

State of Arizona
House of Representatives
Forty-second Legislature
Second Regular Session
1996

FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 234

HOUSE BILL 2293

AN ACT

AMENDING TITLE 31, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-403; PROVIDING FOR A DELAYED REPEAL; RELATING TO THE BOARD OF EXECUTIVE CLEMENCY.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 31, chapter 3, article 1, Arizona Revised Statutes,
3 is amended by adding section 31-403, to read:

4 31-403. Petition for review of sentence; domestic violence

5 A. A PERSON WHO WAS CONVICTED OF A VIOLATION OF TITLE 13, CHAPTER 11
6 BEFORE SEPTEMBER 30, 1992 MAY PETITION THE BOARD OF EXECUTIVE CLEMENCY TO
7 REVIEW THE SENTENCE IMPOSED IF ALL THE FOLLOWING APPLY:

8 1. THE PERSON WAS SUFFERING FROM THE BATTERED PERSONS SYNDROME AS A
9 RESULT OF THE VICTIM'S ACTS OF VIOLENCE AGAINST THE PERSON.

10 2. THERE WERE AT LEAST THREE CORROBORATED ACTS OF DOMESTIC VIOLENCE
11 INVOLVING OFFENSES DEFINED IN SECTIONS 13-1201 THROUGH 13-1204 COMMITTED
12 AGAINST THE PERSON BY THE VICTIM PRIOR TO THE OFFENSE FOR WHICH THE PERSON
13 WAS CONVICTED.

14 3. IF THE PERSON WAS TRIED BY A JURY AND AN INSTRUCTION ON
15 SELF-DEFENSE WAS NOT GIVEN.

16 4. THE VICTIM WAS THE ONLY INDIVIDUAL WHO SUFFERED DEATH OR SERIOUS
17 PHYSICAL INJURY DURING THE COMMISSION OF THE OFFENSE.

18 5. THE PERSON COMMITTED THE OFFENSE AGAINST THE VICTIM AS A DIRECT
19 RESULT OF THE PAST ACTS OF DOMESTIC VIOLENCE BY THE VICTIM AS SET FORTH IN
20 PARAGRAPH 2 OF THIS SUBSECTION.

21 6. THE PERSON APPLIES FOR A SENTENCE REVIEW WITHIN NINETY DAYS AFTER
22 NOTICE FROM THE STATE DEPARTMENT OF CORRECTIONS AS PRESCRIBED BY SUBSECTION
23 C OF THIS SECTION IS POSTED, MAILED OR BROADCAST.

1 B. THE PETITION SHALL STATE THAT THE PERSON MEETS THE ELIGIBILITY
2 REQUIREMENTS FOR REVIEW PRESCRIBED BY SUBSECTION A OF THIS SECTION.

3 C. THE STATE DEPARTMENT OF CORRECTIONS SHALL ESTABLISH A PROCEDURE FOR
4 PROVIDING NOTICE TO INMATES OF THE ELIGIBILITY REQUIREMENTS FOR SENTENCE
5 REVIEW AND OF THE NINETY-DAY PETITION DEADLINE PRESCRIBED BY SUBSECTION A OF
6 THIS SECTION. THE STATE DEPARTMENT OF CORRECTIONS SHALL PROVIDE THE NOTICE
7 PRESCRIBED BY THIS SUBSECTION BY NOVEMBER 1, 1996.

8 D. IF THE BOARD OF EXECUTIVE CLEMENCY IN ITS SOLE DISCRETION
9 DETERMINES THE PETITION TO BE SUFFICIENT, THE BOARD SHALL HOLD A HEARING AT
10 WHICH THE VICTIM'S FAMILY, THE PROSECUTOR AND THE SENTENCING JUDGE ARE GIVEN
11 NOTICE AND AN OPPORTUNITY TO BE HEARD. AFTER THE HEARING THE BOARD MAY
12 RECOMMEND REDUCTION OF SENTENCE TO THE GOVERNOR IF THE BOARD DETERMINES THAT
13 THE PERSON MEETS ALL OF THE REQUIREMENTS IN SUBSECTION A OF THIS SECTION BY
14 CLEAR AND CONVINCING EVIDENCE AND THE BOARD DETERMINES THAT A SUBSTANTIAL
15 PROBABILITY EXISTS THAT IF THE PERSON IS RELEASED, THE PERSON WILL CONFORM
16 THE PERSON'S CONDUCT TO THE REQUIREMENTS OF THE LAW.

17 E. A PERSON MAY NOT APPEAL A DECISION BY THE BOARD OF EXECUTIVE
18 CLEMENCY PURSUANT TO THIS SECTION.

19 F. THE BOARD OF EXECUTIVE CLEMENCY SHALL COMPLETE ALL REVIEWS BROUGHT
20 PURSUANT TO THIS SECTION BY JUNE 30, 1997.

21 Sec. 2. Delayed repeal

22 Section 31-403, Arizona Revised Statutes, as added by section 1 of this
23 act is repealed from and after December 31, 1997.

APPROVED BY THE GOVERNOR APRIL 20, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 1996