

AMENDED IN ASSEMBLY MARCH 18, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 94

Introduced by Assembly Member Jones-Sawyer

December 7, 2020

An act to add Section 13601.5 to the Penal Code, relating to correctional officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 94, as amended, Jones-Sawyer. Correctional officers.

Existing law establishes the Commission on Correctional Peace Officer Standards and Training (CPOST) within the Department of Corrections and Rehabilitation and requires the CPOST to develop, approve, and monitor standards for the selection and training of state correctional-peace officers. *Existing law requires each applicant for the position of correctional officer with the Department of Corrections and Rehabilitation to undergo a mental health evaluation, prior to beginning employment, to ensure they do not have an emotional or mental condition that might adversely affect their exercise of the duties and powers in the position.*

~~This bill would state the intent of the Legislature to enact legislation to require all correctional officers to receive annual mental health evaluations.~~

This bill would require a correctional officer employed by the Department of Corrections and Rehabilitation to undergo a confidential mental health evaluation every calendar year to determine whether the individual has an emotional or mental condition that might adversely affect their exercise of the duties and powers of a correctional officer. The bill would specify the training and experience required for those

conducting the evaluations. If a mental health evaluator determines that the individual has a condition that might adversely affect their exercise of the duties and powers of a correctional officer, the bill would require the evaluation to be provided to the individual's supervisor and included in the individual's personnel file. The bill would prohibit an individual from performing duties as a correctional officer that involve the direct supervision of inmates while they have a condition that might adversely affect their exercise of the duties and powers of a correctional officer. The bill would prohibit these mental health evaluations from being used for disciplinary purposes. The bill would require the department to refer an individual with an emotional or mental condition that might adversely affect the individual's exercise of the duties and powers of a correctional officer to resources and provide an opportunity for the individual to address that condition.

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 13601.5 is added to the Penal Code, to
- 2 read:
- 3 13601.5. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The emotional and mental well-being of correctional officers
- 6 is critical to maintaining a safe environment for staff and inmates
- 7 in the facilities of the Department of Corrections and
- 8 Rehabilitation.
- 9 (2) Correctional officers are exposed to violence at rates roughly
- 10 comparable to military veterans.
- 11 (3) Correctional officers have a high incidence of serious
- 12 stress-related illnesses compared to average Americans.
- 13 (4) One in three correctional officers have experienced at least
- 14 one symptom of post-traumatic stress disorder.
- 15 (5) Ten percent of correctional officers have experienced suicide
- 16 ideation.
- 17 (6) Mental health issues have serious negative impacts on
- 18 correctional officers and their families and affect their ability to
- 19 carry out their duties in a safe and appropriate manner.

1 (7) Correctional officers' mental health needs are often
2 overlooked until a response is necessitated by negative behavior
3 or a significant event.

4 (8) Correctional officers are currently required to have a mental
5 health evaluation prior to employment with the Department of
6 Corrections and Rehabilitation.

7 (9) Routine observation and evaluation can improve early
8 detection or even prevent serious mental health issues.

9 (b) Notwithstanding any other law, a correctional officer for
10 the Department of Corrections and Rehabilitation, as defined in
11 subdivision (b) of Section 830.5, shall have a mental health
12 evaluation once every calendar year. A correctional officer who
13 has had an evaluation pursuant to paragraph (2) of subdivision
14 (a) of Section 13601 within the calendar year has satisfied this
15 subdivision. Yearly mental health evaluations conducted pursuant
16 to this subdivision shall be separated by at least six months.

17 (1) Mental health evaluations shall be conducted by either of
18 the following:

19 (A) A physician and surgeon licensed by the Medical Board of
20 California or the Osteopathic Medical Board of California who
21 has successfully completed a postgraduate medical residency
22 education program in psychiatry accredited by the Accreditation
23 Council for Graduate Medical Education, and has at least the
24 equivalent of five full-time years of experience in the diagnosis
25 and treatment of emotional and mental disorders, including the
26 equivalent of three full-time years accrued after completion of the
27 psychiatric residency program.

28 (B) A psychologist licensed by the Board of Psychology who
29 has at least the equivalent of five full-time years of experience in
30 the diagnosis and treatment of emotional and mental disorders,
31 including the equivalent of three full-time years accrued after
32 receipt of their doctorate degree.

33 (2) The mental health evaluation shall include a determination
34 of whether the individual has an emotional or mental health
35 condition that might adversely affect their exercise of the duties
36 and powers of a correctional officer employed by the Department
37 of Corrections and Rehabilitation.

38 (3) A mental health evaluation shall be confidential, unless the
39 mental health evaluator, as described in paragraph (1), determines
40 that the individual has an emotional or mental health condition

1 *that might adversely affect their exercise of the duties and powers*
2 *of a correctional officer.*

3 *(4) If a mental health evaluator, as described in paragraph (1),*
4 *determines that the individual has an emotional or mental health*
5 *condition that might adversely affect their exercise of the duties*
6 *and powers of a correctional officer, the mental health evaluation*
7 *shall be provided to the individual's supervisor and included in*
8 *the individual's personnel file.*

9 *(5) If the mental health evaluator, as described in paragraph*
10 *(1), finds an emotional or mental health condition, whether or not*
11 *it might adversely affect an individual's exercise of the duties and*
12 *powers of a correctional officer, the mental health evaluator shall*
13 *provide the individual information on mental health resources or*
14 *other resources that the individual can voluntarily access.*

15 *(c) An individual determined to have an emotional or mental*
16 *health condition that might adversely affect their exercise of the*
17 *duties and powers of a correctional officer shall be prohibited*
18 *from performing duties as a correctional officer that involve direct*
19 *supervision of inmates. That individual shall not be permitted to*
20 *resume duties that involve direct supervision of inmates until a*
21 *mental health evaluator, as described in paragraph (1) of*
22 *subdivision (b), verifies that the individual does not have an*
23 *emotional or mental health condition that might adversely affect*
24 *their exercise of the duties and powers of a correctional officer.*
25 *That verification shall be provided to the individual's supervisor*
26 *and included in the individual's personnel file.*

27 *(d) A determination that a correctional officer has an emotional*
28 *or mental health condition that might adversely affect their exercise*
29 *of the duties and powers of a correctional officer shall not be used*
30 *for disciplinary purposes. Removal of the officer from duties that*
31 *constitute direct supervision of inmates pursuant to this section*
32 *does not constitute discipline.*

33 *(e) If a mental health evaluator, as described in paragraph (1)*
34 *of subdivision (b), determines that an individual has an emotional*
35 *or mental health condition that might adversely affect their exercise*
36 *of the duties and powers of a correctional officer, the Department*
37 *of Corrections and Rehabilitation shall refer the individual to*
38 *resources and provide an opportunity for the individual to address*
39 *the emotional or mental health condition.*

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation to require all correctional officers to receive annual~~
3 ~~mental health evaluations.~~

O