

AUG 30 2022

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SECRETARY OF STATE

Proposed

State of Kansas**Office of the Attorney General****Notice of Public Hearing on Proposed Administrative Regulations**

A public hearing will be conducted on Thursday, November 10, 2022 at 1:00 p.m. in the Auditorium of Memorial Hall, 120 SW 10th Ave, 2nd floor, Topeka, Kansas, to consider the adoption of proposed amended rule and regulation K.A.R. 16-12-4, regarding the certification of batterer's intervention programs.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Victim Services Division, Office of the Attorney General, 120 SW 10th Ave., 2nd floor, Topeka, KS 66612 or by email to Danae.Nelson@ag.ks.org.

All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Danae Nelson at (785) 296-3367. Individuals with hearing and/or speech disabilities should contact the Kansas Relay Center at 1-800-766-3777 for communication accommodations. The main entrance to Memorial Hall is accessible. Accessible parking is located on 10th Ave., at the front entrance of Memorial Hall.

Copies of the proposed regulation and the Economic Impact Statement for the proposed regulation can be viewed at the following website: <https://ag.ks.gov/victim-services/bip> or by contacting Danae Nelson at (785)296-3367, or by emailing danae.nelson@ag.ks.gov.

Summaries of the proposed regulation and its economic impact follow.

K.A.R. 16-12-4—Program requirements: Amendments to K.A.R. 16-12-4 make effective revisions to two documents incorporated by reference, “the essential elements and standards of batterer intervention programs in Kansas” and the “certified batterer intervention program statistical report.”

“The essential elements and standards of batterer intervention programs in Kansas” specifies minimum standards for batterer intervention programs certified to provide batterer intervention program (BIP) services in Kansas. The proposed changes include the addition of minimum standards for juvenile BIP due to recent changes in the Kansas Juvenile Code that allow for juveniles to be ordered in BIP classes. There are also changes in allowing unlicensed professionals who are trained as described to assist in the completion of specific forms used in the assessment process as long as the full domestic violence offender assessment is reviewed and completed by a licensed professional, who meets all training requirements of an assessor as laid out in the standards. Only a licensed professional can complete the Kansas Domestic Violence Offender Assessment (KDVOA). Additional changes include adding parameters for virtual

programming and a new requirement for new and certified programs to complete KBI criminal record checks for all BIP direct service staff as part of new or renewal certification processes.

The “certified batterer intervention program statistical report” is a document identifying specified statistical information submitted by certified BIPs twice yearly to the Batterer Intervention Program Unit. The proposed changes include reformatting the document and the addition of demographic and referral information categories.

Economic Impact

Certified Batterer Intervention Programs are responsible for setting the cost for services for participants. This includes the cost of assessments and group fees, which can include materials. The Office of the Kansas Attorney General does not dictate how much these services cost for each program. Programs set up their payments depending on the type of business program operated. These programs can be private business, non-profit agencies, or local, state and federal government agencies.

The cost for a KBI criminal record check for all BIP direct service staff as part of new or renewal certification is \$20.00 per individual. For programs not already performing a record check, this will be an added cost. In 2021, BIPs reported a total of approximately 130 direct service BIP staff in 41 certified BIPs, with an average of 3.2 (median 2) direct service staff per program. $\$20 \times 130 \text{ staff} = \$2600 / 2 \text{ years} = \$1300/\text{year}$ (or $\$20 \times 3.2 = \$64 / 2 \text{ years} = \$32/\text{year/program}$, based on average number of direct service staff reported by BIPs in 2021).

Revisions also include minimum operating requirements for those programs seeking to provide virtual/tele or juvenile BIP services, but does not mandate programs provide these services. If programs choose to provide services in these capacities, those programs may incur additional operational costs.

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16-12-4. Program requirements. Each holder of a temporary permit, initial certification, renewal certification, or certification reinstatement shall perform the following:

(a) Adopt and follow the standards, elements, and other program requirements described in the document titled “the essential elements and standards of batterer intervention programs in Kansas,” ~~dated December 17, 2012~~ revised on July 12, 2022, by the Kansas attorney general’s office, which is hereby adopted by reference except for the acknowledgements, table of contents, philosophy and purpose, and theoretical overview of batterer intervention programs; and

(b) submit the attorney general’s document titled “certified batterer intervention program statistical report” with the required information. This document, ~~dated June 13, 2012~~ revised on July 12, 2022, is hereby adopted by reference. The “certified batterer intervention program statistical report” shall be completed and submitted to the attorney general on or before January 5 and July 5 in each year of certification or the first business day following these deadlines if the deadlines fall on a weekend or state or federal holiday. (Authorized by and implementing ~~L. 2012, ch. 162, secs. 5, 11~~ K.S.A. 75-7d01, 75-7d05, and 75-7d11; effective, T-16-6-28-12, June 28, 2012; effective, T-16-10-25-12, Oct. 26, 2012; effective Jan. 25, 2013; amended P-
_____.)

APPROVED

JUL 18 2022

DEPT. OF ADMINISTRATION

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Kansas Kansas Administrative Regulations Economic Impact Statement (EIS)

Office of the Kansas Attorney General
Agency

Danae Nelson
Agency Contact

785-296-3367
Contact Phone Number

16-12-4
K.A.R. Number(s)

☒ Permanent ☐ Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- ☒ No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- ☒ No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

Amendments to K.A.R. 16-12-4 make effective revisions to two documents incorporated by reference, "the essential elements and standards of batterer intervention programs in Kansas," revised July 12, 2022, and the "certified batterer intervention program statistical report," revised July 12, 2022. "The essential elements and standards of batterer intervention programs in Kansas: specifies minimum standards for batterer intervention programs certified to provide batterer intervention program (BIP) services in Kansas. The "certified batterer intervention program statistical report" is a document identifying specified statistical information submitted by certified BIP's twice yearly to the Batterer Intervention Program Unit.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

This regulation is not mandated by federal law. Amendments to "the essential elements and standards of batterer intervention programs in Kansas," incorporated by reference in K.A.R. 16-12-4, implement policies and procedures applicable to certified batterer intervention programs in Kansas, and the "certified batterer intervention program statistical report" is generated by certified programs and submitted to the Office of the Attorney General twice yearly. Contiguous states Colorado, Oklahoma, and Missouri have similar methods of implementing policies and procedures and tracking data related to domestic violence intervention programming in their state (Colorado's "Standards and Guidelines for the Assessment, Evaluation, Treatment, and Behavioral Monitoring of Domestic Violence Offenders" policy and procedure document is promulgated by the Colorado Domestic Violence Offender Management Board pursuant to § 16-11.8-102, C.R.S. ; Missouri Batterer Intervention Program credentialing is regulated by the Missouri Dept. of Corrections, with the policy and procedure document "Batterers Intervention Programming Guide" incorporated by reference in 14 CSR 80-6.020; and Oklahoma Batterer Intervention Programs certification is via the Oklahoma Office of Attorney General, with program policies and procedures outlined in OAC 75:15, Standards and Criteria for Domestic Violence and Sexual Assault Programs).

Section III

Agency analysis specifically addressing the following:

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- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The Kansas Attorney General's office created and adopted the domestic violence offender assessment to be used in criminal convictions or diversion agreements resulting in the domestic violence designation, as required by K.S.A. 22-4616 and K.S.A. 21-6604(p). As part of the development of domestic violence offender services, the Office also developed "the essential elements and standards of batterer intervention programs in Kansas," which provides operating procedure guidance for entities certified by the Office of the Kansas Attorney General to provide the domestic violence offender assessments to the court. Updates in best practices for battering intervention programming has necessitated revisions to this original document. To this end, the Office of the Attorney General, in consultation with the Batterer Intervention Program Advisory Board, amended "the essential elements and standards of batterer intervention programs in Kansas," and the "certified batterer intervention program statistical report."

Updates to these documents do not prescribe or modify how certified programs conduct financial operations. Recent changes to the Kansas Juvenile Code have resulted in the possibility of juveniles being referred to certified BIPs for services. Updates to "the essential elements and standards of batterer intervention programs in Kansas" include minimum standards for those certified BIPs seeking to implement BIP services for juveniles. It is at the discretion of the program whether or not to provide services to juveniles. Additionally, updates to "the essential elements and standards of batterer intervention programs in Kansas" create minimum standards for those programs seeking to provide virtual/tele BIP services. It is at the discretion of the program whether or not to provide virtual/tele BIP services.

It is not anticipated amendments to this regulation will directly enhance or restrict business activities or growth.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

Office for the Attorney General BIP Unit staff time is spent providing capacity building training and technical assistance, as well as monitoring the providing entities for compliance with the Standards, Statute and Regulations. Monitoring certified programs requires an initial site visit, reviewing applications and supporting documentation, contacting collateral sources of information, and bi-annual renewals of this process. Training and technical assistance practices include providing an average 10 (ten) trainings per year, and technical assistance as requested. These functions involve the BIP Unit of the Victim Services Division of the AG's Office, at an estimated cost of \$80,000-\$100,000 annually, including salary, supplies, and travel expenses.

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Assessment and group participation costs are paid for by the offender, unless otherwise specified by the courts or KDOC. The actual cost of BIP services is set by the agency designated as the entity completing the assessment. Any difficulties in paying this cost will likely be negotiated between the offender and the agency providing the service. The agencies providing this service typically include mental health centers, private practice counselors, or other appropriate non-profit agencies.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Certified Batterer Intervention Programs in Kansas.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Failure to update the documents incorporated by reference could result in Kansas falling behind other states in implementing best practices in domestic violence intervention.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The Office previously considered the option of distributing an assessment without implementing policies and procedures for monitoring providers' compliance with minimum standards. However, after consulting a multi-disciplinary committee of stakeholders who strongly urged that these providers be monitored, this idea was rejected. The committee members and this Office support the idea that the providers of the Kansas Domestic Violence Offender Assessment must meet minimum standards, including training and education requirements. It has been 10 years since the Kansas Legislature passed the Kansas Batterer Intervention Program Certification Act, creating the mandate that batterer intervention programs statewide meet minimum standards. Ongoing review with stake-holders and providers, as well as advancements in the field, indicated the necessity to implement revisions to these minimum standards.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$1300

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

Total Annual Costs – \$1300

(sum of above amounts)

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Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Revisions to “the essential elements and standards of batterer intervention programs in Kansas,” revised July 12, 2022, require certified programs obtain a KBI criminal record check for all BIP direct service staff as part of the new or renewal certification process, every two (2) years. For those programs not already performing a record check, this will be an added cost. Cost of a name-based record check is \$20.00 per individual. In 2021, BIPs reported a total of approximately 130 direct service BIP staff in 41 (current) certified BIPs, with an average of 3.2 (median 2) direct service staff per program. $\$20 \times 130 \text{ staff} = \$2600 / 2 \text{ years} = \$1300/\text{year}$ (or $\$20 \times 3.2 = \$64 / 2 \text{ years} = \$32/\text{year}/\text{program}$, based on average number of direct service staff reported by BIPs in 2021).

Required “Kansas Domestic Violence Offender Assessment” and “Making Victim Contact Within A Batterer Intervention Program” trainings are offered by the BIP Unit of the Kansas Attorney General’s Office at no cost to trainees. Standards require employees in various roles within the program obtain these and other trainings/experience. Revisions include the addition of two new roles within the BIP, however it is not mandated that the BIP have staff specific to these two roles, as staff meeting the requirements of previously established roles can continue to provide the services specific to the newly identified roles. If programs choose to assign staff specific to these roles, those programs may incur additional training/experience costs for those staff.

Revisions to Standards include minimum operating requirements for those programs seeking to provide virtual/tele or juvenile BIP services, but does not mandate programs provide these services. If programs choose to provide services in these capacities, those programs may incur additional operational costs.

- ☐ Yes If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- ☐ No
- ☒ Not Applicable

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

none

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate

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can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

Batterer Intervention Programs are responsible for setting the cost for services for participants. This includes the cost of assessments and group fees and can also include materials. The Office of the Kansas Attorney General does not dictate how much these services cost for each program. Programs set up their payments depending on the type of business program operate. These programs can be private business, non-profit agencies, or local, state and federal government agencies.

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Not applicable

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The Essential Elements and Standards of Batterer Intervention Programs were initially developed over seven years through the hard work of many professionals who are dedicated to ending domestic violence in Kansas. The Kansas Coalition Against Sexual and Domestic Violence convened the initial work group. The Office of the Attorney General Batterer Intervention Program and Advisory Board carried on that work, to include the current revisions to the Standards and assessment tools utilized by BIPs in the assessment process. The Advisory Board is comprised of current and former BIP providers, representatives from KCSDV, KDOC, County and District Attorneys, Judges, Legislators, and other community stakeholders.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- ☐ Yes If yes, complete the remainder of Section IV.
☒ No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

[Click here to enter agency response.](#)

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- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

[Click here to enter agency response.](#)

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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