

Date of Hearing: March 14, 2023  
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Reginald Byron Jones-Sawyer, Sr., Chair

AB 304 (Holden) – As Introduced January 26, 2023

**SUMMARY:** Requires the Judicial Council to establish judicial training programs on all aspects of domestic violence, and transfers responsibility for approving batterer’s intervention programs from probation departments to the Department of Justice (DOJ). Specifically, **this bill:**

- 1) Requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters, including, but not limited to, judges, referees, commissioners, mediators, and others as deemed appropriate by the council.
- 2) Requires the training programs to include a domestic violence session in any orientation session conducted for newly-appointed or elected judges, an annual training session in domestic violence, and periodic updates.
- 3) Requires the training programs to include instruction in all aspects of domestic violence, including, but not limited to:
  - a) Implicit and explicit bias related to victims and perpetrators of domestic violence;
  - b) Trauma;
  - c) Coercive control;
  - d) Victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence;
  - e) The detriment to children residing with a person who perpetrates domestic violence; and,
  - f) That domestic violence can occur without a party seeking or obtaining a restraining order, without a substantiated child protective services finding, and without other documented evidence of abuse.
- 4) Requires a minimum of 25 hours to be required for the orientation session, and a minimum of 20 hours to be required every three years thereafter.
- 5) Requires the court to inform a defendant who is required to attend a batterer’s intervention program as a requirement of probation, of the availability of a program fee waiver if the defendant does not have the ability to pay the fee.

- 6) Clarifies that a program provider must report a violation of the terms of a protective order by the defendant within seven business days.
- 7) Requires the probation department to promptly notify each program in which the defendant is required to participate as a part of probation of all of the court-mandated programs in which the defendant is required to participate and all of the defendant's probation violations pertaining to a domestic violence offense.
- 8) Requires a court to provide a defendant with a selection of available program providers, including the program providers' standard fees and sliding fee scales, before the defendant agrees to the conditions of probation.
- 9) Requires program providers to post publicly, including on an internet website, a comprehensive description of their sliding fee scale.
- 10) Transfers the responsibility for approving batterer's intervention programs from probation departments to the DOJ.
- 11) Requires DOJ, beginning on April 1, 2024, to oversee the probation departments and program providers to ensure compliance with state law.
- 12) Requires DOJ to be responsible for all of the following:
  - a) Collaborating with Judicial Council and relevant stakeholders to set program provider standards;
  - b) Approving, monitoring, and renewing approvals of program providers;
  - c) Conducting periodic audits of probation departments and program providers;
  - d) Developing comprehensive, statewide standards through regulations, including, but not limited to:
    - i) Program provider curricula; and,
    - ii) Training for social workers, counselors, probation departments, peace officers, and others involved in the enforcement of domestic violence crimes or the monitoring or rehabilitation of individuals convicted of domestic violence crimes in all aspects of domestic violence, including, but not limited to:
      - (1) Implicit and explicit bias related to victims and perpetrators of domestic violence;
      - (2) Trauma and emotional abuse;
      - (3) Coercive control; and,
      - (4) Victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence.

- e) Identifying and developing a comprehensive final assessment tool to assess whether a defendant has satisfactorily completed the requirements of the program.
  - f) Analyzing the effectiveness of programs, including, but not limited to, through the tracking of relevant offender and program data.
- 13) Requires Judicial Council, by April 1, 2024, to establish guidelines and training for judges to ensure the consistent adjudication of probation violations.
- 14) Defines “program provider” as a provider of a batterer’s program, as specified, or if none is available, another appropriate counseling program.
- 15) Provides that program providers do not include alcohol or drug counseling or alcohol and drug programs, as specified.
- 16) Includes legislative findings and declarations.

**EXISTING LAW:**

- 1) Requires a person granted probation for domestic violence to serve a minimum period of probation of 36 months, which may include a period of summary probation as appropriate. (Pen. Code, 1203.097 subd. (a)(1).)
- 2) Requires the term of probation for domestic violence to include a criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions. (Pen. Code, 1203.097, subd. (a)(2).)
- 3) Requires the term of probation for domestic violence to include notice to the victim of the disposition of the case. (Pen. Code, 1203.097, subd. (a)(3).)
- 4) Requires the term of probation for domestic violence to include booking the defendant within one week of sentencing if the defendant has not already been booked. (Pen. Code, 1203.097, subd. (a)(4).)
- 5) Requires a person granted probation for domestic violence to successfully complete a batterer’s program, as specified, or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. (Pen. Code, 1203.097, subd. (a)(6).)
- 6) Requires a person granted probation for domestic violence to attend consecutive weekly sessions of a batterer’s program, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program. (Pen. Code, 1203.097, subd. (a)(6).)
- 7) Requires completion of the batterer’s program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion

within 18 months. (Pen. Code, 1203.097, subd. (a)(6).)

- 8) Requires the batterer's program, if it finds that the defendant is unsuitable, to immediately contact the probation department or the court. (Pen. Code, 1203.097, subd. (a)(9).)
- 9) Requires the probation department or the court, if notified that the batterer's program has found that the defendant is unsuitable, to either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program. (Pen. Code, 1203.097, subd. (a)(9).)
- 10) Requires a court, upon recommendation of the batterer's program, to order defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. (Pen. Code 1203.097, subd. (a)(10)(A).)
- 11) Requires the batterer's program to immediately report a violation of the terms of the protective order, including any new acts, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation is ordered, to the probation department. (Pen. Code, 1203.097, subd. (a)(10)(B).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "Despite its efforts over the last three decades, the California Legislature and other state agencies have struggled to implement effective domestic violence diversion tactics. An investigation by the California State Auditor of our batterer intervention programs has revealed a disparity in oversight on the part of probation departments and courts.<sup>1</sup> This, coupled with the insufficient training for those involved in handling domestic violence incidents, has very real implications for domestic violence survivors. This widespread issue affects more people than we realize. Between 2012 and 2021 approximately 1.6 million calls for domestic-violence related assistance were made in California.<sup>2</sup> We already have the infrastructure to help, but are falling short in its oversight and implementation. It is pertinent we revise our batterer intervention system to make it more effective in protecting domestic violence survivors and rehabilitating domestic violence offenders."
- 2) **State Auditor's Report on Batterer Intervention Programs:** In October 2022, the California State Auditor issued its audit of the state's batterer interventions programs. The auditor examined the administration and oversight by the probation departments and courts in five counties—Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin. The Auditor found that persons convicted of domestic violence were "far less likely to reoffend" if they completed a batterer's intervention program. However, nearly 50 percent of program participants reviewed by the Auditor did not complete the program, and most of those

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<sup>1</sup> California State Auditor. (2022). Batterer Intervention Programs. Report 2021-113, 3-7.

<sup>2</sup> State of California Department of Justice. 2023. Domestic Violence-Related Calls for Assistance Counties: All. Years: 2012 - 2021. Retrieved Jan. 3, 2023, from <https://openjustice.doj.ca.gov/exploration/crime-statistics/domestic-violence-related-calls-assistance>.

participants later reoffended. (Cal. State Auditor, *Batterer Intervention Programs: State Guidance and Oversight Are Needed to Effectively Reduce Domestic Violence*, p. 1 <<https://www.auditor.ca.gov/pdfs/reports/2021-113.pdf>> [last visited Mar. 9, 2023].)

The State Auditor found “probation departments did not consistently assess all offenders for underlying issues, such as mental health or substance abuse concerns, that might interfere with an offender’s ability to complete a program.” (*Id.* at 2.) It also reported that “probation departments, program providers, and courts generally did not hold many of the offenders we reviewed accountable for probation and program violations.” (*Ibid.*) Moreover, “even when notified about offenders’ violations, the courts, in some instances, referred the offenders back to a program without imposing additional consequences,” which according to the Auditor “likely weakens the impact of programs.” (*Ibid.*)

Specifically, the Auditor noted that “none of the five probation departments had established sufficient standards, policies, and procedures for overseeing program providers and ensuring program compliance.” (*Ibid.*) As a result, “program providers did not supervise offenders appropriately or report required information.” (*Ibid.*) The probation departments generally failed to address deficiencies in compliance with law by batterer’s program providers. (*Ibid.*)

Based on these findings, the Auditor recommended, among other things, “designating a statewide agency” to provide oversight and guidance to program providers. It also recommended requiring the Judicial Council to establish judicial training programs on all aspects of domestic violence; requiring batterer’s intervention programs to “publicly post a comprehensive description of their sliding fee scales; and, requiring “courts to provide each offender with a selection of available program providers” and of “the availability of fee waivers for those who may not have the ability to pay for a program.” (*Ibid.*)

This bill would codify these recommendations by the State Auditor.

- 3) **DOJ Oversight of Batterer’s Intervention Programs:** The State Auditor concluded that the efficacy of batterer’s intervention programs would benefit from transferring oversight authority from county probation departments and courts to the state. According to the State Auditor, county probation departments had not “adequately approved, monitored, or reviewed program providers.” (*Id.* at p. 48.) “Centralizing such oversight would create consistency and allow the State to select only the most qualified and effective providers.” (*Ibid.*) It added:

[A] statewide oversight agency in California could provide comprehensive guidance to program providers, rather than the inconsistent and inadequate guidance providers currently receive from county probation departments. The oversight agency could also standardize program curriculum and instructor qualification requirements; track and analyze offender and program data; and collaborate with relevant stakeholders to recommend quality improvements to ensure that programs achieve the desired outcomes. Finally, the oversight agency could work with the Judicial Council of California (Judicial Council) to ensure that the courts and judges have sufficient guidance on holding offenders accountable when they violate the conditions of their probation. Without this additional oversight, it will be difficult for policymakers to make informed decisions about how to improve California’s approach to reducing domestic violence.

(*Id.* at 3.)

The State Auditor considered four agencies for as candidates for assuming this authority—the Board of State and Community Correction (BSCC), the California Department of Public Health (CDPH), the California Department of Social Services, and the DOJ. None of the agencies currently have significant involvement with the batterer intervention system, nor did they express a “strong opinions regarding the most appropriate state oversight agency.” (*Id.* at 49.) Ultimately, the State Auditor concluded that DOJ was “best positioned to oversee programs statewide.” (*Id.* at pp. 49-50.) According to the State Auditor:

In 2003 the Attorney General convened a 26-member task force to learn how local criminal justice systems have carried out their responsibilities to, among other things, hold offenders accountable for domestic violence crimes. In 2005 the task force reported that it found problematic practices related to program standards and program provider performance. Further, Justice has a research center that is dedicated to applying a scientific approach to legal review, policy and data analysis, and empirical studies leading to data-driven decisions through collaboration. Because the Attorney General is the chief law enforcement officer of the State and because Justice is already responsible for tracking criminal data, such as domestic violence crimes, we believe that Justice is well positioned to lead statewide efforts to reduce domestic violence.

(*Id.* at p. 50.)

Despite expressing agreement that the state should assume responsibility for oversight of batterer’s intervention programs, there appears to be some disagreement that DOJ is well positioned to assume that role. The California Initiative for Health Equity & Action (Cal-IHEA), for example, recommended placing oversight in hands of the CDPH. In a recent report, Cal-IHEA wrote:

Several programs and initiatives focused on reducing violence exist at the state level but are overseen by separate agencies. Consolidating these programs in a centralized violence prevention and intervention agency within CDPH will streamline efforts to coordinate IPV services and funding while prioritizing a public health approach. The agency would accredit intervention programs and ensure standardization of program evaluation metrics. Additionally, the proximity of an agency within CDPH to other public health services should strengthen referral pathways across associated agencies, thereby promoting early intervention and care coordination.

This agency would collaborate with existing coalitions in California...to ensure that the standards for intervention program are informed by survivors and advocates. To initiate the transition towards a statewide agency, California should establish a public/private sector workgroup consisting of survivors, people who have successfully completed a BIP, stakeholders for advocacy groups, CDPH, BIP providers, and probation officers who currently oversee county BIPs.

(Pattabhiraman et. al, *State Innovation to Prevent the Recurrence of Intimate Partner Violence*, Health Policy Report, California Initiative for Health Equity & Action (Sept. 2021) p. 9 <<https://abmoc.org/wp-content/uploads/2022/11/preventingipv.pdf>> [last visited Mar. 9, 2023].)

Indeed, DOJ expressed concern to the State Auditor that it might not be the appropriate agency to oversee batterer's intervention programs. According to the Auditor's report, DOJ claimed "the work involved would not fit clearly into any of its existing sections and...it believes that another state agency might be able to more appropriately perform the required responsibilities." (Auditor's Report, *supra*, p. 50.)

This bill would implement the State Auditor's recommendation to transfer oversight authority of batterer's intervention programs to DOJ.

- 4) **Alternatives Batterer's Intervention Program Pilot Program:** This bill would transfer responsibility for oversight of batterer's intervention programs from probation departments to the DOJ. This responsibility would include approving, monitoring, and renewing approvals of program providers, and developing comprehensive statewide standards for batterer's intervention programs.

It should be noted that Penal Code section 1203.99 authorizes six counties—Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo—to provide programming to domestic violence offenders under specified circumstances that do not comply with current batterer's intervention program requirements. Authorization for the pilot programs is set to expire July 1, 2023. AB 479 (B. Rubio) would extend the sunset date to July 1, 2026.

This bill likely will not limit the authority of the designated counties to continue offering alternative programming to domestic violence offenders.

- 5) **Argument in Support:** According to the *Little Hoover Commission*, "In its 2021 report, *Beyond the Crisis: A Long-Term Approach to Reduce, Prevent, and Recover from Intimate Partner Violence*, the Commission found that California's batterer intervention programs were "structured in such a way that it's nearly down to chance – except the odds are stacked against participants who are not financially secure – whether the program will work for a participant or leave them indebted in the county lockup." Among other concerns, the Commission found the programs were not always available in the geographic region or language offenders needed, affordable for lower-income Californians, nor formatted in a manner that addressed the spectrum of genders and sexualities found among Californians.

"The Commission recommended that the state review its requirements for batterer intervention programs to determine if they facilitate rehabilitation; begin a process to determine how to tailor rehabilitative services to an individual's needs; and, ensure that rehabilitation is not contingent on an individual's ability to pay.

"We believe AB 304 would help implement these recommendations; consequently we support this legislation."

**Argument in Opposition:** According to Chief Probation Officers of California, "We share your desire to see domestic violence programs serve to reduce recidivism and address interpersonal violence. CPOC agrees with you and our opposition is not reflective of the notion that changes are not needed. It is for these reasons that in 2018 CPOC co-sponsored AB 372 (Stone, Chapter 290, Statutes of 2018), which established pilot programs in the Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo to

update domestic violence programs by applying evidence-based approaches to curriculum that reduce recidivism and address criminogenic needs.

“There are many complexities involved in addressing interpersonal violence and it’s important that programming curriculum reflect the varying needs and risks presented. This pilot program uses evidence-based curriculum to enhance client engagement and meet the treatment, risk and criminogenic needs of the individual. We believe that these programs represent an important model that meets the myriad of goals pertaining to these programs.

“There are important discussions around provisions in the bill pertaining to how best to strengthen processes on ensuring program accountability and completion. However, we are opposed unless amended to the provisions that would remove county probation from certifying and approving these programs due to the potential negative impacts resulting from separating the local delivery of service from the ability to certify the programs and the potential loss of providers that we may see as a result.

“Probation and counties work closely and earnestly to help providers identify or use local meeting spaces and additional supports that streamlines and coordinates local services and capacity. Transferring certification away from where the services are delivered impedes the county’s ability to be locally responsive to the needs and capacity pertaining to these programs.

“We believe there are shared values and programmatic changes that can address the goals underlying this bill, but we see the transferring of program certification as further bifurcating the conversations and efforts around how to ensure these programs are most reflective of evidence-based and risk-based approaches to interpersonal violence and recidivism.”

**6) Related Legislation:**

- a) AB 467 (Gabriel) would clarify that the sentencing court in the county in which a domestic violence restraining order was issued may modify the order if the court is convinced beyond a reasonable doubt that the modification is in the best interest of the victim. AB 467 will be heard in this committee today.
- b) AB 479 (B. Rubio) would eliminate the sunset provision on the law allowing the Counties of Napa, San Luis Obispo, Santa Clara, Santa Cruz, and Yolo to offer programs that do not comply with the requirements of the batterer’s program so long as the programs comply with specified conditions. AB 479 will be heard in this committee today.

**7) Prior Legislation:**

- a) SB 616 (S. Rubio), of the 2021-2022 Legislative Session, would have expanded domestic violence educational requirements for judges, referees, commissioners, mediators, child custody recommending counselors, and evaluators involved in domestic violence proceedings. SB 616 was held on the Senate inactive file.
- b) AB 372 (Stone), Chapter 290, Statutes of 2018, authorized six counties, effective July 1, 2019, to offer an alternative program, as specified, than the one required under current



law for individuals convicted of domestic violence.

- c) SB 218 (Solis), Chapter 662, Statutes of 1999, provided, among other things, authorization for the court to order a restrained person to participate in a batterer intervention program that has been approved by the probation department as meeting specified standards.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Attorneys for Criminal Justice  
California Public Defenders Association (CPDA)  
Little Hoover Commission

**Opposition**

Chief Probation Officers of California

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