

ASSEMBLY BILL

No. 1958

Introduced by Assembly Member Maienschein

February 19, 2014

An act to amend Section 1202 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1958, as introduced, Maienschein. Evidence: admissibility of statements.

Existing law, known as the “hearsay rule,” provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible. Existing law also provides exceptions to the hearsay rule to permit the admission of specified kinds of evidence. Among other exceptions, evidence of a statement or other conduct by a declarant that is inconsistent with a statement by that declarant received in evidence as hearsay evidence is not inadmissible for the purpose of attacking the credibility of the declarant, as specified.

This bill would prohibit a criminal defendant, for the purpose of attacking his or her own credibility as a hearsay declarant, from introducing evidence of a statement or other conduct that is inconsistent with a statement made by the criminal defendant that has been received in evidence as hearsay evidence.

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

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

1 SECTION 1. Section 1202 of the Evidence Code is amended
2 to read:
3 1202. (a) Evidence of a statement or other conduct by a
4 declarant that is inconsistent with a statement by ~~such~~ *that* declarant
5 received in evidence as hearsay evidence is not inadmissible for
6 the purpose of attacking the credibility of the declarant *even* though
7 he *or she* is not given and has not had an opportunity to explain
8 or to deny ~~such~~ *the* inconsistent statement or other conduct. Any
9 other evidence offered to attack or support the credibility of the
10 declarant is admissible if it would have been admissible had the
11 declarant been a witness at the hearing. For ~~the~~ purposes of this
12 section, the deponent of a deposition taken in the action in which
13 it is offered ~~shall be deemed to be~~ *is* a hearsay declarant.
14 (b) *Notwithstanding subdivision (a), a criminal defendant is*
15 *prohibited, for the purpose of attacking his or her own credibility*
16 *as a hearsay declarant, from introducing evidence of a statement*
17 *or other conduct that is inconsistent with a statement made by the*
18 *criminal defendant that has been received in evidence as hearsay*
19 *evidence.*