

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 304**

As Agreed to April 30, 2012

Brief*

SB 304 would create a Batterer Intervention Program Certification Unit in the Attorney General's Office for the purpose of certifying and inspecting batterer intervention programs in Kansas. The Unit would be given access to records, investigation documents, and written reports related to domestic violence cases received or generated by the Department of Social and Rehabilitation Services, Department on Aging, Department of Health and Environment, or Kansas Bureau of Investigation.

The Attorney General would be required to develop tools, methodologies, requirements, and forms for the domestic violence offender assessment (DVOA) in consultation with the certified state domestic violence coalition and with local domestic violence victims' services organizations.

The Attorney General would be permitted to appoint an advisory panel to assist in the development of the certification program and rules and regulations, as well as advisory committees to carry out the purposes of the Act.

The Act would prohibit operation of a batterer intervention program without certification pursuant to the Act. Programs seeking certification would be required to complete an application containing the information required by the Act

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and submit it to the Attorney General with an application fee of \$100 and any additional information required by the Attorney General. The Attorney General would be allowed to require an applicant to fulfill remedial requirements if there is a deficiency in the application.

Certification would expire after two years and could be renewed by submission of a renewal application by the expiration date, payment of a renewal fee of \$100, and verification of continuing compliance with the Act and applicable rules and regulations. A procedure for reinstatement of a lapsed certification also would be provided. Certification is not assignable or transferable.

The Attorney General would be permitted to issue a temporary permit for a period of 180 days or less to an applicant requesting initial certification if the applicant met all conditions except for agency structure, personnel qualifications, education requirements, or training requirements, if such deficiencies can be remedied within that time period. The application fee for a temporary permit would be \$50.

The Attorney General would be given rules and regulations authority to raise the fee for any of the application processes to an amount not more than \$250.

A grandfather clause would exempt programs certified prior to the effective date of the Act from the initial application for certification.

The Act would require the program director, program supervisor, or program coordinator of a batterer intervention program to be licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed master level psychologist, licensed clinical psychotherapist,

licensed addiction counselor, or licensed clinical addiction counselor. This requirement would be waived for a person who is a program director, supervisor, or coordinator prior to January 1, 2013, as long as the person remains employed or contracted by the same certified batterer intervention program.

An applicant, certified batterer intervention program, or temporary permit holder would be required to notify the Attorney General in writing of name and address changes and certain criminal convictions or diversions.

The Attorney General would be required to establish the requirements for the certification program, which may include certain elements and considerations listed in the Act, and must include a requirement that the DVOA be completed by an individual licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed master level psychologist, licensed clinical psychotherapist, licensed addiction counselor, or licensed clinical addiction counselor. This requirement would be waived for a person who is completing DVOA as an employee of or volunteer for a batterer intervention program prior to January 1, 2013, as long as the person remains employed by or a volunteer for the same certified batterer intervention program. The Attorney General would be given authority to adopt, amend, and revoke rules and regulations governing the administration and enforcement of the Act.

The use of a DVOA by anyone other than a certified batterer intervention program or temporary permit holder would be prohibited. Certified batterer intervention programs and temporary permit holders would be required to maintain records related to their services for a period of two years, to be inspected at least once every certification period by the Attorney General.

The Attorney General would be allowed to suspend, limit, condition, deny, revoke, or refuse renewal or reinstatement of a certification or permit if the holder makes a false statement in the application process, fails to comply with program requirements, is found guilty of fraud, negligence, deceit, or wrongful actions in connection with services rendered, allows the use of the DVOA by an unauthorized person, commits unprofessional conduct, fails to allow inspection of records as provided in the Act, or is convicted of any offense as specified in the Act. Further, any applicant, any person who operates a batterer intervention program, or any temporary permit holder who violates the Act or rules and regulations adopted under it would be subject to a civil penalty imposed by the Attorney General of an amount between \$100 and \$5,000 for each violation, subject to appeal under the Kansas Judicial Review Act. The Attorney General would be authorized to bring a restraining action for violations of the Act or applicable rules and regulations.

The Act would establish in the State Treasury the Kansas Attorney General Batterer Intervention Program Certification Fund for the deposit of amounts received under the Act, which may be expended only for the administration of the Act.

The Act would define certain words and phrases used therein.

Statutes related to municipal courts and domestic violence offenses would be amended to require municipal judges, on and after July 1, 2013, to determine whether defendants have committed a domestic violence offense and to sentence such defendants accordingly, including requiring the completion of a DVOA by a certified batterer intervention program. The statute governing domestic battery would be amended to clarify that an offender must undergo a DVOA conducted by a certified batterer intervention program and follow all recommendations made by the program.

The statute governing domestic battery would be amended to clarify that an offender must undergo a DVOA conducted by a certified batterer intervention program and follow all recommendations made by the program, unless otherwise ordered by the court or the Department of Corrections.

The bill would add requirements regarding appointed case managers for child custody or parenting time issues under the revised Kansas Family Law Code. As of September 1, 2012, any case manager appointed prior to, on, or after July 1, 2012, would be required to currently hold one of several licenses specified in the statute, be licensed to practice law with five years' experience in domestic relations or family law, or be a court services officer and have training in domestic relations cases as prescribed by the district court in which the case is filed. The case manager also would be required to: have experience as a mediator; have attended one or more workshops on case management, as approved and ordered by the district court; and have completed a minimum number of continuing education hours regarding case management issues or abuse and control dynamics issues, as established and approved by the Supreme Court.

Finally, the bill would fix non-substantive errors and omissions in 2011 SB 24, which recodified several domestic relations statutes.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee agreed to the House version of the bill with the following changes: made municipal court provisions effective July 1, 2013; adjusted the qualifications, mediation experience, and continuing education requirements in the case manager section; added licensed addition counselors and licensed clinical addiction

counselors to the list of persons authorized to be batterer intervention program directors, supervisors, or coordinators and to conduct DVOAs; and added the text of HB 2741, making technical corrections to domestic relations statutes.

Background

SB 304 was introduced by the Joint Committee on Administrative Rules and Regulations. In the Senate Judiciary Committee, representatives of the Attorney General, the Attorney General's Batterer Intervention Program Advisory Board, the YWCA of Topeka, and the Attorney General's Victim Services Division testified in support of the bill, as did a private citizen. The Ottawa Chief of Police and the Kansas Coalition Against Sexual and Domestic Violence provided written testimony supporting the bill. A representative of the Kansas Chapter of the National Association of Social Workers testified in opposition to the bill and submitted language for a proposed amendment. The Executive Director of the Behavioral Sciences Regulatory Board testified as a neutral party. The Office of Judicial Administration offered written neutral testimony. Following the hearing, the City of Wichita submitted written testimony opposing the bill.

The Committee amended the bill to include licensing requirements and related grandfather clauses; clarify that programs are certified, rather than individuals; clarify how qualifications are determined; clarify the DVOA requirement in the domestic battery and the sentencing statute; adjust how civil penalties would be recovered and deposited; and remove the Behavioral Sciences Regulatory Board from the list of agencies whose records regarding domestic violence would be available for review by the Batterer Intervention Program Certification Unit. The Committee recommended the bill be passed as amended.

In the House Judiciary Committee, representatives of the Attorney General, Family Peace Initiative, Kansas Chapter of the National Association of Social Workers, and

the Batterer Intervention Program Advisory Board, as well as a private citizen testified in support of the bill. Judge William Kehr of the Wichita Municipal Court, representatives of Correctional Counseling of Kansas, and Word of Life Counseling Center testified in opposition to the bill.

The House Committee amended the bill to: remove provisions requiring municipal courts to use the program; change the dates relating to the grandfather clauses; give the district courts discretion in ordering conditions of supervision; clarify which evaluations may be provided by the district court to the entity supervising a domestic violence defendant; add the section regarding qualifications of appointed case managers; and make technical changes. The Committee recommended the bill be passed, as amended.

The fiscal note on the bill, as introduced, indicates revenue from fees would be \$4,000 in FY 2013 and \$2,000 in FY 2014. It is assumed the Attorney General would continue to receive an annual federal grant in the amount of \$58,560, and funding for the new Unit would be approximately the same as the old certification program, although workloads will significantly increase. It appears one or more FTE positions would be required to staff the Unit.

The amount of civil penalties recovered cannot be estimated until the bill goes into effect. The Office of Judicial Administration noted the procedure for recovering and depositing the civil penalties in the original bill was contrary to the established method and would require additional work by the clerks of the district court, as well as a minimum cost of \$5,000 in computer programming to implement this procedure. This procedure was amended by the Committee when they worked the bill.

Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor's Budget Report*.

Background of HB 2741

In the House Committee on Judiciary, a representative of the Kansas Judicial Council appeared in support of the bill. No opponents offered testimony. The Committee amended the bill by making additional technical corrections and changing the effective date to publication in the Kansas Register.

The fiscal note for HB 2741, as introduced, indicates passage would have no fiscal effect.

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Batterer Intervention Program Certification; Attorney General; domestic violence offender assessment; domestic relations; case managers; child custody.