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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** AB 1210                      **Hearing Date:** June 8, 2021  
**Author:** Ting  
**Version:** March 10, 2021  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** SJ

**Subject:** *Board of Parole Hearings: commissioners*

### HISTORY

Source: Author

Prior Legislation: AB 2352 (Ting), didn't move in 2020 due to COVID-19

Support: ACLU, California Action; California Coalition for Women Prisoners; California Public Defenders Association; Californians for Safety and Justice; Drug Policy Alliance; Ella Baker Center for Human Rights; Initiate Justice; Insight Garden Program; Prison Law Office; Prison Policy Initiative; Re:store Justice; Root & Rebound; San Francisco Public Defender; Silicon Valley De-bug; Smart Justice California; UnCommon Law

Opposition: None known

Assembly Floor Vote: 56 - 17

### PURPOSE

*The purpose of this bill is to require the Board of Parole Hearings commissioners to reflect as nearly as possible a cross-section of specified demographic features of the population of the state, and to require that 4 of the 17 commissioners meet at least one of specified criteria, including being a medical doctor with experience working with geriatric patients or a drug treatment counselor, among others, by July 1, 2022, and require that 10 of the commissioners meet at least one of those criteria by July 1, 2024.*

*Existing law* establishes the Board of Parole Hearings (BPH). (Pen. Code, § 5075, subd. (a).)

*Existing law* requires the Governor to appoint 17 commissioners to BPH, subject to Senate confirmation. (Pen. Code, § 5075, subd. (b)(1).)

*Existing law* provides that the commissioners are appointed and trained to hear only adult matters. Provides that commissioners hold office for terms of three years, each term to commence on the expiration date of the predecessor, except as specified. Provides that an appointment to a vacancy that occurs for any reason other than expiration of the term is for the remainder of the unexpired term. Provides that commissioners are eligible for reappointment. (Pen. Code, § 5075, subd. (b)(1).)

*Existing law* provides that the terms of the commissioners expire as follows:

- Five expire on July 1, 2020.
- Six expire on July 1, 2021.
- Six expire on July 1, 2022. (Pen. Code, § 5075, subd. (b)(2).)

*Existing law* provides that the term for one of the commissioners whose position was created is for two years and begins on July 1, 2019. Provides that the term for the other commissioner whose position was created is for three years and begins on July 1, 2019. (Pen. Code, § 5075, subd. (b)(3).)

*Existing law* requires the selection of persons and their appointment by the Governor and confirmation by the Senate to reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the population of the state. (Pen. Code, § 5075, subd. (b)(4).)

*Existing law* requires commissioners and deputy commissioners hearing parole matters to have a broad background in criminal justice and an ability for appraisal of adult offenders, the crimes for which those persons are committed, and the evaluation of an individual's progress toward reformation. (Pen. Code, § 5075.6, subd. (a).)

*Existing law* requires that insofar as practicable, commissioners and deputy commissioners have a varied interest in adult correction work and public safety, and have experience or education in the fields of corrections, sociology, law, law enforcement, medicine, mental health, or education. (Pen. Code, § 5075.6, subd. (a).)

*Existing law* requires all commissioners and deputy commissioners who conduct hearings for the purpose of considering the parole suitability of inmates, the setting of a parole release date for inmates, or the revocation of parole for adult parolees, to, within 60 days of appointment and annually thereafter undergo a minimum of 40 hours of training in the following areas:

- Treatment and training programs provided to inmates at the Department of Corrections and Rehabilitation (CDCR) institutions, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs;
- Parole services;
- Commissioner duties and responsibilities; and,
- Knowledge of laws and regulations applicable to conducting parole hearings, including the rights of victims, witnesses, and inmates. (Pen. Code, § 5075.6, subd. (b)(1)-(4).)

*This bill* requires the selection of persons and their appointment by the Governor and confirmation by the Senate to reflect as nearly as possible a cross-section of the racial, sexual orientation, gender identity, economic, and geographic features of the population of the state.

*This bill* requires, commencing July 1, 2022, at least four of the commissioners meet at least one of the following criteria:

- A medical doctor with experience working with geriatric patients.
- A psychologist or psychiatrist who has experience working in childhood trauma.

- A social worker who has worked with individuals who have been incarcerated or with individuals whose family members have been incarcerated.
- A drug treatment counselor.
- A person who has worked for a nonprofit organization that provides community-based reentry services or handles community-based risk assessment issues.
- An attorney who has represented individuals facing deportation by the federal immigration authorities.
- A peer counselor who has extensive experience working with individuals who are either transgender or gender nonconforming.
- A person who has been released from a life sentence in prison following a parole hearing.

*This bill* requires, commencing July 1, 2024, at least 10 of the commissioners meet at least one of the criteria specified above.

*This bill* makes other technical changes.

## COMMENTS

### 1. Need for This Bill

According to the author:

This bill seeks to require professional background experience for the commissioners on the Board of Parole Hearings. Existing law does not require any expertise despite the fact that these commissioners are making important decisions and factors such as a person's health, age, history of trauma, or background are not considered fully because the commissioners are not required to have expertise in different fields. Existing law only requires that these commissioners should reflect the cross section of racial, sexual, economic, and geographic features of the population of California.

### 2. Board of Parole Hearings Commissioners

The Board of Parole Hearings (BPH) conducts parole suitability hearings as well as nonviolent offender parole reviews for adult inmates under the jurisdiction of CDCR. BPH is also responsible for conducting medical parole hearings, reviewing and conducting hearings for Offenders with a Mental Health Disorder, reviewing sexually violent predators, and investigating requests for pardons, reprieves, and commutations of sentence.

BPH commissioners are appointed by the Governor to three-year staggered terms which are subject to Senate confirmation. Commissioners may be reappointed. Existing law requires that BPH commissioners reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the population of the state. Existing law also requires that the commissioners have experience or education in the fields of corrections, sociology, law, law enforcement, medicine, mental health, or education. The Board currently consists of 17 commissioners. The May Revision to the 2021-2022 budget includes a proposal to increase the number of commissioners to 21 to alleviate a significant backlog in hearings following recent reforms that expanded eligibility for youthful offender parole and Elderly Parole. (<http://www.ebudget.ca.gov/2021-22/pdf/Revised/BudgetSummary/CriminalJustice.pdf>)

This bill amends existing law requiring that BPH commissioners reflect a cross section of specified demographics to add sexual orientation and gender identity. This bill also requires at least four of the commissioners meet at least one of the following criteria by July 1, 2022:

- A medical doctor with experience working with geriatric patients.
- A psychologist or psychiatrist who has experience working in childhood trauma.
- A social worker who has worked with individuals who have been incarcerated or with individuals whose family members have been incarcerated.
- A drug treatment counselor.
- A person who has worked for a nonprofit organization that provides community-based reentry services or handles community-based risk assessment issues.
- An attorney who has represented individuals facing deportation by the federal immigration authorities.
- A peer counselor who has extensive experience working with individuals who are either transgender or gender nonconforming.
- A person who has been released from a life sentence in prison following a parole hearing.

This bill additionally requires at least 10 of the commissioners meet at least one of the criteria specified above by July 1, 2024. Given that the number of BPH commissioners has changed over the years and the proposal in the May Revision, the author may wish to consider including percentages in this bill instead of specific numbers.

### **3. Author Amendments**

The author plans to take amendments in Committee to address the issue of preserving representation of commissioners who meet the criteria required in this bill in the event that the number of commissioners changes in the future. Specifically, the author plans to change the requirement that at least 10 commissioners meet at least one of the criteria specified above by July 1, 2024 to at least 60% of the Board's commissioners meet the specified criteria. The author additionally intends to amend the bill to change the total number of commissioners on the Board from 17 to 21 to reflect changes made to the Board in the May Revision.

### **4. Argument in Support**

According to UnCommon Law:

The BPH has 17 full-time commissioners that are appointed by the Governor. Although BPH commissioners are not required to have any specific professional expertise, existing law states that these commissioners should reflect the cross section of racial, sexual, economic, and geographic features of the population of California, and to the extent possible, have experience in fields that include sociology, medicine, and mental health. Current appointees to the BPH overwhelmingly come from law enforcement backgrounds. While former wardens and other correctional officers often have unique insight about a parole applicant's growth and readiness for release, law enforcement appointees who do not work with incarcerated people are often asked to make public safety decisions based on circumstances that they may not understand. California needs parole

commissioners who have proximity to currently and formerly incarcerated people and their families outside of the Board room.

AB 1210 would rightly require that 10 out of the current 17 parole commissioners have specific backgrounds that would diversify the BPH as a collective body. The current lack of diversity has a real impact in the Board room, particularly in the response to mental and medical health needs. Despite research showing that up to 87 percent of incarcerated men and 93 percent of incarcerated women have had serious traumatic experiences, the BPH often fails to understand how the experiences impact parole candidates as they navigate harsh prison environments and how those experiences show up within the context of a parole hearing. In terms of medical needs, incarcerated people face a greater likelihood of developing chronic health conditions due to factors such as poor sanitation and ventilation, stress and anxiety related to prison politics, and even delays in obtaining medication. These are just a few of the factors that a more diverse BPH would be able to consider if AB 1210 is successfully enacted.

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