

Date of Hearing: February 14, 2023  
Counsel: Mureed Rasool

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

AB 67 (Muratsuchi) – As Amended February 9, 2023

**SUMMARY:** Creates the Homeless Courts Pilot Program, allowing unhoused defendants to participate in a diversion program that would provide the defendant housing, counsel, mental health services, substance abuse treatment, and other specified services. Specifically, **this bill:**

- 1) Establishes the Homeless Courts Pilot Program in order to provide comprehensive community-based services to homeless defendants and appoints the Judicial Council to award grants as well as oversee its implementation.
- 2) Requires the Judicial Council to develop guidelines in awarding grants to programs.
- 3) States that programs must contain, at minimum, all of the following components:
  - a) A misdemeanor and infraction diversion program that will require dismissal of charges upon completion;
  - b) Representation by a public defender;
  - c) A location where the defendant can access all service providers ;
  - d) Supportive housing during the course of the program;
  - e) A county representative who can assist with obtaining long-term housing, and identify mental health and substance abuse concerns;
  - f) Provision of mental health evaluation and services;
  - g) Substance abuse treatment; and,
  - h) Criminal record clearing services.
- 4) States that the Judicial Council must give preference to programs that provide:
  - a) Weekly mental health and substance abuse counseling services;
  - b) Job training or placement services;
  - c) Conditional custody release into specified drug abuse programs; and,
  - d) Participation of licensed medical practitioners for medication purposes, upon consent of the defendant.

- 5) Requires applicants to include in their application details regarding staffing activities, services delivered and how grant will cover such costs.
- 6) Mandates the Judicial Council to establish performance-based outcome measures that at a minimum include:
  - a) Demographic information;
  - b) Services ordered but not provided;
  - c) Housing information;
  - d) Detention and conservatorship information;
  - e) Successful substance use treatment rates;
  - f) Deaths of participants during and after the diversion program; and,
  - g) Subjective surveys from participants.
- 7) Requires the Judicial Council to compile all data and prepare a report to the Legislature outlining the outcomes of the program by July 1, 2027.
- 8) Sunsets the pilot program on January 1, 2029.

**EXISTING LAW:**

- 1) Creates a pretrial diversion program for those charged with certain drug offenses. (Pen. Code, § 1000 *et seq.*)
- 2) Authorizes courts to create a “deferred entry of judgment” diversion program, as defined. (Pen. Code, § 1000.8 *et seq.*)
- 3) Creates a pretrial diversion program for those with cognitive developmental disabilities, as defined. (Pen. Code, § 1001.20 *et seq.*)
- 4) Creates a pretrial diversion program for those with mental disorders, as defined. (Pen. Code, § 1001.35 *et seq.*)
- 5) Authorizes creation of a pretrial diversion program for traffic violators, as defined. (Pen. Code, § 1001.40.)
- 6) Authorizes creation of a pretrial diversion program for defendants accused of writing bad checks, as defined. (Pen. Code, § 1001.60 *et seq.*)
- 7) Creates a pretrial diversion program for members and veterans of the United States military, as defined. (Pen. Code, § 1001.80 *et seq.*)

- 8) Authorizes creation of a pretrial diversion program for defendants accused of theft offense, as defined. (Pen. Code, § 1001.81 *et seq.*)
- 9) Creates a pretrial diversion program for primary caregivers under certain circumstances. (Pen. Code, § 1001.83 *et seq.*)
- 10) Authorizes a pre-booking diversion program for specified offenses to be administered by law enforcement agencies. (Pen. Code, § 1001.87.)
- 11) Creates a pretrial diversion program for certain misdemeanor offenses. (Pen. Code, § 1001.95 *et seq.*)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “AB 67 builds upon the success of homeless courts as seen in San Diego and Redondo Beach by creating a statewide homeless court grant program. This funding will allow other jurisdictions to apply for their own homeless court which will incorporate certain components of other successful models, but also provides flexibility to tailor their program to their specific region and community’s needs. For participants, homeless courts provide access to wraparound services such as housing, employment, public assistance, and treatment programs to better integrate individuals into their communities. For the community, homeless courts engage individuals in a gainful process, removing homeless people from doorways, parks, and gathering places. These individuals can then rebuild their lives by addressing the legal issues that often create barriers to accessing housing, employment, public assistance, and treatment programs.”
- 2) **Judicial Council Recommendations for Assisting with Homelessness:** In 2020, Chief Justice Tani Cantil-Sakauye established a Work Group on Homelessness to “evaluate how court programs, processes, technology, and communications might be improved to better serve people who are without housing or are housing insecure.” (Judicial Council, *Report to the Chief Justice: Work Group on Homelessness* (2021) (hereafter *Working Group Homeless Report*) [https://www.courts.ca.gov/documents/hwg\\_work-group-report.pdf](https://www.courts.ca.gov/documents/hwg_work-group-report.pdf) at p. 1.) The work group was to “consider how the judicial branch might appropriately work with the executive and legislative branches to reduce homelessness.” (*Ibid.*) It found:

Lack of affordable housing is a major cause of homelessness: experts estimate that California is at least 3 million housing units short of current need. Eviction, foreclosure, conviction, incarceration, civil commitment, debt, increased medical or mental health deterioration or trauma, and loss of a driver’s license or transportation are some of the circumstances of homelessness that may flow from the underlying causes. Being without housing can expose a person to legal consequences—such as punishment for loitering, indecent exposure, trespassing, or a failure to appear in court—creating a cycle that is difficult to escape.

Systemic inequality and discriminatory housing practices also significantly contribute to homelessness. Studies show that homelessness disproportionately

affects those who have already been marginalized or are highly vulnerable, such as people of color, members of the LGBTQIA+ community, youth, foster youth, the elderly, military veterans, and people who have been incarcerated or convicted. Moreover, although it is illegal to discriminate in housing sales, rentals, and lending, equal opportunity does not exist for all. Information gathered by the work group indicates that explicit and implicit biases and systemic disparities continue to exist and affect housing access and retention. (*Id.* at 2 (footnotes omitted).)

According to the work group, homelessness itself is a barrier that impedes access to justice. The group found homeless courts to be a cost-effective model, with savings for the courts exceeding costs, and encouraged “courts to pursue available outside funding to supplant these costs, such as applicable grants administered by the Judicial Council or competitive grants offered through state and federal funding agencies.” (*Id.* at 21.) It recommended establishing homeless courts programs in more jurisdictions to reduce barriers to housing stability by clearing fines, fees, warrants, and outstanding cases after treatment and rehabilitation; and emphasized that homeless court eligibility criteria should be as expansive as feasible and should include cases involving higher-level offenses, when appropriate. (*Id.* at 20.)

On collaborative courts more generally, the work group recommended:

- Collaborative courts should be expanded throughout the state by increasing the funding and caseload capacity of existing programs. Courts should ensure that their collaborative court eligibility criteria are as expansive as feasible to enable as many appropriate cases as possible to be processed through the collaborative court programs.
- Courts should implement new collaborative court programs in appropriate jurisdictions. (*Id.* at 22.)

Again, the work group found that these courts saved money, but required dedicated funding to allow caseloads to increase. It encouraged “courts to pursue applicable grants administered by the Judicial Council and competitive grants offered through state and federal funding agencies.” (*Id.* at 23.)

This bill would follow the Judicial Council’s recommendation to increase the number of homeless court programs and financially support homeless court programs already in existence.

- 3) **Homeless and Collaborative Courts in California Today:** California has over 450 collaborative courts including homeless courts that “provide rehabilitation services and housing to individuals in need.” (Judicial Council, *Report to the Chief Justice: Work Group on Homelessness* (2021) at p. 19.) Collaborative courts generally use a team-based approach to address the underlying issues that led an individual to become involved with the criminal justice system. Teams can include judges, attorneys, probation officers, social workers, service providers, and others. These courts include, among other models, drug courts, reentry courts, mental health courts, homeless courts and veterans treatment courts.

There are currently homeless court programs in 19 counties in the state.

(<https://www.courts.ca.gov/5976.htm>) The first homeless court was created in San Diego in 1989 to specifically address issues facing homeless veterans. Homeless courts generally work with low-level offenders and offer community-based treatment and rehabilitation services rather than jail time to resolve citations and misdemeanors that often result from poverty and homelessness. Homeless courts use “an action-first model that requires participants to achieve individualized treatment, rehabilitation, or other goals before appearing in homeless court. Homeless courts are often convened once a month, and participants resolve their legal issues or cases in a single court appearance.” (*Id.* at 20 (footnotes omitted).) According to the Judicial Council, “Homeless court programs recognize the voluntary efforts of participants to improve their lives and move from the streets toward self-sufficiency through community based treatment or services. For participants who complete appropriate treatment or services, the homeless court will dismiss or reduce their charges and clear outstanding fines and fees. (*Id.* at 19.)

This bill would create a pilot program through which the Judicial Council would administer funds and oversee efforts to create new, and expand existing homeless court programs throughout California.

- 4) **Mental Health, Homeless Courts, and CARE Courts:** Mental health illnesses, drug addiction, and homelessness are unfortunately characteristics that have demonstrably consistent associations with each other. (Stanford Institute for Economic Policy Research (SIEPR). *Homelessness in California: Causes and policy considerations*. (May 2022) <https://siepr.stanford.edu/publications/policy-brief/homelessness-california-causes-and-policy-considerations> at p. 6-7.) Recently, the LA Homeless Services Authority estimated that 25 percent of homeless individuals had a severe mental illness, one that was a permanent or long-term severe condition. (*Id.* at p. 6.) However, using the same data, the LA Times estimated that about 51 percent of homeless individuals in the survey had a mental health illness. (*Id.*)

The Community Assistance, Recovery, and Empowerment Act (CARE Act) created a mechanism through which certain individuals can initiate proceedings in a court to require persons with severe mental health illnesses to undergo treatment, both voluntarily and involuntarily. (SB 1338 (Umberg) Chapter 319, Statutes of 2022.) These courts, also known as CARE courts, would potentially apply to homeless individuals with severe mental health illnesses, however, they would not apply to homeless individuals who have mental illnesses that are not as severe. This bill would cover and supply a treatment path to those with less significant mental illnesses, however, unlike CARE courts this bill would only apply if a homeless individual has been charged with a misdemeanor or infraction.

- 5) **Argument in Support:** According to the *California Public Defenders Association* (CPDA), “AB 67 would, upon appropriation by the Legislature, provide funding for a Homeless Courts Pilot Program designed to provide stabilization for, and address the needs of, chronically homeless justice-involved individuals.

“CPDA has long supported programs intended to decriminalize and treat poverty, mental illness, and homelessness, and is encouraged by programs like this, which recognize that imprisoning our most vulnerable citizens instead of addressing the root causes of their offense is inefficient, costly, and cruel.

“While we applaud the use of grant funding and innovative thinking to address poverty and mental-health related crimes, we would also respectfully suggest that this bill could, and should, do more.

“As written, the bill applies only to defendants charged with ‘infractions or misdemeanors,’ thereby excluding anyone charged with a felony, no matter how minor. As we know all too well, laws that draw rigid distinctions between ‘felony’ and ‘misdemeanor’ conduct often fail to capture nuance, and do not offer counties and courts needed flexibility, frequently leaving otherwise eligible people on the wrong side of the line.

“A defendant charged with ‘felony’ vandalism for breaking a window, or a schizophrenic man charged with felony resisting arrest, for example, would be excluded under the language of the current bill, even if the court, prosecutor, and defendant would all prefer that they receive services in a program funded by this bill.

“As such, we urge you to consider expanding this proposal to allow counties that want to offer services to a broader array of people, including homeless defendants charged with felonies, to do so.”

6) **Related Legislation:** SB 63 (Ochoa Bogh), would establish the Homeless and Mental Health Court Grant Program to disburse grants to such courts. SB 63 is currently pending hearing in the Senate Public Safety Committee.

7) **Prior Legislation:**

- a) SB 1338 (Umberg), Chapter 319, Statutes of 2022, established the Community Assistance, Recovery, and Empowerment Court Program.
- b) AB 2220 (Muratsuchi), of the 2021-2022 Legislative Session, would have established the Homeless Courts Pilot Program to be administered by the Judicial Council. AB 2220 was referred to the Assembly Appropriations Committee and held in the Suspense File.
- c) SB 1421 (Jones), Chapter 671, Statutes of 2022, created the California Interagency Council on Homelessness primarily to identify and coordinate resources, benefits, and services to prevent and end homelessness in California.
- d) AB 2899 (Migden), of the 2001-2002 Legislative Session, would have established a Homeless Court Pilot Project which would have allowed for alternative sentencing for homeless defendants and would have provided for certain outreach services. AB 2899 was vetoed by the Governor.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Public Defenders Association  
Friends Committee on Legislation of California

**Opposition**

None

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