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Approved as to Form and Legality

OAKLAND CITY COUNCIL

M. Masochin
City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION IN SUPPORT OF AB 90 (SWANSON), WHICH REMOVES THE AMBIGUITY IN OUR STATE LAW, MIRRORS FEDERAL LAW, AND MORE ACCURATELY REFLECTS THE REALITY OF DOMESTIC CHILD SEX TRAFFICKING, WITH REVISED LANGUAGE THAT ANY PERSON WHO CAUSES, INDUCES, ENCOURAGES, OR PERSUADES A PERSON UNDER 18 YEARS OF AGE TO ENGAGE IN A COMMERCIAL SEX ACT, IS GUILTY OF HUMAN TRAFFICKING

WHEREAS, sexual slavery of minors through human trafficking is one of the most sophisticated forms of organized crime in the country and is now globally recognized as a modern day form of slavery. Child sex trafficking impacts 300,000-400,000 children in the United States every year, and California is a hub of trafficking activity; and

WHEREAS, children are not safe from trafficking and exploitation in California. The median age for the entrance of girls into prostitution is 12 years of age in California, younger than the international average age of 14. Some children trafficked are as young as four years old; and

WHEREAS, many child victims of trafficking suffer from significant physical and mental health problems, including post-traumatic stress disorder, depression, and trauma bonding, which creates the same kind of confinement as physical coercion; and

WHEREAS, the prosecution of traffickers in California is hindered by inconsistencies with the federal law. Currently, state law specifically states that it is intended to conform to federal law, but at the same time, state law requires a showing of force or coercion; and

WHEREAS, Assembly Bill 90, introduced in January 2011 by Assembly Member Swanson (Alameda), would fix this ambiguity in our state law with revised language specifying that any person who causes, induces, encourages, or persuades a person under 18 years of age to engage in a commercial sex act, is guilty of human trafficking; and

WHEREAS, AB 90 states that the standard of proof of trafficking shall be a showing that the defendant caused, induced, encouraged, or persuaded the victim; this will replace the current law requiring a showing of force, fraud, or coercion. The rationale for this distinction is that requiring a showing of force as it relates to a minor trafficking victim does not reflect the reality of how our children are recruited, exploited, and sold for sex. The vast majority of traffickers utilize manipulation and trickery to achieve their goals. Because subtle forms of coercion elude the coerced, minors are frequently unaware of or unable to articulate the mechanism of their exploitation; and

WHEREAS, AB90 will make California law consistent with federal law. Currently, state law specifically states that it is intended to conform to federal law, but at the same time, state law requires a showing of force or coercion. This ambiguity hinders prosecutors from prosecuting traffickers to the fullest extent possible; and

WHEREAS, AB 90 states that any person who commits human trafficking involving a sexually exploited minor shall be punished by a fine of not more than one hundred thousand dollars (\$100,000); and

WHEREAS, AB 90 states that every fine imposed and collected will be deposited in the Victim-Witness Assistance Fund to fund services for victims of human trafficking. At least 50 percent of the fines collected and deposited pursuant to this section shall be granted to community-based organizations that serve victims of human trafficking; now, therefore, be it

RESOLVED: that the Oakland City Council declares its support for AB 90 (Swanson) to expand the scope of the offense of human trafficking to provide that any person who causes, induces, encourages, or persuades a person under 18 years of age to engage in a commercial sex act, is guilty of human trafficking; and, be it

FURTHER RESOLVED: that the Oakland City Council directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California