

GOVERNOR'S VETO  
AB 304 (Holden)  
As Enrolled September 18, 2023  
2/3 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).

### *Senate Amendments*

- 1) Eliminate DOJ's responsibility to oversee probation departments to ensure compliance with state law.
- 2) Specify that the individuals for whom Judicial Council establishes the judicial training program also include guardians ad litem, custody evaluators, and child custody recommending counselors, if those individuals are employed by the court.
- 3) Provide that the training program shall be an ongoing training and education program designed to improve the ability of courts to recognize and respond to child physical abuse, child sexual abuse, domestic violence, and trauma in family victims, particularly children, and to make appropriate custody decisions that prioritize child safety and well-being and are culturally sensitive and appropriate for diverse communities.
- 4) Require the periodic updates to training programs established by Judicial Council to also include training and education on child sexual abuse, physical abuse, emotional abuse, long- and short-term impacts of domestic violence and child abuse on children.

### **Governor's Veto Message**

This bill transfers responsibility for approving and overseeing batterer's intervention programs from county probation departments to the Department of Justice. This bill also requires the Judicial Council to make changes to judicial training programs on domestic violence.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than \$30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly \$19 billion of unaccounted costs in the budget, of which \$1 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

## COMMENTS

As passed by the Assembly, this bill:

- 1) Required 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) Required 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) Required 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) Required 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) Clarified that a program provider must report a violation of the terms of a protective order by the defendant within seven business days.
- 6) Required 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) Required 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) Required program providers to post publicly, including on an internet website, a comprehensive description of their sliding fee scale.
- 9) Transferred the responsibility for approving batterer's intervention programs from probation departments to the DOJ.
- 10) Required DOJ, beginning on April 1, 2024, to oversee the probation departments and program providers to ensure compliance with state law.

11) Required 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) Required Judicial Council, by April 1, 2024, to establish guidelines and training for judges to ensure the consistent adjudication of probation violations.

13) Defined "program provider" as a provider of a batterer's program, as specified, or if none is available, another appropriate counseling program.

14) Provided that program providers do not include alcohol or drug counseling or alcohol and drug programs, as specified.

15) Included legislative findings and declarations.

#### **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."

### **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

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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>.

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 Senate Appropriations Committee:

- 1) 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).
- 2) 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).
- 3) 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).
- 4) 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.

## **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

**ASSEMBLY FLOOR: 72-0-8**

**YES:** Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**ABS, ABST OR NV:** Chen, Davies, Stephanie Nguyen, Ramos, Rodriguez, Blanca Rubio, Sanchez, Ta

**SENATE FLOOR: 34-0-6**

**YES:** Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

**ABS, ABST OR NV:** Alvarado-Gil, Caballero, Grove, Newman, Niello, Seyarto

**ASSEMBLY FLOOR: 76-0-4**

**YES:** Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

**ABS, ABST OR NV:** Davies, Rodriguez, Sanchez, Ta

**UPDATED**

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