
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 479 **Hearing Date:** June 6, 2023
Author: Blanca Rubio
Version: March 15, 2023
Urgency: Yes **Fiscal:** Yes
Consultant: SJ

Subject: *Alternative domestic violence program*

HISTORY

Source: California District Attorneys Association

Prior Legislation: AB 372 (Stone), Ch. 290, Stats. 2018
AB 93X (Burton), Ch. 28, Stats. 1994

Support: California State Association of Counties; Chief Probation Officers' of California;
County of Santa Barbara; County of Santa Clara

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to extend the sunset date of an existing six-county pilot program that provides an alternative program for individuals convicted of domestic violence.

Existing law authorizes the Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo to offer a program for individuals convicted of domestic violence that does not comply with the components of the batterer's program otherwise outlined in state law, if the program meets certain requirements. (Pen. Code, § 1203.099, subd. (a).)

Existing law requires the counties to develop the program in consultation with the domestic violence service providers and other relevant community partners. (Pen. Code, § 1203.099, subd. (a)(1).)

Existing law requires the counties to perform a risk and needs assessment utilizing an assessment demonstrated to be appropriate for domestic violence offenders for each offender entering the program. (Pen. Code, § 1203.099, subd. (a)(2).)

Existing law requires that the offender's treatment within the program be based on the findings of the risk and needs assessment. (Pen. Code, § 1203.099, subd. (a)(3).)

Existing law requires the program to include components that are evidence-based or promising practices. (Pen. Code, § 1203.099, subd. (a)(4).)

Existing law requires the program to have a comprehensive written curriculum that informs the operations of the program and outlines the treatment and interventions modalities. (Pen. Code, § 1203.099, subd. (a)(5).)

Existing law requires the offender's treatment within the program to be for not less than one year in length, unless an alternative length is established by a validated risk and needs assessment completed by the probation department or an organization approved by the probation department. (Pen. Code, § 1203.099, subd. (a)(6).)

Existing law requires the counties to collect data on participants in the program, as specified. (Pen. Code, § 1203.099, subd. (a)(7).)

Existing law requires each participating county to report all of the following information annually to the Legislature:

- The risk and needs assessment tool used for the program;
- The curriculum used by each program;
- The number of participants with a program length other than one year, and the alternative program lengths used;
- Individual data on the number of offenders participating in the program;
- Other individual data that the county is required by law to collect, as specified. (Pen. Code, § 1203.099, subd. (a)(8)(A)-(E).)

Existing law defines “evidence-based program or practice” as a program or practice that has a high level of research indicating its effectiveness, determined as a result of multiple rigorous evaluations including randomized controlled trials and evaluations that incorporate strong comparison group designs, or a single large multisite randomized study, and, typically, has specified procedures that allow for successful replication. (Pen. Code, § 1203.099, subd. (c)(1).)

Existing law defines “promising program or practice” as a program or practice that has some research demonstrating its effectiveness but does not meet the full criteria for an evidence-based designation. (Pen. Code, § 1203.099, subd. (c)(2).)

Existing law provides that the above provisions sunset on July 1, 2023. (Pen. Code, § 1203.099, subd. (f).)

This bill extends the sunset date of the pilot program that provides an alternative program for individuals convicted of domestic violence.

This bill include an urgency clause.

COMMENTS

1. Need For This Bill

According to the author:

While California has been a leader in addressing and reducing domestic violence, the complexity underlying these issues needs to be further addressed ensuring that

all batterer intervention programs are utilizing evidence-based principles that hold offenders accountable while addressing their criminogenic needs and reducing their recidivism. The existing pilot program established in 2018 has been enthusiastically embraced by the criminal justice partners in the six counties specified. Continuing this program will allow more offenders to get help, as well as allow criminal justice partners to continue monitoring and collecting substantive data to demonstrate the long-term effectiveness of the program.

2. State Auditor's Report

In October 2022, the California State Auditor published its report on the state's batterer interventions programs. The Auditor examined the administration and oversight of a sample of the state's batterer intervention programs in five counties—Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin. The Auditor found that individuals convicted of domestic violence and who completed the required batterer's intervention program were “far less likely to reoffend” than those who did not complete the program. However, nearly half of the offenders reviewed did not complete the full program, and the majority of those individuals subsequently reoffended. (State Auditor, *Batterer Intervention Programs: State Guidance and Oversight Are Needed to Effectively Reduce Domestic Violence*, Report 2021-113, p. 1 <<https://www.auditor.ca.gov/pdfs/reports/2021-113.pdf>> [last visited May 31, 2023].)

The State Auditor found “probation departments did not consistently assess all offenders for underlying issues, such as mental health or substance abuse concerns, that might interfere with an offender's ability to complete a program.” (*Id.* at 2.) Additionally, probation departments, program providers, and courts generally did not hold many of the offenders accountable for probation and program violations. (*Ibid.*) Finally, “even when notified about offenders' violations, the courts, in some instances, referred the offenders back to a program without imposing additional consequences.” (*Ibid.*) The report opined that “decisions not to impose escalating penalties on offenders who violate their probation likely weakens the impact of programs.” (*Ibid.*)

The State Auditor concluded that many of the deficiencies identified with the administration and oversight of the batterer intervention system were due in part to the fact that “none of the five probation departments had established sufficient standards, policies, and procedures for overseeing program providers and ensuring program compliance.” (*Ibid.*) Lack of adequate oversight led some program providers to fail to supervise offenders appropriately or to report required information to the courts and probation departments. (*Ibid.*) In addition, the probation departments often failed to conduct required annual on-site visits of programs leading to program providers' noncompliance going unnoticed which resulted in the approval or renewal of providers not in full compliance with state law. (*Ibid.*)

3. AB 372 Pilot Program

AB 372 (Stone) authorized the Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo to offer an alternative program for individuals convicted of domestic violence that does not comply with the requirement of the batterer's program under Penal Code section 1203.097. AB 372 was introduced to permit counties to offer batterer intervention programs that were more tailored to an individual offender's needs and to update the curriculum of those programs to incorporate evidence-based practices.

Penal Code section 1203.099 requires participating counties to collect specified information regarding program participants, including “the offender’s outcome at the time of program completion, and six months after completion, including subsequent restraining order violations, arrests and convictions, and feedback provided by the victim if the victim desires to participate.” (Pen. Code, § 1203.099, subd. (a)(7)(E).) Preliminary data on the alternative programs being offered by participating counties is promising. However, the most recent report on the pilot program notes that a “more nuanced” approach to examining local recidivism data is necessary to determining the success of the alternative programs in reducing domestic violence. (California State Association of Counties, *AB 372 Legislative Report: Year 3*, p. 16 <https://www.counties.org/sites/main/files/file-attachments/ab372_year_3_legislative_report.pdf> [last visited May 31, 2023].) This conclusion was reached in part due to the fact that Penal Code section 1203.099 does not require new arrests or convictions to be related to domestic violence. The Year Three report found that for individuals who entered the program in fiscal year 2021, the second year of its existence, “nearly half (45%) had shown a positive completion of the program.” (*Id.* at p. 14.) Positive completion is defined as completing the program, and for some counties, paying all program fees.

Given that the pilot program has included some promising results, faced delays in implementation due to the COVID-19 pandemic, and is set to sunset this year, the bill’s supporters contend that the pilot program should be extended, in part, to allow for additional time to collect data on the program.

4. Argument in Support

According to the California District Attorneys Association, the bill’s sponsor:

Since July 2019, this pilot program has permitted six counties (Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo) to offer an alternative program for domestic violence offenders that uses evidence-based practices. Experts in the field of domestic violence recognized that the required 52-week batterer’s program is not appropriate for every offender and there needs to be some flexibility in this type of program so that rehabilitation can be tailored to each offender.

Penal Code Section 1203.099 requires participating counties to perform a risk and needs assessment for every domestic violence offender entering the program. The program currently has a sunset date of July 1, 2023. Extending the sunset will ensure these alternatives remain available to individuals in these counties so that these counties can continue to address the individual needs of domestic violence offenders.

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