



California State Association of Counties



Support Hub for Criminal Justice Programming

A Review of the “Offender Pays” Model

Applying Evidence Based Practices
to Batterers Intervention Programs

Abstract

AB 372 allowed six pilot counties more flexibility in how they programmed and engaged with batterers to reduce recidivism and victimization. This brief discusses the currently implemented in California around the “Offender Pays” model of programming and offers potential pathways to improve the system.



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INTRODUCTION

People convicted of domestic violence (DV) charges are subject to several terms and conditions designed to ensure the safety of survivors, hold convicted individuals accountable, and encourage behavior change. The terms and conditions include a batterers intervention program (BIP) designed to reduce future domestic violence events and change attitudes and behaviors. These BIPs include a fee borne by the person convicted, also known as the “offender pays model,” that may contribute to lower engagement and completion rates of BIPs. The fee structure creates an unstable funding model for program providers, which are often Community-Based Organizations (CBOs) and limits their ability to develop and deliver high-quality treatment. Most research into DV programming focuses on individual characteristics, but there is limited research in California or nationwide about program characteristics or a business model that reflects the current statutory structure. Additionally, if convicted individuals serve time in custody, required programming for domestic violence occurs after release and during probation.

Research from the [AB372 pilot](#) which allowed six counties to pilot alternative programming and supervision for people both convicted of domestic violence offenses and mandated to batterers intervention programming, showed that nearly 40 percent were not employed,¹ and according to multiple research studies, one of the main factors associated with people leaving batterer intervention programs was related to socio-economic status.² Further, a study of California counties showed that, when multiple case and personal factors were held equal, people with lower incomes had lower rates of completion³. The apparent correlation between a person’s ability to pay and their success in programs has implications for victims, families, and communities.

¹ <https://public.tableau.com/app/profile/oconnellresearch/viz/Ab372ReportingDashboard/AB372DataDashboard>

² Jewell, L. M., & Wormith, J. S. (2010). Variables associated with attrition from domestic violence treatment programs targeting male batterers: A meta-analysis. *CRIMINAL JUSTICE AND BEHAVIOR*, 37(10), 1086–1113. <https://doi.org/10.1177/0093854810376815>

³ MacLeod, D., Pi, R., Smith, D., & Rose-Goodwin, L. (2009). *Batterer intervention systems in California: An evaluation*. San Francisco: Judicial Council of California/Administrative Office of the Courts.

This issue brief includes:

1. A Fiscal Overview: The Cost and Implications for the DV Programming Mandate
 - a. Program Costs
 - b. Compliance with Court and Probation Conditions
 - c. Fee Waivers and Sliding Scales
2. Statewide Examination
3. Summary and Recommendations

People going through programs because of an Intimate Partner Violence (IPV) conviction can each pay upwards of \$2,000 in program-related fees associated with their case. Better outcomes for these individuals may be achieved if the fiscal model is reconsidered. Although 75 percent of counties use other funds to subsidize payment for certain clients in programs, this still creates a limit to how providers, probation, and courts can best address domestic violence to invite new organizations to meet the complexity of domestic violence programs. Previous research has shown that people who commit acts of domestic violence often have behavioral health conditions, including substance use, lower education, and unaddressed trauma. Increasing funding as well as providing resources for counties and providers can start to evolve an unfunded mandate into a hub for innovation and breaking the cyclical nature of DV from recurrent offenses and multi-generational transfer.

CURRENT FINANCIAL MODEL OVERVIEW: OFFENDER PAYS

In California, the funding for domestic violence programming relies primarily on the individuals who commit the crime. The terms of Penal Code Section [1203.097](#) created an unfunded treatment mandate requiring a 52-week treatment program for people convicted of domestic violence crimes. These programs are referred to as “Offender pays.” The defendant is responsible for the fees associated with the program as set out by the court, in addition to the terms and conditions of probation. Some counties have creatively used other funds to subsidize these programs for people who are unable to pay, but gaps remain across programs administered in 58 counties, including the range of program offerings. Since CBOs largely provide these programs, providers bear the responsibility of developing a sliding scale to

accommodate the financial situations of individuals convicted of DV offenses. The dynamic of mandated services being funded by unstable income for CBOs has negative implications on the ability to provide sustainable high-quality services and limits the ability to incorporate new and innovative evidence-based practices that may take more specialization or training to implement. Initial data from the AB372 pilot shows a 30 percent program attrition rate, but the cause for this relatively high rate of incompleteness is unclear.⁴ One likely contributor is the burden of costs for participants.

The inability to pay causes a client not to obtain their certificate of completion, which is required by the court. This non-completion also increases the possibility of their terms of probation being revoked. This adversely affects client outcomes and carries the unintended consequences of placing the financial burden on people convicted of IPV, as well as their families in cases where there is still co-habitation, or children involved. The rationale for the current “offender pays” model is not clear or described in statute and is potentially one of the many reasons an alternative model should be considered. While there is an anecdotal history of intending to have individuals “pay for their wrongs,” behavior change should be the ideal – and that creates an opportunity for an alternative model that more effectively meets the needs of the population these programs are intended for.

Probation departments in each California county are responsible for the process of certifying each BIP. These programs vary in content, costs, and curriculum. Each county’s probation department is responsible for certifying new programs or re-certifying existing ones, but there are often a limited number of providers, stemming from the likely struggle providers face with the cost of delivering the program.

Recently vetoed legislative efforts under [AB304](#)⁵ attempted to move some oversight and certification to state agencies such as the Department of Justice and Judicial Council but did not address the core feature – a programming model dependent on the people convicted of

⁴ <https://public.tableau.com/app/profile/oconnellresearch/viz/Ab372ReportingDashboard/AB372DataDashboard>

⁵ <https://legiscan.com/CA/text/AB304/2023>

domestic violence to pay – creating a provider network that offers services with an uncertain funding stream.

The [AB372](#) pilot effort set high standards by emphasizing the use of written curriculum as well as using curriculum that is evidence-based or/and promising, but the challenge remains in staffing, training, and retaining facilitators and providers. The offender pay model has created a system that limits the available options for counties to access high-quality treatment models and the ability of providers to sustain services. This creates a business model where providers may be unwilling to provide services when their ability to collect revenue is dependent upon the clients who often are unable to reliably pay for their services.

This report draws on a statewide survey of probation departments and data from the six [AB372](#) pilot counties to create a picture of how court-imposed programs could be better aligned around quality, cost, and sustainability.

- Because data was collected by programs directly, these come as part of court sentences that impose programs to change behavior.⁶ Fees for court-imposed programs are paid by the person mandated to attend, making their cost structure obscured unless specifically mandated in statute. The provisions of Penal Code Section [1203.097](#) lay out the following high-level process for a provider to offer programs in a county:



⁶ Mandated programs include anger management, child abuse prevention, drug and alcohol, and batterers intervention program.

Through this process, probation is generally looking at whether the program fulfills the mandates under the Penal Code, as well as whether the program is providing services at a standard level. The number of slots, timing, and cost structure are the provider's choice, consistent with their certification. Certification fees vary, but programs pay fees to probation for new certifications, as well as renewals. Since these services are not paid for in totality by the county, the standard procurement process does not apply. Rather, probation departments are responsible for certifying local program options and giving provider information to convicted individuals so that they may select the program of their choice.

PROGRAM COSTS

The costs to participate in mandated treatment include program fees, program costs (per session), fines, court fees, and registration costs. The costs to participate in mandated treatment raise questions for California’s policymakers to consider: (1) What are the intended outcomes of an offender pay system? (2) Are there unintended consequences affecting families as a whole?⁷

When someone is convicted of a domestic violence-related crime that falls under the provisions of 1203.097⁸, they are subject to several types of fees, separate from restitution orders to the victim directly or other fines. Below is a breakdown of estimated costs based on calculations from the six pilot counties.

Item ⁹	Estimated Cost
A court-imposed minimum fee for DV programs	\$500
Restitution-Fines	Misdemeanors-\$150-\$1,000, Felonies \$300-\$10,000
Total Court Fees at Case Disposition	\$650 (Assuming a misdemeanor)

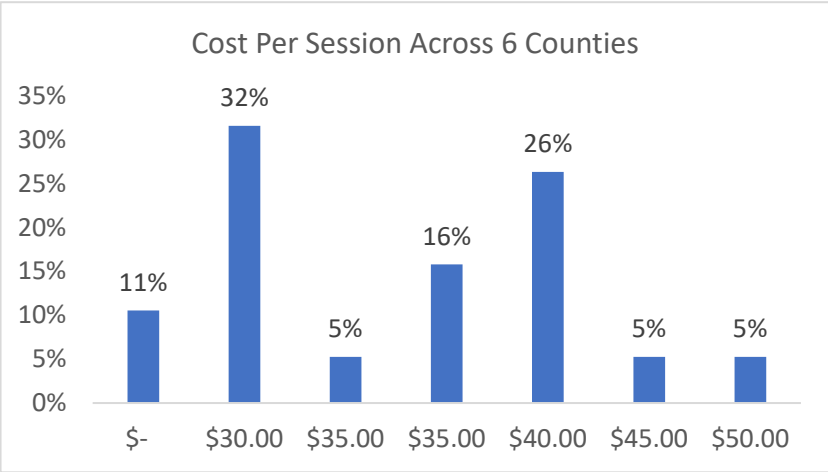
⁷ <https://finesandfeesjusticecenter.org/>

⁸ Cal. Fam. Code § 6211 covers spouse or former spouse; a cohabitant (one who regularly resides in the household) or former cohabitant; someone with whom the person is or was in a dating or engagement relationship; a person with whom the respondent has a child (with some caveats)

⁹ Authors Calculation based on six-county survey.

Program Registration Fees (1x fee)	\$30-\$80
Weekly Session Fees for a 52-week program	\$30-\$50
Estimated Low to High Total for program fees <i>(not including variable fees like reinstatement or absence fees)</i>	\$1,560 - \$2,680

A participant in a program with the highest fees and registration costs would pay approximately \$2,680 for the program alone, assuming they completed the program on time and without any



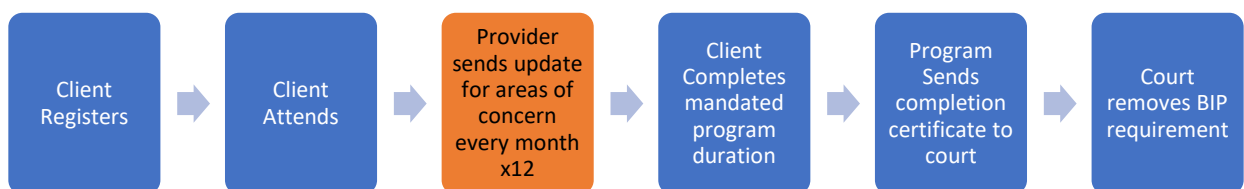
unexcused absences. Although not a monetary cost, no counties in the pilot group applied jail sanctions for failure to pay. In terms of session costs, fee waiver policies, registration, and reinstatement fees, there was considerable variation among

the curricula offered in the six AB372 pilot counties. Most programs require a registration fee, which could range from \$35 to \$80. The cost per session varied from no cost (11%) to \$50 (5%). Given that most programs take 52 weeks to complete, providers receive between \$1500 and \$2600 in program fees. However, unexcused absence fees (ranging from \$10 to \$50) and reinstatement fees (ranging from \$25 to \$50) were present in most programs suggesting additional costs for participants as well as staffing costs for providers. Without a way to make up for lost session revenue, providers still need to make up for their fixed cost of providing a facilitator. Further, the staff time to re-instate someone is time that a provider must then bear to meet probation and court requirements. One innovation from COVID-19 was the use of online DV classes, but this impact has not been studied. Of the six AB372 county pilots, approximately 30 percent of curricula take place in person (creating an additional potential barrier to participation), 40 percent are conducted online, and 30 percent involve a hybrid learning process.

COMPLIANCE WITH COURT AND PROBATION CONDITIONS

Courts and probation are asked to fill a dual role in DV cases, partly to require updates on client status to ensure they are complying and progressing in their treatment goals. MacLeod et al¹⁰ found that “Nonpayment of fees was frequently cited as a reason for program termination and/or failure to complete [the program].” Holding clients accountable to their court commitments is a key area to ensure behavior change, but court appearances also generate fees for clients in terms of having to show proof of attendance in a program. If a client is successful, providers may require full payment to send the report to court. This creates a financial barrier to showing completion of the treatment program. Changing the reporting models from one based on regular reporting (pictured below) to a model where a court hearing is only initiated when there is a negative event or an area of concern could reduce the number of court appearances for people who are otherwise complying with court order and treatment, as well as reduce costs. Like many court-ordered programs, there could be an issue and event-specific approach to giving court updates. This would also give probation staff discretion through policy to determine how and when to bring someone back to court.

General Reporting model:



Based on data from the six AB372 pilot counties, a small percentage (10%) of curricula offer proof of completion regardless of payment status, which likely reduces the costs of these programs. This means that 90% of programs do not offer proof of completion unless the individual enrolling can afford to pay for the program. This aspect should be considered to

¹⁰ MacLeod, D., Pi, R., Smith, D., & Rose-Goodwin, L. (2009). Batterer intervention systems in California: An evaluation. San Francisco: Judicial Council of California/Administrative Office of the Courts.

ensure a fair and equitable approach to certification. In addition to program costs and certification, fees are another contributor to the overall costs of the offender pay model.

FEE WAIVERS AND SLIDING SCALES

California law allows a court to waive the program fee after a hearing and a finding by a court that the individual does not have the ability to pay even a nominal fee. However, the provider or the county would then need to make funds available for the client to participate in class. How this often works is that an individual has identified a program that is convenient for them, they enroll in the program and the program fee is determined. If the program will not provide a fee that the individual can afford, the individual returns to court to request a fee waiver. At this stage, some courts may grant a fee waiver or if the individual does not bring proof of income or expenses to the court hearing, a judge may ask the individual to return once again to court to provide the necessary proof. If the fee waiver is granted, the individual takes that back to the program and expects the program to accept the fee waiver. Based on responses from the 40-county survey, only 56% of programs accepted fee waivers.¹¹ PC1203.097 also requires that programs that accept referrals from probation also must offer a sliding scale based on someone's ability to pay. It states:

A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

¹¹ The author, in collaboration with CPOC, performed an online survey of probation departments in 2023.

How the language above gets implemented in each county and with each provider can vary, with some counties setting and recommending a sliding scale to all certified providers based on an income tier, along with language that reinforces providers' requirements to work with people to ensure fee payment. This schedule is taken from Santa Barbara County lays out how most fees are to be administered to clients.¹²

SLIDING SCALE FEE STRUCTURE FOR PROVIDERS OF BATTERERS' INTERVENTION PROGRAMS

With this fee schedule, the counseling program fee will be \$1,560. Additionally a one-time enrollment fee of \$75 will be charged and if a person is dismissed and subsequently reinstated in a program, there will be a \$35 re-enrollment fee. This scale accommodates indigent or lower income levels. No one shall be excluded based on an inability to pay, as provided for in Penal Code Section 1203.097. It is the expectation that every client will pay all reasonable fees due to the counseling program **in full** prior to receiving a Certificate of Completion and prior to the expiration of the probation grant.

Monthly Gross Income	Yearly Income	Estimated Monthly Payment	Per Weekly Session
\$100	\$1,200	\$20.00	\$5.00
\$200	\$2,400	\$40.00	\$10.00
\$300	\$3,600	\$55.00	\$14.00
\$400	\$4,800	\$70.00	\$17.50
\$500	\$6,000	\$83.00	\$20.00
\$750	\$9,000	\$87.00	\$22.00
\$1,000	\$12,000	\$92.00	\$23.00
\$1,250	\$15,000	\$95.00	\$24.00
\$1,500	\$18,000	\$100.00	\$25.00
\$1,750	\$21,000	\$104.00	\$26.00
\$2,000	\$24,000	\$108.00	\$27.00
\$2,500	\$30,000	\$117.00	\$29.00
\$3,000	\$36,000	\$125.00	\$30.00

Most Programs (94%) offer a sliding scale of some type for their DV programming, of which the provider makes up the difference or the remaining is taken from an indigent program fund set up for the county that goes to the provider. However, further examination is needed to understand how comprehensive this scale is and how many individuals truly benefit from it. Another significant limiting factor for many participants is physical access to the program sites due to transportation challenges and time constraints.

Counties such as Santa Cruz and Santa Clara have taken steps towards subsidizing providers for indigent individuals. Santa Cruz has implemented financial support from the Community Corrections Partnership (CCP), while Santa Clara has established a victim fund to aid in payment for these programs. These initiatives showcase the importance of recognizing the need for financial assistance and the responsibility of the community to support these individuals. However, it is crucial to note that subsidizing providers alone may not lead to discernible

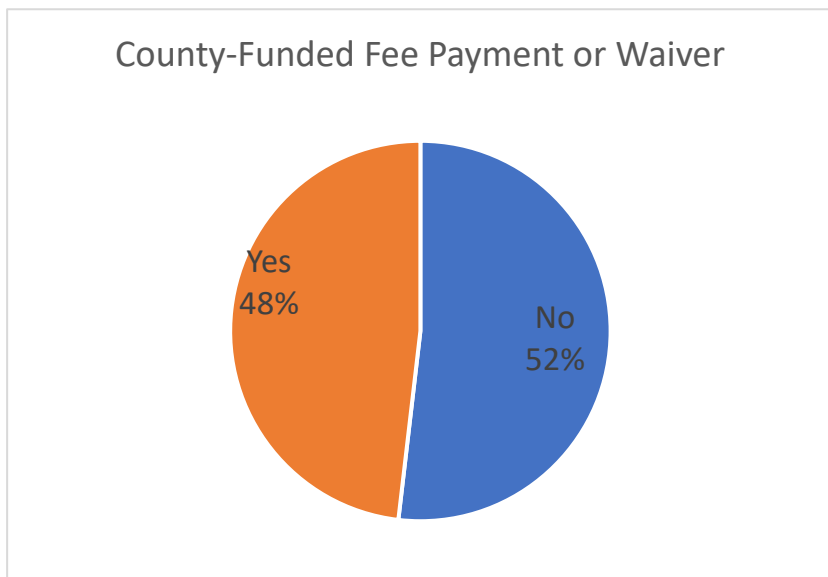
¹² <https://sbprobation.org/sbcprob/adultforms/763.pdf>

changes in offender engagement, as observed in Santa Cruz. Therefore, barrier reduction efforts should also address other needs and considerations beyond financial constraints to enhance overall program effectiveness. While counties are clearly attempting to do their best, because funding has not come from the State, processes can vary county by county and may become volatile during difficult budget years.

STATEWIDE EXAMINATION

The administration of DV programs is highly decentralized, with most of the administration falling to County probation departments in coordination with Superior Courts and local stakeholders. In some areas, this decentralization leads to innovation, but in other ways it leads to vastly different experiences across counties, and within the provider community. Based on a survey of 40 counties, this section provides a “scan” of the DV system of care in 2023.

Of the counties surveyed¹³, nearly 50 percent offered fee waiver for curriculum. County-funded fee waivers or subsidies for California's domestic violence curriculum reduce financial barriers



for offenders who may otherwise be unable to afford participation. The goal is to increase the likelihood of their engagement and completion of the curriculum, which is crucial for promoting behavioral change and reducing the risk of reoffending. Secondly, it

ensures that access to resources is not limited by an individual's financial circumstances, ideally promoting fairness and equity in the justice system. Further research is suggested, but like

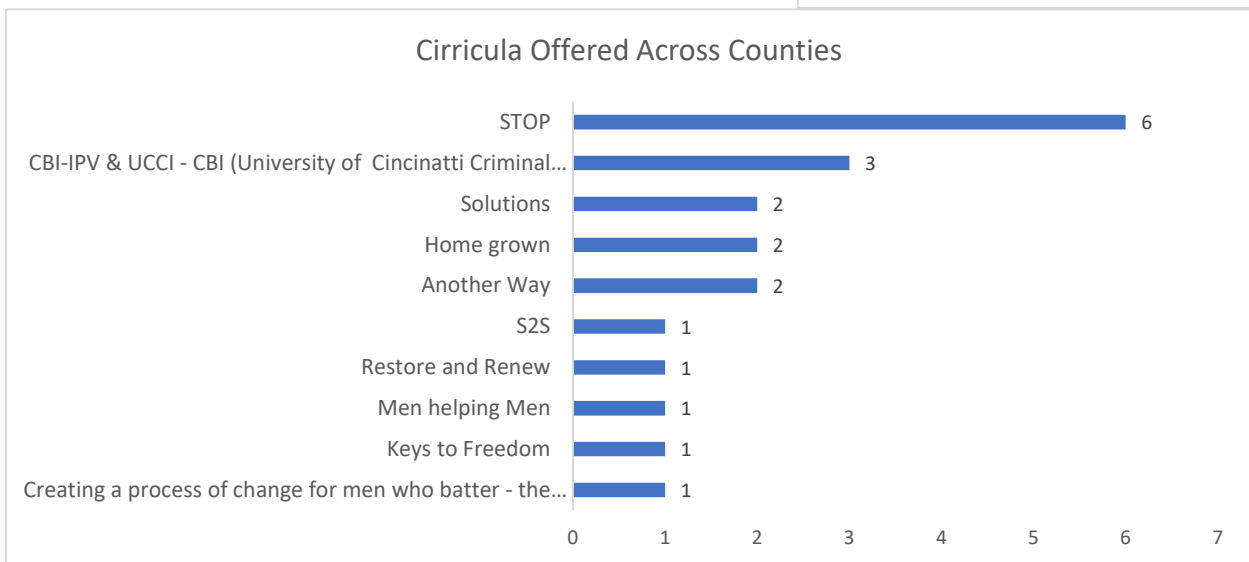
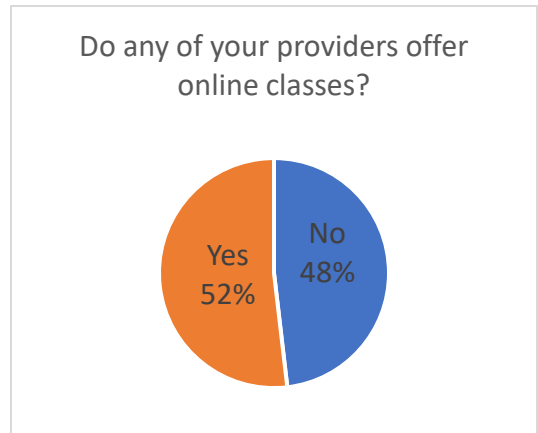
¹³ The author, in collaboration with CPOC, performed an online survey of probation departments in 2023.

other efforts to reduce justice related fees, the theory is that reducing barriers will have an increase in program completion.

However, this also indicates that the use of funds to subsidize is a local decision, such that people convicted of domestic violence crimes face different circumstances based on local stakeholders' interest in, or reluctance to subsidize these programs. There were two dominant subsidy models used by probation departments with funding coming from the Community Corrections Performance Incentive Act ([SB678](#)) and/or the Community Corrections Partnership (CCP):



Like many fields, COVID-19 forced the use of virtual meetings in DV programs to engage people without an in-person meeting option. As of 2023, over 50 percent of counties reporting offer participants the ability to complete curriculum online, which relieves some of the time-related and financial burdens associated with attending in-person curriculum. Online curriculum also likely leads to greater



attendance and completion rates for DV offenders, but this has yet to be researched and substantiated. The value of online delivery could also expand the availability of facilitators and make class size more manageable by offering classes regionally through consortiums of counties. As more counties use online classes, there will be more data available to understand how they are implemented, their impact on the engagement of attendees, and the identification of norms and standards to ensure attendance. With 97 percent of counties requiring a written curriculum, innovation to balance efficacy and engagement with online delivery could help in reducing costs while not reducing quality or engagement.

The survey revealed a wide range of practices and standards among the various providers contracted with the surveyed counties. The most popular curriculum used was STOP¹⁴, which accounts for 30 percent of all curriculums offered. Cognitive Behavioral Interventions (CBI) and University of Cincinnati Corrections Institute (UCCI) comprised 15 percent each, while Solutions, HomeGrown, and Another Way each comprised 10 percent. The total number of providers across the six counties surveyed was only 10, indicating an opportunity to introduce more potential providers and foster greater competition for certification.

The current fee structure can also hinder probation's ability to offer more differentiated case management based on individualized risk and needs. Although probation departments have started to pilot these aspects, there needs to be heightened awareness of the potential substance and/or alcohol use as a factor in client case plans and success in reducing IPV. Since the model is set up around higher-income clients subsidizing lower-income clients, this may reduce the availability of some programs since referred indigent clients are spread among multiple programs. This means that clients will be seeking programs based on cost rather than a distinct ability to meet their individual needs.

SUMMARY AND RECOMMENDATIONS

Ensuring equitable access to domestic violence offender curricula requires a comprehensive reform of payment and funding methods. Currently, the payment system for these programs

¹⁴ <https://www.norton.com/books/9780393714470>

lacks consistency and often places a burden on victims, particularly when they cohabitate with the offender. A crucial step in this reform is the implementation of a sliding scale, which would be determined through a certification process conducted by the providers themselves. This approach considers the financial capabilities and hardships of participants, as it recognizes that approximately 40 percent of them are not employed.

One significant issue stemming from the current payment system is the lack of the participant's ability to pay even when the program has been completed, which can lead to violations. To address this, it is essential to examine whether non-payment is merely an excuse or a genuine financial constraint. By working closely with victim-witness organizations, it is possible to gather data on how frequently cohabitation occurs with offenders, shedding light on the cohabitating victims' ability to contribute financially. Moreover, the reform should consider the impact of race/ethnicity and gender on the ability to pay, ensuring that the payment structure does not disproportionately burden certain groups.

In addition to the considerations, it is important to evaluate the business model for providers offering domestic violence offender curricula, the payment amounts, and the oversight associated with these programs. By assessing completion rates by provider, it becomes possible to gauge their effectiveness and identify areas for improvement. It is crucial to determine whether the payment structure influences completion rates, as well as understanding the relationship between payment and engagement can inform the development of more effective payment methods. By examining these aspects, stakeholders can ensure that the payment system not only supports equitable access but also incentivizes program completion and enhances overall outcomes for participants. While many counties make diligent efforts in these regards, state policymakers and funders may significantly help the system by providing funding to support these efforts in local counties.

Reforming payment and funding methods for domestic violence offender curricula requires a comprehensive approach. Counties that already subsidize providers for indigent individuals, such as Santa Cruz and Santa Clara, can serve as models for this reform. However, it is essential to recognize that financial assistance alone may not be sufficient to improve offender engagement, warranting a broader examination of additional barriers and needs. By

implementing funding reform and further investigating opportunities for improved outcomes such as the validity of virtual programs and regional models, California can take a significant step forward in addressing DV and supporting both victims and offenders on the path to rehabilitation.

Key findings

- ✓ 40 percent of people on probation for DV charges are not employed, compared to 20% of the general population of adults aged 20-54 years old.
- ✓ The median cost for a year of classes and associated fines and fees was nearly \$2000.
- ✓ Most program charges include registration, absence, and completion certificate fees, adding complexity and cost to the program.
- ✓ Only 56% accepted fee waivers from the court based on financial hardship.
- ✓ 90% of programs do not provide a client with a certificate of completion if they have not paid their fees.
- ✓ 75% of counties used funds from the Community Corrections Partnership or SB678 to subsidize programs or clients.

Recommendations

Funding:

- ✓ Develop universal funding for indigent Intimate Partner Violence (IPV) clients so all counties have access to a minimum floor of funds to support people who are unemployed, making up to 50% above the local poverty level.
- ✓ Allow probation to reimburse providers for clients who are absent or fail to show to allow base funding for clients and avoid a broken business model for providers.
- ✓ Update the legislative language in 1203.097 to preclude someone from being re-incarcerated for their failure to pay fines or fees associated with batterers' intervention programs if they have a documented inability to pay.
- ✓ Rethink the way that indigent clients are funded such that providers are not penalized for taking them on. Further, programs that offer specific and unique approaches to

addressing IPV should have different approaches for clients with mixed payment methods.

Oversight:

- ✓ Develop a state-level Domestic Violence Program Innovation Board to convene a council of experts to respond to IPV issues and offer counties that use programs endorsed and vetted access to state-supported facilitator training and wage support. This group could also consider standardizing forms and policies related to sliding scales, fee waivers, and other concepts noted in 1203.097.
- ✓ Use county-lead RFPs to incentivize providers who use a written curriculum that is based on evidence of efficacy for reducing IPV.
- ✓ Create clearer guidance for how and when counties can blend funds to improve or connect a system of care of batterers intervention programs.
- ✓ Standardize pricing and fees associated with a program so that potential program participants have a clear upfront guide to class costs and all associated fees.
- ✓ Create clear guidelines for the information that must be included in the DV directory so that a client be assured they understand the basis for the curriculum as well as eligible fees that people must pay to ensure clear and transparent costing.

Innovation:

- ✓ Encourage courts to use a “negative reporting” model where the program and probation communicate frequently, but only calendar a court appearance when the client is in violation of certain programs or pieces. This reduces costs for clients when charged for reports as well.
- ✓ Develop a state-funded training bureau and team that would give providers access to consistent training resources and reduce the cost of training new staff or maintaining training fidelity.
- ✓ Create standards and drive innovation by using online formats that could increase engagement for certain clients, as well as widen the reach of providing DV classes across county lines.