



## JUDICIAL COUNCIL OF CALIFORNIA

770 L Street, Suite 1240 • 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*

April 16, 2015

Hon. Bill Quirk, Chair  
Assembly Public Safety Committee  
State Capitol, Room 2163  
Sacramento, California 95814

Subject: AB 1237 (Brown), as introduced – Oppose  
Hearing: Assembly Public Safety Committee – April 28, 2015

Dear Assembly Member Quirk:

The Judicial Council regrets to inform you of its opposition to AB 1237. The bill requires the Department of State Hospitals (DSH) to: establish a pool of psychiatrists and psychologists with forensic skills who are employees of the department; and, create evaluation panels from this pool of psychiatrists and psychologists, with each panel consisting of three to five, inclusive, forensic psychiatrists or psychologists. AB 1237 also specifies that when a defendant pleads not guilty by reason of insanity (NGI), the court must select an evaluation panel established by DSH pursuant to the bill's provisions (instead of psychiatrists and psychologists appointed by the court) to examine the defendant and investigate his or her mental status, make specified reports to the court, and testify during the NGI proceedings. The bill imposes similar obligations and restrictions on the court in cases where the competence of the defendant to stand trial is at issue.

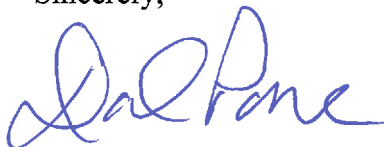
In support of AB 1237, the author's fact sheet asserts that "court appointed psychiatrists are not always familiar with the populations being served at the different state hospitals" and that "[a]s a result, malingerers are often placed in the state hospital system and the safety of patients and staff is put in jeopardy." The Judicial Council believes that these statements conflate separate issues and that no evidence of the assertions is provided in either the bill or the background materials provided by the author. The council also believes that the consequence of the bill's radical shift in procedure from court-appointed psychiatrists and psychologists to state hospital evaluation panels would virtually replace the need for local forensic experts and related quality

assurance mechanisms. In addition, the Judicial Council is concerned that the bill shifts clinical responsibility for determining mental illness-related issues to individuals who, obviously, have interests and incentives external to the judicial process. Restricting the criminal courts' ability to secure timely and unbiased forensic evaluations in NGI and IST cases inappropriately impedes the independence of judicial decision making. Moreover, the council is concerned about potential delays in the court process that could result from having only a limited pool of evaluators to draw from, especially since those evaluators may be located a significant distance from the counties where the proceedings are being conducted.

It is also important to note that AB 1237 wholly fails to address the issue of the qualifications and training standards for forensic evaluators, which appears to be the principal policy concern underlying this measure. The issue of qualifications and training for forensic evaluators was one of the topics of discussion during stakeholder meetings regarding state hospitals and developmental centers that were convened by the Governor's office last year. While a number of the participants expressed interest in further pursuing this avenue, there was no mention of the type of fundamental shift in how California's long-standing forensic evaluation system operates that AB 1237 presents. The Judicial Council respectfully suggests that a similar stakeholder process, involving all of the key interest groups, is a more appropriate forum for addressing the underlying concerns behind this bill.

For these reasons, the Judicial Council opposes AB 1237

Sincerely,



Daniel Pone  
Senior Attorney

DP/lmb

cc: Members, Assembly Public Safety Committee  
Hon. Cheryl R. Brown, Member of the Assembly  
Mr. David Billingsley, Counsel, Assembly Public Safety Committee  
Mr. Gary Olson, Consultant, Assembly Republican Office of Policy  
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor