

ASSEMBLY THIRD READING
AB 67 (Muratsuchi)
As Amended March 13, 2023
Majority vote

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.

Major Provisions

- 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 representative who can assist with obtaining long-term housing, and identify mental health and substance use concerns;
 - f) Provision of mental health evaluation and services;
 - g) Substance use disorder treatment; and,
 - h) Criminal record clearing services.
- 4) Authorizes defendants charged with felonies to be included in the program only upon consent of the prosecutor.
- 5) Exempts offenses requiring sex offender registration, serious felonies and violent felonies from being diverted under these provisions.
- 6) States that the Judicial Council must give preference to programs that provide:
 - a) Weekly mental health and substance use counseling services;
 - b) Job training or placement services;
 - c) Conditional custody release into specified drug use programs; and,

- d) Participation of licensed medical practitioners for medication purposes, upon consent of the defendant.
- 7) Requires applicants to include in their application details regarding staffing activities, services delivered and how grant will cover such costs.
- 8) Mandates the Judicial Council, in collaboration with subject matter experts, 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.
- 9) 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.
- 10) Sunsets the pilot program on January 1, 2029.

COMMENTS

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.

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."

Arguments 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."

Arguments in Opposition

None Submitted

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "The general fund cost of this pilot grant program will likely be in the millions of dollars. The Judicial Council estimates that it would need approximately \$5 million to create and administer the pilot program and submit its one-time report to the Legislature, assuming that it would provide funds to approximately 10 grantees through multi-year grants during the pilot program. However, grant recipients may need additional funding to provide the level of services prescribed by this bill. In particular, it would be more costly for a grant recipient to establish a new homeless court than for an existing court to expand their services using grant funds."

VOTES

ASM PUBLIC SAFETY: 8-0-0

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

ASM JUDICIARY: 9-0-2

YES: Maienschein, Connolly, Dixon, Haney, Kalra, Pacheco, Papan, Reyes, Robert Rivas

ABS, ABST OR NV: Essayli, Sanchez

ASM APPROPRIATIONS: 13-1-2

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

NO: Dixon

ABS, ABST OR NV: Robert Rivas, Sanchez

UPDATED

VERSION: March 13, 2023

CONSULTANT: Mureed Rasool / PUB. S. / (916) 319-3744

FN: 0000889