

California's habeas law

HISTORY

On January 1, 2002, Penal Code §1473.5 became law, making California the first state in the nation to permit battered women convicted of killing their batterers to file a writ of habeas corpus with evidence demonstrating how the battering and its effects led to the killing. Later that year, advocates who had fought for this change in the law came together to help women file the new petitions. The result was the "California Habeas Project," a collaboration among Legal Services for Prisoners with Children, Free Battered Women, the California Women's Law Center, the USC Post Conviction Justice Project, and many committed volunteers.

The Legal Basis of the Habeas Project

In 1991, the California Evidence Code was amended to allow expert testimony regarding "intimate partner battering and its effects" (formerly referred to as "battered women's syndrome," or BWS) to be admitted as evidence in criminal cases. This law, however, only affected the trials of women after 1992, and was not retroactively applied.

In 2002, a new law went into effect (California Penal Code §1473.5) that initially allowed incarcerated survivors of domestic violence convicted of killing their abusive partners before 1992 to submit a petition for a writ of habeas corpus challenging their original conviction. Petitioners can seek a new trial, a reduced sentence, or another equitable remedy if expert testimony on "intimate partner battering and its effects" was not presented in their criminal case and they were prejudiced by its absence.

On January 1, 2005, this law was expanded further to allow incarcerated survivors of domestic violence convicted of any violent felony that occurred before August 29, 1996 to also petition for habeas relief if expert testimony on intimate partner battering and its effects was not presented in their case.

The Habeas Project Collaboration

In early 2002, Free Battered Women (formerly the California Coalition for Battered Women in Prison), Legal Services for Prisoners with Children (LSPC), the California Women's Law Center (CWLC), and the USC Post-Conviction Justice Project (PCJP) established the Habeas Project to free battered women in California state prisons to under Penal Code §1473.5. In 2004, the Los Angeles County Public Defender's office joined as a participating organization.

The Habeas Project recruits, trains, and supports volunteer legal teams (attorneys, advocates, investigators, and expert witnesses) and survivors of domestic violence to file habeas petitions for survivors who are eligible for relief under the law. The efforts of the Habeas Project have resulted in the release of dozens of battered women from California's prisons, all of whom have already served over a decade behind bars.

CALIFORNIA PENAL CODE: 1473.5

(a) A writ of habeas corpus also may be prosecuted on the basis that expert testimony relating to intimate partner battering and its effects, within the meaning of Section 1107 of the Evidence Code, was not received in evidence at the trial court proceedings relating to the prisoner's incarceration, and is of such substance that, had it been received in evidence, there is a reasonable probability, sufficient to undermine confidence in the judgment of conviction, that the result of the proceedings would have been different. Sections 1260 to 1262, inclusive, apply to the prosecution of a writ of habeas corpus pursuant to this section. As used in this section, "trial court proceedings" means those court proceedings that occur from the time the accusatory pleading is filed until and including judgment and sentence.

(b) This section is limited to violent felonies as specified in subdivision (c) of Section 667.5 that were committed before August 29, 1996, and that resulted in judgments of conviction after a plea or trial as to which expert testimony admissible pursuant to Section 1107 of the Evidence Code may be probative on the issue of culpability.

(c) If a petitioner for habeas corpus under this section has previously filed a petition for writ of habeas corpus, it is grounds for denial of the new petition if a court determined on the merits in the prior petition that the omission of expert testimony relating to battered women's syndrome or intimate partner battering and its effects at trial was not prejudicial and did not entitle the petitioner to the writ of habeas corpus.

(d) For purposes of this section, the changes that become effective on January 1, 2005, are not intended to expand the uses or applicability of expert testimony on battering and its effects that were in effect immediately prior to that date in criminal cases.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

CALIFORNIA EVIDENCE CODE: 1107

(a) In a criminal action, expert testimony is admissible by either the prosecution or the defense regarding intimate partner battering and its effects, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence, except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.

free from abuse

OUTREACH & ENGAGEMENT CAMPAIGN TO THE DOCUMENTARY FILM "CRIME AFTER CRIME"

FreeFromAbuse.org

CrimeAfterCrime.com

(b)The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on intimate partner battering and its effects shall not be considered a new scientific technique whose reliability is unproven.

(c)For purposes of this section, "abuse" is defined in Section 6203 of the Family Code, and "domestic violence" is defined in Section 6211 of the Family Code and may include acts defined in Section 242, subdivision (e) of Section 243, Section 262, 273.5, 273.6, 422, or 653m of the Penal Code.

(d)This section is intended as a rule of evidence only and no substantive change affecting the Penal Code is intended.

(e)This section shall be known, and may be cited, as the Expert Witness Testimony on Intimate Partner Battering and Its Effects Section of the Evidence Code.

(f)The changes in this section that become effective on January 1, 2005, are not intended to impact any existing decisional law regarding this section, and that decisional law should apply equally to this section as it refers to "intimate partner battering and its effects" in place of "battered women's syndrome."

Sources:

<http://codes.lp.findlaw.com/cacode/PEN/3/2/12/1/s1473.5>

<http://codes.lp.findlaw.com/cacode/EVID/1/d9/1/s1107>

<http://habeasproject.org/history.htm>