the victim's choosing present at an interview by a law enforcement authority, prosecutor, or the suspect's defense attorney and would require the human trafficking advocate to advise the victim of the applicable limitations on the confidentiality of the victim's communications with the advocate. The bill would authorize the law enforcement officer or the prosecutor to exclude the support person, but not the human trafficking advocate, if they believe that the support person's presence would be detrimental to the process. The bill would require the attending law enforcement authority or prosecutor to notify a victim of human trafficking or abuse of their right to have a human trafficking advocate and support person of their choosing present at the interview, as specified. By creating a new notification requirement for local law enforcement and prosecutors, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 236.21 is added to the Penal Code, to read:

**236.21.** (a) (1) A victim of human trafficking or abuse, as defined in Section 236.1 of this code or Section 1038.2 of the Evidence Code, has the right to have a human trafficking advocate and a support person of the victim's choosing present at an interview by a law enforcement authority, prosecutor, or the suspect's defense attorney. The law enforcement officer or prosecutor may exclude the support person from the interview if the law enforcement officer or prosecutor believes that the support person's presence would be detrimental to the process.

(2) Prior to being present at an interview conducted by a law enforcement authority, prosecutor, or the suspect's defense attorney, a human trafficking advocate shall advise the victim of applicable limitations on the confidentiality of communications between the victim and the human trafficking advocate.

(3) For purposes of this section, the following definitions apply:

(A) "Human trafficking advocate" means a person employed by an organization specified in Section 1038.2 of the Evidence Code.

(B) "Support person" means a family member or friend of the survivor and does not include the human trafficking advocate.

(b) (1) Prior to the commencement of the initial interview by a law enforcement authority or a prosecutor pertaining to a criminal action arising out of a human trafficking incident, a victim of human trafficking or abuse, as defined in Section 236.1 of this code or Section 1038.2 of the Evidence Code, shall be notified orally or in writing by the attending law enforcement authority or prosecutor that the victim has the right to have a human trafficking advocate and a support person of the victim's choosing present at the interview.

(2) At the time the victim is advised of their rights under paragraph (1), the attending law enforcement authority or prosecutor shall also advise the victim of the right to have a human trafficking advocate and a support person present at an interview by the suspect's defense attorney or investigators or agents employed by the suspect's defense attorney.

(3) This subdivision applies to investigators and agents employed or retained by law enforcement or the prosecutor.

(c) An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects does not constitute a law enforcement interview for purposes of this section.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.