

ASSEMBLY BILL

No. 102

Introduced by Assembly Member Cohn
(Principal coauthor: Senator Alquist)

January 11, 2005

An act to add Section 6219.5 to, and to repeal and add Section 6219 of, the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 102, as introduced, Cohn. Domestic violence: dual status.

Under existing law, any person who perpetrates domestic violence, as defined, is subject to both criminal penalties and civil remedies, as specified. Existing law authorizes the superior courts in San Diego County and in Santa Clara County, subject to adequate, discretionary funding from a city or county, and in any other county able and willing to participate, to develop a demonstration project to identify the best practices in civil, juvenile, and criminal court cases involving domestic violence. Existing law required superior courts participating in this demonstration project to report their findings and recommendations to the Judicial Council and the Legislature by May 1, 2004.

This bill would repeal the above provisions relating to the demonstration project, and would, instead, require each superior court to identify the best practices in family, criminal, and juvenile court cases involving domestic violence. The bill would require the presiding judges of the family, criminal, and juvenile courts of each county to create a jointly written protocol to allow these courts to jointly assess and produce a recommendation that a defendant or ward be designated as dual status, permitting the courts to access all

background information on the defendant or ward held by any of these court systems.

The bill would require the Judicial Council to collect and compile data on this protocol, to prepare an evaluation of the implementation of the protocol, and to report its findings and any resulting recommendations to the Legislature, as specified. The bill would further require the Judicial Council to review all proposed protocols to ensure that they provide for the collection of adequate, standardized data to perform these evaluations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6219 of the Family Code is repealed.
2 ~~6219. Subject to adequate, discretionary funding from a city~~
3 ~~or a county, the superior courts in San Diego County and in Santa~~
4 ~~Clara County may develop a demonstration project to identify the~~
5 ~~best practices in civil, juvenile, and criminal court cases~~
6 ~~involving domestic violence. The superior courts in any other~~
7 ~~county that is able and willing may also participate in the~~
8 ~~demonstration project. The superior courts participating in this~~
9 ~~demonstration project shall report their findings and~~
10 ~~recommendations to the Judicial Council and the Legislature on~~
11 ~~or before May 1, 2004. The Judicial Council may make those~~
12 ~~recommendations available to any court or county.~~

13 SEC. 2. Section 6219 is added to the Family Code, to read:
14 6219. (a) Each superior court shall identify the best practices
15 in family, criminal, and juvenile court cases involving domestic
16 violence.
17 (b) In accordance with subdivision (a), the presiding judges of
18 the family, criminal, and juvenile courts of each county shall
19 create a jointly written protocol to allow these courts to jointly
20 assess and produce a recommendation that a defendant or ward
21 be designated as dual status, permitting each court to access all
22 background information on the defendant or ward held by any of
23 these court systems. This protocol shall be signed by the
24 presiding judges of the family, criminal, and juvenile courts prior
25 to its implementation. This protocol shall include all of the
26 following:

1 (1) A description of the procedure by which the family,
2 criminal, and juvenile courts will assess the necessity for dual
3 status for specified defendants and wards and the process to
4 make joint recommendations for each court’s consideration prior
5 to making a determination under this section. These
6 recommendations shall ensure a seamless transition between
7 family matters and criminal or juvenile jurisdiction, as
8 appropriate.

9 (2) A provision for ensuring communication between the
10 judges who hear applications for protective orders or other orders
11 authorized by this division while defendants are within the
12 jurisdiction of the criminal court or juvenile court.

13 (3) A plan to collect data in order to evaluate the protocol
14 pursuant to Section 6219.5.

15 (4) A method for identifying which court will be the lead
16 court. That court shall be responsible for case management,
17 conducting statutorily mandated court hearings, and submitting
18 court reports. In no case shall there be any simultaneous or
19 duplicative case management or services provided by the family,
20 criminal, and juvenile courts. It is the intent of the Legislature
21 that judges, in cases in which more than one judge is involved,
22 shall not issue conflicting orders.

23 SEC. 3. Section 6219.5 is added to the Family Code, to read:

24 6219.5. The Judicial Council shall collect and compile all of
25 the data to be collected pursuant to paragraph (3) of subdivision
26 (b) of Section 6219 and shall prepare an evaluation of the
27 implementation of the protocol required in that subdivision. The
28 Judicial Council shall report its findings and any resulting
29 recommendations to the Legislature within two years of the date
30 those counties first deem a defendant to be dual status. The
31 Judicial Council shall review all proposed protocols to ensure
32 that they provide for the collection of adequate, standardized data
33 to perform these evaluations. In order to assist counties with data
34 collection and evaluation, the Judicial Council may prepare
35 model data collection and evaluation provisions that a county
36 must include in their protocol.

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