

ASSEMBLY BILL

No. 2212

Introduced by Assembly Member Block

February 24, 2012

An act to amend Sections 11225 and 11230 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 2212, as introduced, Block. Human trafficking: civil penalties.

Under existing law, a person who deprives or violates the personal liberty of another with the intent to effect or maintain a felony violation of specified sexual crimes, such as rape or pandering, or to obtain forced labor or services, is guilty of human trafficking, which is a felony punishable by imprisonment in the state prison for 3, 4, or 5 years.

Existing law classifies a building or place used for the purpose of illegal gambling, lewdness, assignation, or prostitution, and every building or place in or upon which acts of illegal gambling, lewdness, assignation, or prostitution, are held or occur, as a nuisance, which shall be enjoined, abated, and prevented, and for which damages may be recovered through a prescribed process. Civil penalties recovered through this process are divided between the Restitution Fund in the State Treasury and either the city attorney and city prosecutor or the district attorney, depending on who brought the action.

This bill would classify a building or place used for the purpose of, or in or upon which occur acts of, human trafficking as a public nuisance. The bill would divide civil penalties collected through the nuisance provisions, in cases of human trafficking, between the Victim-Witness Assistance Fund, to be available upon appropriation by the Legislature to the California Emergency Management Agency

to fund grants for human trafficking victim services and prevention programs, and the city attorney and city prosecutor or district attorney, to be used exclusively for enforcement of nuisance abatement laws.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11225 of the Penal Code is amended to
2 read:

3 11225. (a) (1) Every building or place used for the purpose
4 of illegal gambling as defined by state law or local ordinance,
5 lewdness, assignation, *human trafficking*, or prostitution, and every
6 building or place in or upon which acts of illegal gambling as
7 defined by state law or local ordinance, lewdness, assignation,
8 *human trafficking*, or prostitution, are held or occur, is a nuisance
9 which shall be enjoined, abated, and prevented, and for which
10 damages may be recovered, whether it is a public or private
11 nuisance.

12 ~~Nothing~~

13 (2) ~~Nothing~~ in this subdivision shall be construed to apply the
14 definition of a nuisance to a private residence where illegal
15 gambling is conducted on an intermittent basis and without the
16 purpose of producing profit for the owner or occupier of the
17 premises.

18 (b) (1) Every building or place used as a bathhouse which as
19 a primary activity encourages or permits conduct that according
20 to the guidelines of the federal Centers for Disease Control *and*
21 *Prevention* can transmit AIDS, including, but not limited to, anal
22 intercourse, oral copulation, or vaginal intercourse, is a nuisance
23 which shall be enjoined, abated, and prevented, and for which
24 damages may be recovered, whether it is a public or private
25 nuisance.

26 ~~For~~

27 (2) ~~For~~ purposes of this subdivision, a “bathhouse” means a
28 business which, as its primary purpose, provides facilities for a
29 spa, whirlpool, communal bath, sauna, steam bath, mineral bath,
30 mud bath, or facilities for swimming.

31 SEC. 2. Section 11230 of the Penal Code is amended to read:

1 11230. (a) (1) If the existence of a nuisance is established in
2 an action as provided in this article, an order of abatement shall
3 be entered as a part of the judgment in the case, directing the
4 removal from the building or place of all fixtures, musical
5 instruments and movable property used in conducting, maintaining,
6 aiding, or abetting the nuisance, and directing the sale thereof in
7 the manner provided for the sale of chattels under execution, and
8 the effectual closing of the building or place against its use for any
9 purpose, and that it be kept closed for a period of one year, unless
10 sooner released. If the court finds that any vacancy resulting from
11 closure of the building or place may create a nuisance or that
12 closure is otherwise harmful to the community, in lieu of ordering
13 the building or place closed, the court may order the person who
14 is responsible for the existence of the nuisance to pay damages in
15 an amount equal to the fair market rental value of the building or
16 place for one year to the city or county in whose jurisdiction the
17 nuisance is located. The actual amount of rent being received for
18 the rental of the building or place, or the existence of any vacancy
19 therein, may be considered, but shall not be the sole determinant
20 of the fair market rental value. Expert testimony may be used to
21 determine the fair market rental value.

22 (2) While the order remains in effect as to closing, the building
23 or place is and shall remain in the custody of the court.

24 (3) For removing and selling the movable property, the officer
25 is entitled to charge and receive the same fees as he or she would
26 for levying upon and selling like property on execution.

27 (4) For closing the premises and keeping them closed, a
28 reasonable sum shall be allowed by the court.

29 (b) The court may assess a civil penalty not to exceed
30 twenty-five thousand dollars (\$25,000) against any and all of the
31 defendants, based upon the severity of the nuisance and its duration.

32 (c) ~~One-half~~ *Unless otherwise specified by subdivision (d),*
33 *one-half* of the civil penalties collected pursuant to this section
34 shall be deposited in the Restitution Fund in the State Treasury,
35 the proceeds of which shall be available for appropriation by the
36 Legislature to indemnify persons filing claims pursuant to Article
37 1 (commencing with Section 13959) of Chapter 5 of Part 4 of
38 Division 3 of Title 2 of the Government Code, and one-half of the
39 civil penalties collected shall be paid to the city in which the
40 judgment was entered, if the action was brought by the city attorney

1 or city prosecutor. If the action was brought by a district attorney,
2 one-half of the civil penalties collected shall be paid to the treasurer
3 of the county in which the judgment was entered.

4 *(d) In cases involving human trafficking, one-half of the civil*
5 *penalties collected pursuant to this section shall be deposited in*
6 *the Victim-Witness Assistance Fund to be available for*
7 *appropriation by the Legislature to the California Emergency*
8 *Management Agency to fund grants for human trafficking victim*
9 *services and prevention programs provided by community-based*
10 *organizations. The other one-half of the civil penalties shall be*
11 *paid to the city in which judgment was entered, if the action was*
12 *brought by a city attorney or city prosecutor. If the action was*
13 *brought by a district attorney, the one-half of the civil penalty*
14 *shall, instead, be paid to the treasurer of the county in which*
15 *judgment was entered. The funds directed to the city attorney or*
16 *the district attorney shall be for the exclusive use of that agency*
17 *for the enforcement of nuisance abatement laws.*