

## **CALIFORNIA AGAINST SLAVERY – SUMMARY OF INITIATIVE**

### **Background**

The initiative is the result of four months of research and collaboration/discussion with a number of attorneys and experts in the field of human trafficking. We worked with various District Attorneys (including the head of the human trafficking division in Alameda County) who prosecute these crimes under current California anti-trafficking laws. We also solicited input from policy-making organizations like Polaris Project and CAST, as well as from law professors and non-profit organizations involved in providing direct services to trafficking victims.

### **Initiative Provisions**

If passed, the initiative will strengthen California's anti-trafficking law by:

1) **Increasing the deterrent against traffickers**: The initiative will do this by increasing the penalties traffickers face if convicted. It will also provide for an additional potential fine that may be assessed against traffickers.

*Increase in penalties and fines* (Section 4 of the initiative): Current law only permits a 3, 4, or 5 year sentence for convicted traffickers (4, 6, or 8 years if the trafficking victim was a minor). See Cal. Pen. Code Section 236.1. CAS' proposed California Penal Code Section 252 will increase the penalties to 6, 12, or 16 years for trafficking of adults; 5, 8, or 11 years for trafficking of minors (where no force was used); and 15 years to life for trafficking of minors (where force was used). It will also provide that traffickers may be subject to fines of up to \$500,000.

*Potential Additional Fine* (Section 7 of the initiative): In addition to any other penalty or fine, the court may impose an additional \$100,000 fine on the convicted trafficker. See [Proposed] California Penal Code Section 253.

2) **Making it easier for District Attorneys to prosecute human trafficking offenses**: Among other things, the initiative will allow District Attorneys to prove sex trafficking of a minor without a showing of force. It will also refine the definition of a trafficking offense so it is easier for District Attorneys to prove the elements of the crime.

*Lower standard of proof for sex trafficking of minors* (Section 4 of the initiative): Current California law makes no distinction between trafficking of an adult and trafficking of a minor. A District Attorney must prove a deprivation or violation of personal liberty through force, fear, fraud, etc. to prove the offense. CAS' proposed California Penal Code Section 252(b) lowers the standard of proof for the sex trafficking of minors and would allow District Attorneys to prove sex trafficking of a minor without a showing of force. Instead, District Attorneys need only prove that a person "cause[d], induce[d], or persuade[d]" a minor to engage in a commercial sex act. (This is a change that has been advocated by District Attorneys who prosecute this crime.)

*Clearer definition of human trafficking* (Section 7 of the initiative): The CAS initiative will incorporate a more robust definition of human trafficking, taking into account the complexities that often surround a human trafficking offense. Among other things, CAS' proposed California Penal Code Section 250(c) and (d) will expand the definition of "coercion" to include psychological coercion. This will bring California's definition in line with the federal definition.

**3) Increasing protection and provision for human trafficking victims:**

*Evidentiary protections* (Section 2 of the initiative): The initiative will provide more evidentiary protections for trafficking victims in the criminal justice system. Specifically, it will prevent evidence of sexual activity stemming from the trafficking offense from being used against the victims to prove their criminal liability for that conduct or to attack their credibility or character. See [Proposed] California Evidence Code Section 1161.

*Greater provision for victims of human trafficking* (Sections 3 and 7 of the initiative): The initiative will ensure that at least 50% of the assets or trafficking fines placed in the Victim-Witness Assistance Fund will be granted to community-based organizations that serve victims of human trafficking. See [Proposed] California Penal Code Section 253 and [Amended] California Penal Code Section 186.8.

**4) Requiring law enforcement officers to undergo human trafficking training** (Section 8 of the initiative): The initiative will require a minimum of two hours of human trafficking training for first responders like law enforcement officers. See [Amended] California Penal Code Section 13519.14.