
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 304 (Holden) - Domestic violence: probation

Version: May 18, 2023

Urgency: No

Hearing Date: August 14, 2023

Policy Vote: PUB. S. 4 - 0

Mandate: Yes

Consultant: Matthew Fleming

Bill Summary: AB 304 would transfer responsibility for approval and oversight of batterer's intervention programs (BIP) from county probation departments to the Department of Justice (DOJ), and require the Judicial Council (JCC) to make changes to judicial training programs on domestic violence.

Fiscal Impact:

- The DOJ reports costs of approximately \$28.9 million in 2023-24, \$34.6 million annually thereafter to design and implement an approval and renewal process for batterer's programs and counseling programs with input from criminal justice agencies and domestic violence victim advocacy programs, and to oversee the approval, renewal, revocation and suspension of such programs (General Fund). See Staff Comments for additional detail.
- The JCC reports ongoing annual costs of approximately \$1 million for additional staff to create the new training programs in six specified areas of instruction and provide them specified judicial officers during orientation, annual training, and with periodic updates (General Fund).
- Costs in the low to mid hundreds of thousands to the California Department of Public Health (CDPH) for additional staffing to consult with DOJ to develop comprehensive standards through regulations, including, but not limited to, program provider curricula and training to various professions involved in the enforcement of domestic violence crimes or the monitoring or rehabilitation of individuals convicted of domestic violence crimes (General Fund).
- Unknown, potentially reimbursable costs to local probation departments as a result of additional reporting requirements imposed by AB 304 (local funds, General Fund). General Fund costs will depend on whether this bill imposes a reimbursable state mandate as determined by the Commission on State Mandates. The bill may simultaneously result in significant savings to local probation departments as a result of transferring responsibility for the BIP to the DOJ.

Background: The network of government programs that attempt to prevent people convicted of domestic violence offenses from recidivating is known as the batterer's intervention system. The system is comprised of (a) courts, which sentence offenders and oversee informal probation; (b) county probation departments, which oversee formal probation and certify program providers; and (c) program providers, which administer certified batterer's intervention programs. If a court places a defendant on

probation for a domestic violence crime, existing law requires the defendant to complete a batterer's intervention program that lasts at least one year, commonly referred to as a 52-week program. These are structured rehabilitative programs that typically include education, group discussion, and accountability strategies to address the defendant's use of violence in a relationship. The goal of a batterer's intervention system is to reduce the likelihood of further relationship violence by the defendant.

In 2022, the State Auditor released the results of its audit of batterer's intervention systems in five counties across the state. The State Auditor concluded that the batterer's intervention systems it reviewed had limited impact in reducing domestic violence. Specifically, the report concluded that inadequate offender supervision undermined the effectiveness of batterers' programs in addressing domestic violence, probation departments did not fully perform their oversight responsibilities over batterers' programs, and state oversight was needed to improve the current system.

Proposed Law:

- Transfers the responsibility for approving batterer's intervention programs from probation departments to the DOJ.
- Requires DOJ, beginning on April 1, 2024, to oversee the probation departments and program providers to ensure compliance with state law.
- Requires DOJ to be responsible for all of the following:
 - Collaborating with Judicial Council and relevant stakeholders to set program provider standards;
 - Approving, monitoring, and renewing approvals of program providers;
 - Conducting periodic audits of probation departments and program providers;
 - 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:
 - Program provider curricula; and,
 - 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:
 - Implicit and explicit bias related to parties involved in domestic violence cases;
 - Trauma and emotional abuse;
 - Coercive control; and,
 - Victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence.
 - Identifying and developing a comprehensive final assessment tool to assess whether a defendant has satisfactorily completed the requirements of the program.
 - Analyzing the effectiveness of programs, including, but not limited to, through the tracking of relevant offender and program data.

- Requires Judicial Council to establish guidelines and training for judges to ensure the consistent adjudication of probation violations by April 1, 2024.
- Requires the judicial training programs for individuals who perform duties in domestic violence matters to include instruction in all aspects of domestic violence, including, but not limited to:
 - Implicit and explicit bias related to parties involved in domestic violence cases;
 - Trauma;
 - Coercive control;
 - Victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence;
 - The detriment to children residing with a person who perpetrates domestic violence; and,
 - 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.
- 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.
- Provides that a program provider must report a violation of the terms of a protective order by the defendant within seven business days.
- Requires the investigation that probation must make to take into consideration the defendant's sexual orientation, gender identity, financial means, language-access needs, cultural identity.
- 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.
- Requires the 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.
- Requires program providers to post publicly, including on a website, a comprehensive description of their sliding fee scale.

Related Legislation: 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.

Staff Comments: This bill would be significant change in how the BIP is administered in California by placing responsibility for the program with the DOJ, rather than local probation departments. If implemented, AB 304 would require the DOJ to oversee local probation departments and program providers and be responsible for various aspects of oversight, including collaboration with the Judicial Council and relevant stakeholders to set program provider standards, approve, monitor, and renew approvals of program providers, conduct periodic audits of probation departments and program providers, and develop, in consultation with the Injury and Violence Prevention Branch of CDPH, comprehensive statewide standards through regulations. To implement AB 304, the DOJ anticipates needing 133.0 permanent positions of varying classifications, but including 71.0 positions at the classification of Deputy Attorney General I or higher. The new positions would be placed within the Criminal Law Division, the Office of General Counsel, and the Victim Services Unit.

-- END --