

Date of Hearing: April 2, 2024

Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Kevin McCarty, Chair

AB 2985 (Hart) – As Amended March 21, 2024

SUMMARY: Requires the court to provide jurors serving in a criminal case involving a violent felony with information about mental health services. Specifically, **this bill:**

- 1) Requires the court, before discharging the jury in a criminal case alleging a violent felony, as defined, to provide the jurors written information about mental health awareness regarding vicarious trauma that may occur as a result of their jury service, and the symptoms and methods for stress relief.
- 2) Requires the court to mail this same information to the alternate jurors who have been discharged from their duty.
- 3) Authorizes a court to provide information about mental health services to jurors and alternate jurors after a criminal case alleging any other type of offense.
- 4) Requires the Judicial Council to provide the written information that the courts must disseminate. The information must include, but is not limited to, the signs and symptoms of distress, coping mechanisms, and how to seek help for trauma, if needed.

EXISTING LAW:

- 1) Defines a “violent felony” as any of the following:
 - a) Murder or voluntary manslaughter;
 - b) Mayhem;
 - c) Rape accomplished by means of force or threats of retaliation;
 - d) Sodomy by force or fear of immediate bodily injury on the victim or another person or with a child under the age of 14 years, as specified;
 - e) Oral copulation by force or fear of immediate bodily injury on the victim or another person or with a child under the age of 14 years, as specified;
 - f) Lewd acts on a child under the age of 14 years, as defined;
 - g) Any felony punishable by death or imprisonment in the state prison for life;

- h) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice, or any felony in which the defendant has used a firearm, as specified;
 - i) Any robbery;
 - j) Arson of a structure, forest land, or property that causes great bodily injury or that causes an inhabited structure or property to burn;
 - k) Arson that causes an inhabited structure or property to burn;
 - l) Sexual penetration accomplished against the victim's will by means of force, menace or fear of immediate bodily injury on the victim or another person, by threats of retaliation, or of a child under the age of 14 years, as specified;
 - m) Attempted murder;
 - n) Explosion or attempted explosion of a destructive device with the intent to commit murder;
 - o) Explosion or ignition of any destructive device or any explosive which causes bodily injury to any person;
 - p) Explosion of a destructive device which causes death or great bodily injury;
 - q) Kidnapping;
 - r) Assault with intent to commit mayhem or specified sex offenses;
 - s) Continuous sexual abuse of a child;
 - t) Carjacking, as defined;
 - u) Rape or sexual penetration in concert;
 - v) Felony extortion;
 - w) Threats to victims or witnesses, as specified;
 - x) First degree burglary, as defined, where it is proved that another person other than an accomplice, was present in the residence during the burglary;
 - y) Use of a firearm during the commission of specified crimes; and,
 - z) Possession, development, production, and transfers of weapons of mass destruction. (Pen. Code § 667.5, subd. (c).)
- 2) Establishes the Trial Jury Selection and Management Act, which applies to the selection of jurors, and the formation of trial juries, for both civil and criminal cases, in all trial courts of

the State. (Code Civ. Proc., § 190 et seq.)

- 3) States the policy of the State of California is that all persons selected for jury service must be selected at random from the population of the area served by the court; that all qualified persons have an equal opportunity to be considered for jury service in the state, as specified; that it is an obligation of all Californians to serve as jurors when summoned for that purpose; and that it is the responsibility of jury commissioners to manage all jury systems in an efficient, equitable, and cost-effective manner. (Code Civ. Proc., § 191.)
- 4) Requires the trial judge in a criminal jury trial to conduct an initial examination of prospective jurors in order to elect a fair and impartial jury. At the first practical opportunity before voir dire, the trial judge shall consider the form and subject matter of voir dire questions. The parties may submit questions to the trial judge. The trial judge may include additional questions requested by the parties as the trial judge deems proper. (Code Civ. Proc., § 223, subd. (a).)
- 5) Provides, in criminal cases only, while the jury is kept together, either during the progress of the trial or after their retirement for deliberation, the court may direct the sheriff or marshal to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. (Code Civ. Proc., § 217.)
- 6) Requires alternate jurors to be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and to take the same oath as the jurors already selected, and to attend at all times upon the trial of the cause in company with the other jurors. (Code Civ. Proc., § 234; Pen. Code, § 1089.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “AB 2985 aims to support jurors who have served on a violent felony trial by providing them with a written notice, detailing mental health warning signs, and coping mechanisms following the stressful experience. This measure strikes the right balance between caring for jurors’ mental health and keeping costs low. AB 2985 installs safeguards to provide California jurors with mental health awareness and support after they fulfill their civic duty of serving on a jury.”
- 2) **Need for this Bill:** “Jury service is stressful. Jurors internalize both the difficulty of deciding another’s fate, as well as the emotional toll of bearing witness to tragic events. A National Center for State Courts report found that 70 percent of all jurors feel some stress. Yet the greatest difficulty often lies in homicide and death penalty trials, in which jurors not only share the burden of imposing guilt (or even death), but are necessarily confronted with the loss of life that led to the case. Some jurors even report physical ailments, including headaches, nightmares, and symptoms consistent with post-traumatic stress disorder.” (A. Ferguson, *The Atlantic*, May 17, 2015, *The Trauma of Jury Duty*, available at: <https://www.theatlantic.com/politics/archive/2015/05/the-trauma-of-jury-duty/393479/> [as of March 26, 2024].)

This bill would require the courts to provide jurors and alternate jurors serving on criminal

cases involving the offenses listed as violent felonies in the Penal Code with information on symptoms of stress and methods for coping with stress. This bill would require that the information be shared with sitting jurors before they are discharged, and would require that same information to be mailed to alternate jurors who have been discharged. In criminal trials that do not allege a violent felony, the court would be authorized, but not required, to share the same information.

It should be noted that the Judicial Council already produces a pamphlet to be shared with jurors that discusses both the temporary signs of stress as well as suggested coping techniques after serving on a jury. The pamphlet acknowledges that jury duty can not only be disruptive, but also unsettling depending on the case. The pamphlet notes that temporary signs of distress following jury duty include: anxiety and/or depression; sleep and/or appetite changes; physical symptoms, such as headaches, muscle tension, stomach aches; increased drug and/or alcohol use; second guessing the verdict and/or dwelling on the case; moodiness; feelings of guilt and/or fear; trouble dealing with issues or topics related to the case; a desire to be alone; diminished interest in activities that are normally of interest; and decreased concentration or memory problems. The pamphlet also lists coping techniques, including: talking to family, friends, and fellow jurors; sticking to a normal, daily routine; cutting down on alcohol, nicotine, and caffeine; deep breathing techniques; and increasing daily exercise. The pamphlet also suggests reaching out to the local mental or behavioral health services, if additional help is needed. (<https://www.courts.ca.gov> › Jury_Stress_Relief.)

It is unclear why this bill is limited to criminal cases. Civil cases often involve allegations of violence. For example, a victim of a sexual assault might file a civil suit based on underlying conduct arising out of the commission of a violent felony. A decedent's family member might file a wrongful death suit involving gruesome facts arising from a murder. Jurors in these cases could also benefit from mental health information.

- 3) **Argument in Support:** According to the *Santa Barbara County District Attorney's Office*, "This bill will ensure that jurors receive written information about vicarious trauma, stress relief, and mental health awareness upon the completion of their jury service. Jurors provide an invaluable service to our community, with Californians serving on approximately 1,672 felony trials in FY 2022-2023. Of this number, many jurors served on cases involving violence and trauma.

"While prosecutors, peace officers, and criminal defense attorneys never get used to the violent, traumatic, and horrific acts that we are exposed to on a daily basis, this exposure is not unexpected and is an unfortunate reality of a career in public service in the criminal justice arena. Jurors, on the other hand, are often unprepared for the very difficult issues that they will be exposed to while fulfilling their public service as the triers of fact. This exposure can trigger past trauma or be a source of new trauma for those citizens doing their civic duty.

"It is important for jurors to be supported in taking care of their wellness following service on a trial that involves serious violence."

- 4) **Argument in Opposition:** None submitted.
- 5) **Prior Legislation:**

- a) AB 78 (Ward), of the 2023-2024 Legislative Session, would have increased the compensation for any individual selected to serve as a grand juror. AB 78 was held in the Assembly Appropriations Committee.
- b) AB 881 (Ting), of the 2023-2024 Legislative Session, would have extended the existing pilot program authorizing the Superior Court of San Francisco to pay low-income trial jurors \$100 per day for each day of service as a trial juror in a criminal case and expanded it to four additional courts as selected by Judicial Council. AB 881 was vetoed.
- c) AB 1972 (Ward), of the 2021-2022 Legislative Session, would have increased the compensation for individuals selected to serve as grand jurors. AB 1972 was held in the Senate Appropriations Committee.
- d) AB 1981 (Lee) Chapter 326, Statutes of 2022, increased mileage reimbursement for trial jurors and requires Judicial Council to sponsor a pilot program to study whether increases in juror compensation and mileage reimbursement rates increase juror diversity and participation.
- e) AB 2866 (Migden), Chapter 127, Statutes of 2000, increased the daily fees for jurors from \$5 per day to \$15 per day.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Council of Community Behavioral Health Agencies
Clue (Clergy and Laity United for Economic Justice)
Freedom to Choose Project
Santa Barbara County District Attorney's Office
Smart Justice California, a Project of Tides Advocacy

Opposition

None submitted

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