

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1593

Introduced by Assembly Member Ma

February 6, 2012

An act to amend Section ~~11161.2~~ 4801 of the Penal Code, relating to ~~domestic violence parole~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 1593, as amended, Ma. ~~Domestic violence. Parole: intimate partner battering.~~

Existing law requires the Board of Parole Hearings, one year prior to an inmate's minimum eligible parole release date, to meet with the inmate to review his or her suitability for parole. As part of this review, existing law requires the board to consider information or evidence that, at the time of the crime, the person had experienced intimate partner battering, if that person was convicted of the offense prior to the enactment of a specified provision of law. Under existing law, the board is required to annually report to the Legislature and the Governor on cases that the board considered for parole, including the board's decisions and the findings of its investigations in these cases. Existing case law supports the denial of parole on the ground that the prisoner lacks insight into his or her crimes and its causes.

This bill would instead require the board to consider the information or evidence described above if the person was convicted of an offense that occurred prior to August 29, 1996. The bill would require the board to give great weight to information or evidence of intimate partner battering at the time of the crime. Additionally, the bill would require specific and detailed findings of the board's investigations to be included

in the annual report. The bill would also provide that the fact that a prisoner has presented evidence of intimate partner battering cannot be used to support a finding that the prisoner lacks insight into his or her crime.

~~Existing law requires the California Emergency Management Agency, in consultation with specified state agencies and other organizations, to establish medical forensic forms, instructions, and examination protocol for victims of domestic violence and elder and dependent adult abuse and neglect, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4801 of the Penal Code is amended to
2 read:

3 4801. (a) The Board of Parole Hearings may report to the
4 Governor, from time to time, the names of any and all persons
5 imprisoned in any state prison who, in its judgment, ought to have
6 a commutation of sentence or be pardoned and set at liberty on
7 account of good conduct, or unusual term of sentence, or any other
8 cause, including evidence of intimate partner battering and its
9 effects. For purposes of this section, “intimate partner battering
10 and its effects” may include evidence of the nature and effects of
11 physical, emotional, or mental abuse upon the beliefs, perceptions,
12 or behavior of victims of domestic violence where it appears the
13 criminal behavior was the result of that victimization.

14 (b) (1) The Board of Parole Hearings, in reviewing a prisoner’s
15 suitability for parole pursuant to Section 3041.5, shall ~~consider~~
16 *give great weight to* any information or evidence that, at the time
17 of the commission of the crime, the prisoner had experienced
18 intimate partner battering, but was convicted of ~~the~~ *an offense that*
19 *occurred* prior to ~~the enactment of Section 1107 of the Evidence~~
20 ~~Code by Chapter 812 of the Statutes of 1991 August 29, 1996.~~ The
21 board shall state on the record the information or evidence that it
22 considered pursuant to this subdivision, and the reasons for the
23 parole decision. The board shall annually report to the Legislature
24 and the Governor on the cases the board considered pursuant to

1 this subdivision during the previous year, including the board's
2 ~~decision~~ *decisions* and the *specific and detailed* findings of its
3 investigations of these cases.

4 (2) The report for the Legislature to be submitted pursuant to
5 paragraph (1) shall be submitted pursuant to Section 9795 of the
6 Government Code.

7 (3) *The fact that a prisoner has presented evidence of intimate*
8 *partner battering cannot be used to support a finding that the*
9 *prisoner lacks insight into his or her crime and its causes.*

10 SECTION 1. ~~Section 11161.2 of the Penal Code is amended~~
11 ~~to read:~~

12 ~~11161.2. (a) The Legislature finds and declares that adequate~~
13 ~~protection of victims of domestic violence and elder and dependent~~
14 ~~adult abuse has been hampered by lack of consistent and~~
15 ~~comprehensive medical examinations. Enhancing examination~~
16 ~~procedures, documentation, and evidence collection will improve~~
17 ~~investigation and prosecution efforts.~~

18 ~~(b) The California Emergency Management Agency shall, in~~
19 ~~cooperation with the State Department of Public Health, the~~
20 ~~Department of Aging and the ombudsman program, the State~~
21 ~~Department of Social Services, law enforcement agencies, the~~
22 ~~Department of Justice, the California Association of Crime Lab~~
23 ~~Directors, the California District Attorneys Association, the~~
24 ~~California State Sheriffs' Association, the California Medical~~
25 ~~Association, the California Police Chiefs' Association, domestic~~
26 ~~violence advocates, the California Medical Training Center, adult~~
27 ~~protective services, and other appropriate experts, do all of the~~
28 ~~following:~~

29 ~~(1) Establish medical forensic forms, instructions, and~~
30 ~~examination protocol for victims of domestic violence and elder~~
31 ~~and dependent adult abuse and neglect using as a model the form~~
32 ~~and guidelines developed pursuant to Section 13823.5. The form~~
33 ~~should include, but not be limited to, a place for a notation~~
34 ~~concerning each of the following:~~

35 ~~(A) Notification of injuries and a report of suspected domestic~~
36 ~~violence or elder or dependent adult abuse and neglect to law~~
37 ~~enforcement authorities, Adult Protective Services, or the State~~
38 ~~Long-Term Care Ombudsmen, in accordance with existing~~
39 ~~reporting procedures.~~

- 1 ~~(B) Obtaining consent for the examination, treatment of injuries,~~
2 ~~collection of evidence, and photographing of injuries. Consent to~~
3 ~~treatment shall be obtained in accordance with the usual hospital~~
4 ~~policy. A victim shall be informed that he or she may refuse to~~
5 ~~consent to an examination for evidence of domestic violence and~~
6 ~~elder and dependent adult abuse and neglect, including the~~
7 ~~collection of physical evidence, but that refusal is not a ground for~~
8 ~~denial of treatment of injuries and disease, if the person wishes to~~
9 ~~obtain treatment and consents thereto.~~
- 10 ~~(C) Taking a patient history of domestic violence or elder or~~
11 ~~dependent adult abuse and neglect and other relevant medical~~
12 ~~history.~~
- 13 ~~(D) Performance of the physical examination for evidence of~~
14 ~~domestic violence or elder or dependent adult abuse and neglect.~~
- 15 ~~(E) Collection of physical evidence of domestic violence or~~
16 ~~elder or dependent adult abuse.~~
- 17 ~~(F) Collection of other medical and forensic specimens, as~~
18 ~~indicated.~~
- 19 ~~(G) Procedures for the preservation and disposition of evidence.~~
- 20 ~~(H) Complete documentation of medical forensic exam findings.~~
- 21 ~~(2) Determine whether it is appropriate and forensically sound~~
22 ~~to develop separate or joint forms for documentation of medical~~
23 ~~forensic findings for victims of domestic violence and elder and~~
24 ~~dependent adult abuse and neglect.~~
- 25 ~~(e) The forms shall become part of the patient's medical record~~
26 ~~pursuant to guidelines established by the agency or agencies~~
27 ~~designated by the California Emergency Management Agency~~
28 ~~advisory committee and subject to the confidentiality laws~~
29 ~~pertaining to release of medical forensic examination records.~~
- 30 ~~(d) The forms shall be made accessible for use on the Internet.~~