



Judicial Council of California

520 Capitol Mall, Suite 600 · Sacramento, California 95814-4717

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PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

MILLCENT TIDWELL

Acting Administrative Director

September 20, 2023

Hon. Gavin Newsom
Governor of California
1021 O Street, Suite 9000
Sacramento, California 95814

Subject: Assembly Bill 304 (Holden)—Request for Veto

Dear Governor Newsom:

The Judicial Council respectfully requests your veto on Assembly Bill 304, because the training requirements in the bill impinge on the independence of the judicial branch in developing and providing judicial education. AB 304 amends existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel to substantially expand the topics that must be addressed in this mandated training. In addition, it shifts the responsibility from probation departments to the Department of Justice (DOJ) to approve mandatory Batterer's Intervention Programs (BIP) for defendants placed on probation for domestic violence. Finally, it requires the council by April 1, 2024, to establish a training program and guidelines for judges to ensure the consistent adjudication of probation violations. The council's opposition is focused on the training requirements and ensuring the independence of probation agencies, and not the provisions that would make DOJ responsible for BIP approval and oversight.

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. AB 304 would repeal that section and replace it with a more prescriptive set of requirements that require the council to provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.¹ These rules demonstrate that the council shares the author's interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding AB 304 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. These very specific training topics implicate an advocacy agenda and thus may create the appearance that the training is intended to improperly influence judicial impartiality and neutrality which is at odds with the current curriculum development process driven by judicial officers and based on the issues they see in their courtrooms on a daily basis. AB 304 could have been amended to restore existing section 68555 and then include language directing the council to consider including the listed topics in the required training provided pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

The council also objects to proposed new subdivision (f) of Penal Code section 1203.097, which directs the council to "establish guidelines and training for judges to ensure the consistent adjudication of probation violations." This requirement seems to be an effort to implement a recommendation from the State Auditor that the council "provide training to judges regarding the application of the batterer intervention law," but the language in AB 304 goes beyond that recommendation. The council objects to the notion that it would implement guidelines and training for consistent adjudication of probation violations, as the courts must look at each case individually and apply the law within the parameters set by statute. If the Legislature wishes to highlight the importance of the requirements of Penal Code section 1203.097 it can direct the council to ensure that training on handling domestic violence cases where probation is imposed cover all aspects of the statute.

The council is taking no position on the proposed shift of oversight of BIPs from probation departments to DOJ because that is a policy question outside council purview.

The council takes seriously the role of the branch to ensure that defendants placed on probation for domestic violence offenses are appropriately supervised but opposes legislative efforts to regulate judicial training in a manner that diminishes the status of the judicial branch as a co-equal branch of government.

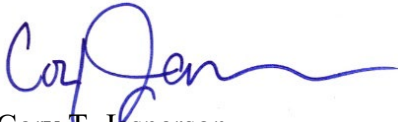
For these reasons, the Judicial Council respectfully requests your veto on Assembly Bill 304 and welcomes an opportunity to continue working on this important issue next year.

¹ See California Rules of Court, rules 10.464, 5.215, and 5.230.

Hon. Gavin Newsom
September 20, 2023
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Should you have any questions or require additional information, please contact Tracy Kenny at 916-323-3121.

Sincerely,



Cory T. Jasperson
Director
Governmental Affairs

CTJ/TK/lmm

cc: Hon. Chris R. Holden, Member of the Assembly, 41st District
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



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MILLICENT TIDWELL

Acting Administrative Director

September 11, 2023

Hon. Chris R. Holden
Member of the Assembly, 41st District
1021 O Street, Suite 5650
Sacramento, California 95814

Subject: Assembly Bill 304 (Holden), as amended September 8, 2023—Oppose, unless amended.
Location: Senate Third Reading

Dear Assembly Member Holden:

The Judicial Council, regrettably, continues to oppose Assembly Bill 304, because the training requirements in the bill impinge on the independence of the judicial branch in developing and providing judicial education. AB 304 amends existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel to substantially expand the topics that must be addressed in this mandated training. In addition, it shifts the responsibility from probation departments to the Department of Justice (DOJ) to approve mandatory Batterer's Intervention Programs (BIP) for defendants placed on probation for domestic violence and requires. Finally, it requires the council by April 1, 2024, to establish a training program and guidelines for judges to ensure the consistent adjudication of probation violations. The council's opposition is focused on the training requirements and ensuring the independence of probation agencies, and not the provisions that would make DOJ responsible for BIP approval and oversight.

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since

1996 and was amended to include some clarifying language in 2018. AB 304 would repeal that section and replace it with a more prescriptive set of requirements that require the council to provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.¹ These rules demonstrate that the council shares your interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding AB 304 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. AB 304 could have been amended to restore existing section 68555 and then include language directing the council to consider including the listed topics in the required training provided pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

The council also objects to proposed new subdivision (f) of Penal Code section 1203.097, which directs the council to "establish guidelines and training for judges to ensure the consistent adjudication of probation violations." This requirement seems to be an effort to implement a recommendation from the State Auditor that the council "provide training to judges regarding the application of the batterer intervention law," but the language in AB 304 goes beyond that recommendation. The council objects to the notion that it would implement guidelines and training for consistent adjudication of probation violations, as the courts must look at each case individually and apply the law within the parameters set by statute. If the Legislature wishes to highlight the importance of the requirements of Penal Code section 1203.097 it can direct the council to ensure that training on handling domestic violence cases where probation is imposed cover all aspects of the statute.

The council is taking no position on the proposed shift of oversight of BIPs from probation departments to DOJ because that is a policy question outside council purview.

¹ See California Rules of Court, rules 10.464, 5.215, and 5.230.

The council takes seriously the role of the branch to ensure that defendants placed on probation for domestic violence offenses are appropriately supervised but opposes legislative efforts to regulate judicial training in a manner that diminishes the status of the judicial branch as a co-equal branch of government.

For these reasons, the Judicial Council opposes AB 304, unless amended.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,



Tracy Kenny
Supervising Attorney
Governmental Affairs

TK/lmm

cc: Ms. Stephanie Jordan, Counsel, Senate Public Safety Committee
Mr. Eric Csizmar, Policy Consultant, Senate Republican Office of Policy
Mr. Andrew Ironside, Counsel, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Office of Policy and Budget
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



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PATRICIA GUERRERO

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MILLICENT TIDWELL

Acting Administrative Director

June 26, 2023

Hon. Aisha Wahab, Chair
Senate Public Safety Committee
1021 O Street, Suite 7330
Sacramento, California 95814

Subject: Assembly Bill 304 (Holden), as amended May 18, 2023—Oppose, unless amended.
Hearing: Senate Public Safety Committee—July 11, 2023

Dear Senator Wahab:

The Judicial Council, regretfully, is opposed to Assembly Bill 304, unless it is amended to protect the independence of the judicial branch in developing and providing judicial education and to preserve the independence of county probation departments. AB 304 repeals existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel and replaces it with a similar requirement that is augmented with a list of specific topics that must be covered in the training. In addition, it shifts the responsibility from probation departments to the Department of Justice (DOJ) to approve mandatory Batterer's Intervention Programs (BIP) for defendants placed on probation for domestic violence and directs DOJ to oversee probation departments for compliance with the law. Finally, it requires the council by April 1, 2024, to establish a training program and guidelines for judges to ensure the consistent adjudication of probation violations. The council's opposition is focused on the training requirements and ensuring the independence of probation agencies, and not the provisions that would make DOJ responsible for BIP approval and oversight.

Government Code section 68555 currently requires that that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. AB 304 would repeal that section and replace it with a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion

into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.¹ These rules demonstrate that the council shares the author's interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding AB 304 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. AB 304 could be amended to restore existing section 68555 and then include language directing the council to consider including the listed topics in the required training provided pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

The council also objects to proposed new subdivision (f) of Penal Code section 1203.097, which directs the council to "establish guidelines and training for judges to ensure the consistent adjudication of probation violations." This requirement seems to be an effort to implement a recommendation from the State Auditor that the council "provide training to judges regarding the application of the batterer intervention law," but the language in AB 304 goes beyond that recommendation. The council objects to the notion that it would implement guidelines and training for consistent adjudication of probation violations, as the courts must look at each case individually and apply the law within the parameters set by statute. If the Legislature wishes to highlight the importance of the requirements of Penal Code section 1203.097 it can direct the council to ensure that training on handling domestic violence cases where probation is imposed cover all aspects of the statute.

The council is taking no position on the proposed shift of oversight of BIPs from probation departments to DOJ because that is a policy question outside council purview but is concerned that the changes as currently proposed would blur the line of responsibility between DOJ and probation departments. Because probation is an arm of the court when it provides neutral recommendations and oversees the supervision of defendants on probation the council is concerned that statutory language suggesting that DOJ is overseeing probation or auditing its work would also violate separation of powers. To address these concerns the council suggests clarifying amendments to newly proposed subdivision (e) of section 1203.097 to make it clearer that DOJ is focused on implementation of its responsibilities with regard to oversight of the BIP providers. The suggested amendment would read:

¹ See California Rules of Court, rules 10.464, 5.215, and 5.230.

Hon. Aisha Wahab

June 26, 2023

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(e) The Department of Justice, beginning on April 1, 2024, shall be responsible for all of the following ~~oversee the probation departments and program providers~~ to ensure compliance with state law; ~~The department shall be responsible for all of the following:~~

(1) Collaborating with the Judicial Council and relevant stakeholders to set program provider standards.

(2) Approving, monitoring, and renewing approvals of program providers.

(3) Conducting periodic audits of ~~probation departments and~~ program providers to ensure compliance with this section.

The council takes seriously the role of the branch to ensure that defendants placed on probation for domestic violence offenses are appropriately supervised but opposes legislative efforts to regulate judicial training in a manner that diminishes the status of the judicial branch as a co-equal branch of government. The amendments suggested here would preserve the key policy change proposed by AB 304 while preserving judicial independence.

For these reasons, the Judicial Council opposes AB 304, unless amended.

Should you have any questions or require additional information, please contact Tracy Kenny at 916-323-3121.

Sincerely,



Cory T. Jaspersen

Director, Governmental Affairs

CTJ/TK/lmm

cc: Members, Senate Public Safety Committee
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