Judicial Council *of* California

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June 3, 2024

Hon. Thomas J. Umberg
Chair, Senate Judiciary Committee
1021 O Street, Suite 6530
Sacramento, California 95814

Subject: Assembly Bill 1846 (Bauer-Kahan), as amended March 13, 2024 – Oppose

Dear Senator Umberg:

The Judicial Council regretfully must oppose Assembly Bill 1846, which requires the council to establish, on or before July 1, 2026, judicial training programs for judges concerning best practices related to treatment of sexual abuse and assault victims in courtroom cases for every judge to take annually because it is an inappropriate interference with the independence of the branch in determining training curricula.

As with prior bills mandating specific judicial training, the council's opposition is not based on the importance of providing training in the designated subject matter area, but rather the impingement on judicial independence that a legislative training mandate represents. The council provides training on the complexities of handling cases involving sexual assault in a variety of educational contexts, including a two-day experienced assignment course that covers the dynamics of sexual assault cases, the needs of the victim and specially mandated accommodations, and myths and misconceptions about sexual assault victims and offenders. 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 demonstrated a commitment to robust training on these topics.

The council is also concerned about the specific requirement that the training "include input by victim advocacy groups," because it creates the appearance that judicial training would be biased in favor of an interpretation of the law and court procedures that is advocacy based, rather than neutral. In developing curricula in this area, the council is informed by research and expertise on the complex issues that arise in these cases so that judges can better understand the dynamics between victims and offenders. But if the curriculum must be specifically developed in

coordination with advocacy organizations, it raises the concern that they will emphasize the needs of alleged victims over other concerns for the courts in providing due process.

In addition, the requirement that every judge receive this training annually is unprecedented and unnecessary and will result in training that must be webinar based and summary in nature to be delivered at that frequency and volume. For example, the two-day course described above would likely have to be discontinued in order to reallocate resources to provide some kind of training on this topic to meet the statutory mandate for all judges. These issues are complex and often benefit from in person small group settings in which judicial officers can discuss challenging hypotheticals, but this kind of training cannot be provided to every judge annually. Statutory mandates can prevent innovation and responsiveness to new developments that impact the courts by requiring that a significant percentage of training resources are tied up meeting those requirements. The courts must function and provide access to justice for the public so there is a limited amount of time that judges can allocate to training each year.[1] The composition of that training should be determined within the branch and meet the specific needs of each judicial assignment.

For these reasons, the Judicial Council opposes AB 1846.

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: Members, Senate Judiciary Committee
Hon. Rebecca Bauer-Kahan, Member of the Assembly, 16th District
Ms. Margie Estrada, Chief Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Mr. Jith Meganathan, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Shelley Curran, Administrative Director, Judicial Council of California

[1] California Rule of Court, rule 10.462 sets forth the minimum content and hours based expectations for trial court judges which include at least 30 hours per three year training cycle.