



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 5, 2018

Hon. William W. Monning
Member of the Senate
State Capitol, Room 313
Sacramento, California 95814

Subject: Senate Bill 1129 (Monning), as amended May 15, 2018 – Oppose unless amended

Dear Senator Monning:

The Judicial Council opposes SB 1129, unless amended to limit the bill's provisions to those proposed for Section 4324.5 of the Family Code. Those amendments would add felony domestic violence convictions, including a felony conviction for battery with serious bodily injury as described in Section 243(d) of the Penal Code, and any act of domestic violence where it has been pleaded and proven that the defendant personally inflicted great bodily injury pursuant to Section 12022.7 of the Penal Code, to the provisions that prohibit the award of spousal support and community property interests in retirement and pension benefits to convicted spouses.

The Judicial Council has concerns about the breadth and lack of clarity associated with the amendments proposed for Section 4325 of the Family Code, and believes that those amendments should be left out of the bill. The council believes there are significant issues with, and has raised concerns about, the language in Section 2 of the bill pertaining to criminal convictions for misdemeanors that result in a term of probation pursuant to Section 1203.097 of the Penal Code, and the potential for inconsistency in calculating the five-year timeframe within which the conviction would result in the presumption against an award of benefits.

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The council also has concerns about the impacts the bill is likely to have on court operations. For example, should SB 1129 be enacted as it is currently in print, defendants charged with domestic violence and related offenses are more likely to request trials than accept plea arrangements, thus adding to already crowded criminal court calendars. The council is also sensitive to, and concerned about the bill's lack of consideration for, the likely rise in appeals based on claims of ineffective assistance of counsel by defendants whose defense counsel failed to advise them of the risks associated with accepting a plea that includes a misdemeanor or felony domestic violence conviction. And, despite the bill not being keyed fiscal, enactment of SB 1129 likely will result in increased family court filings to reopen jurisdiction in cases where spousal support and community property interests may have been granted to previously convicted spouses.

For these reasons, the Judicial Council opposes SB 1129, unless amended.

Sincerely,

Mailed on June 5, 2018

Andi Liebenbaum

Attorney

AL/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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June 19, 2018

Hon. Mark Stone, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: Senate Bill 1129 (Monning), as amended May 15, 2018 – Oppose unless amended
Hearing: Assembly Judiciary Committee – July 3, 2018

Dear Assembly Member Stone:

The Judicial Council opposes SB 1129, unless amended to limit the bill's provisions to those proposed for Section 4324.5 of the Family Code. Those amendments would add felony domestic violence convictions, including a felony conviction for battery with serious bodily injury as described in Section 243(d) of the Penal Code, and any act of domestic violence where it has been pleaded and proven that the defendant personally inflicted great bodily injury pursuant to Section 12022.7 of the Penal Code, to the provisions that prohibit the award of spousal support and community property interests in retirement and pension benefits to convicted spouses.

The Judicial Council has concerns about the breadth and lack of clarity associated with the amendments proposed for Section 4325 of the Family Code, and believes that those amendments should be left out of the bill. The council believes there are significant issues with, and has raised concerns about, the language in Section 2 of the bill pertaining to criminal convictions for misdemeanors that result in a term of probation pursuant to Section 1203.097 of the Penal Code, and the potential for inconsistency in calculating the five-year timeframe within which the conviction would result in the presumption against an award of benefits.

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The council also has concerns about the impacts the bill is likely to have on court operations. For example, should SB 1129 be enacted as it is currently in print, there is a reasonable presumption that criminal courts will see an increase in trials requested by defendants charged with domestic violence and related offenses, impacting criminal court calendars. The council is also sensitive to, and concerned about the bill's lack of consideration for, the likely rise in appeals based on claims of ineffective assistance of counsel by defendants whose defense counsel failed to advise them of the risks associated with accepting a charge or a plea that includes a misdemeanor or felony domestic violence conviction. And, despite the bill not being keyed fiscal, enactment of SB 1129 likely will result in increased family court filings to reopen jurisdiction in cases where spousal support and community property interests may have been granted to previously convicted spouses within the timeframe proposed in the bill.

For these reasons, the Judicial Council opposes SB 1129, unless amended.

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

Sincerely,

Mailed on June 20, 2018

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/AL/yc-s

cc: Members, Assembly Judiciary Committee
Hon. William W. Monning, Member of the Assembly
Ms. Leor Gershenson, Deputy Chief Counsel, Assembly Judiciary Committee
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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CORY T. JASPERSON
Director, Governmental Affairs

August 16, 2018

Hon. William W. Monning
Member of the Senate
State Capitol, Room 313
Sacramento, California 95814

Subject: Senate Bill 1129 (Monning), as amended July 5, 2018

Dear Senator Monning:

The Judicial Council will no longer actively oppose SB 1129, despite our earlier articulated concerns with some provisions of the bill. The shift is a result of the fact that, in large measure, crimes and punishments are beyond the purview of the Judicial Council. We believe that some of the misdemeanor provisions remaining in the bill could result in longer dissolution proceedings, but the decision to impact the distribution of presumed community property and the award of spousal support based on criminal convictions rests with the Legislature.

Sincerely,

Mailed on August 16, 2018

Andi Liebenbaum
Attorney

AL/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California