

## ASSEMBLY THIRD READING

AB 304 (Holden)

As Amended May 18, 2023

Majority vote

**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).

**Major Provisions**

- 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 parties involved in domestic violence cases;
  - 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 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.
- 5) Clarifies that a program provider must report a violation of the terms of a protective order by the defendant within seven business days.
- 6) 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.

- 7) Requires a court to provide a defendant with a selection of available program providers, including the program providers' standard fees and sliding fee scales, upon the defendant's request.
- 8) Requires program providers to post publicly, including on an internet website, a comprehensive description of their sliding fee scale.
- 9) Transfers the responsibility for approving batterer's intervention programs from probation departments to the DOJ.
- 10) Requires DOJ, beginning on April 1, 2024, to oversee the probation departments and program providers to ensure compliance with state law.
- 11) 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, in consultation with the Injury and Violence Prevention Branch of the State Department of Public Health, 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 parties involved in domestic violence cases;
      - (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.
- 12) Requires Judicial Council, by April 1, 2024, to establish guidelines and training for judges to ensure the consistent adjudication of probation violations.

- 13) Defines "program provider" as a provider of a batterer's program, as specified, or if none is available, another appropriate counseling program.
- 14) Provides that program providers do not include alcohol or drug counseling or alcohol and drug programs, as specified.
- 15) Includes legislative findings and declarations.

## COMMENTS

### 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."

### Arguments 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."

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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>.

**Arguments 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."

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) Costs in the low millions annually (Trial Court Trust Fund, General Fund) to the Judicial Council to develop and administer the judicial domestic violence training required by this bill. Judicial Council estimates \$5.6 million in costs for the first year of implementation and \$3.3 million in annual, ongoing costs to create and implement the orientation and annual training, including funds for curriculum development and salaries for assigned judges. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. If funding is not provided for the new workload created by this bill, it may result in delays and prioritization of court cases.
- 2) Costs in the tens of millions annually (General Fund) to the DOJ to oversee batterer's programs as required by this bill. DOJ estimates costs of approximately \$17.3 million in FY 2023-24 and approximately \$30.3 million in annual ongoing costs. DOJ anticipates adding a new section to its Criminal Division requiring 126 new full-time supervisor, attorney,

analyst, and secretary positions. The new section would design and implement an approval and renewal process for batterer's programs and counseling programs, conduct audits of probation departments and program providers, develop assessment tools, and use data to analyze the effectiveness of programs. Additionally, DOJ anticipates adding three positions within its Research Center and five managers within its Victim Services Unit to complete the workload created by this bill.

- 3) Costs of an uncertain but potentially significant amount (local costs, General Fund) to county probation departments. The bill requires probation departments to make additional notifications about defendants' participation in programs and probation violations. Probation departments may also incur additional costs in submitting their programs for approval by DOJ, updating their programs to meet standards established by DOJ, complying with DOJ audits, and providing data to DOJ for program evaluation. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates. Counties may experience some savings to the extent that their existing batterers' program supervision responsibilities are transferred to DOJ by this bill.
- 4) Costs of an unknown, but potentially significant, amount to the California Department of Public Health (DPH) to collaborate with DOJ on statewide standards for batterer's programs. This bill requires DOJ to develop regulations in consultation with DPH's Injury and Violence Prevention Branch for statewide standards on program provider curricula and training. DPH will likely incur staffing costs to consult with DOJ on these regulations.

## VOTES

### ASM PUBLIC SAFETY: 8-0-0

**YES:** Jones-Sawyer, Alanis, Bonta, Bryan, Lackey, Ortega, Santiago, Zbur

### ASM APPROPRIATIONS: 11-0-5

**YES:** Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

**ABS, ABST OR NV:** Megan Dahle, Dixon, Mathis, Robert Rivas, Sanchez

## UPDATED

VERSION: May 18, 2023

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