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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 6. ADMISSIONS AND JUDICIAL COMMITMENTS [6000 - 6825] (*Division 6 repealed and added by Stats. 1967, Ch. 1667.*)

PART 2. JUDICIAL COMMITMENTS [6250 - 6825] (*Part 2 added by Stats. 1967, Ch. 1667.*)

CHAPTER 2. Commitment Classification [6331 - 6609.3] (*Chapter 2 added by Stats. 1967, Ch. 1667.*)

ARTICLE 4. Sexually Violent Predators [6600 - 6609.3] (*Article 4 added by Stats. 1995, Ch. 763, Sec. 3.*)

6600. As used in this article, the following terms have the following meanings:

(a) (1) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(2) For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

(A) A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

(B) A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

(C) A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

(D) A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

(E) A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

(F) A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

(G) A conviction resulting in a finding that the person was a mentally disordered sex offender.

(H) A prior conviction for an offense described in subdivision (b) for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation pursuant to Section 1731.5.

(I) A prior conviction for an offense described in subdivision (b) that resulted in an indeterminate prison sentence.

(3) Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of State Hospitals. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as defined in subdivision (a): a felony violation of Section 261, 262, 264.1, 269, 286, 287, 288, 288.5, or 289 of, or former Section 288a of, the Penal Code, or any felony violation of Section 207, 209, or 220 of the Penal Code, committed with the intent to commit a violation of Section 261, 262, 264.1, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code.

(c) "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

(e) "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, a prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following apply:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b).

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

(Amended by Stats. 2018, Ch. 423, Sec. 128. (SB 1494) Effective January 1, 2019. Note: This section was amended on Nov. 7, 2006, by initiative Prop. 83 (The Sexual Predator Punishment and Control Act: Jessica's Law).)

6600.05. (a) Coalinga State Hospital shall be used whenever a person is committed to a secure facility for mental health treatment pursuant to this article and is placed in a state hospital under the direction of the State Department of State Hospitals unless there are unique circumstances that would preclude the placement of a person at that facility. If a state hospital is not used, the facility to be used shall be located on a site or sites determined by the Secretary of the Department of Corrections and Rehabilitation and the Director of State Hospitals. In no case shall a person committed to a secure facility for mental health treatment pursuant to this article be placed at Metropolitan State Hospital or Napa State Hospital.

(b) The State Department of State Hospitals shall be responsible for operation of the facility, including the provision of treatment.

(Amended by Stats. 2012, Ch. 24, Sec. 138. (AB 1470) Effective June 27, 2012.)

6600.1. If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14, the offense shall constitute a "sexually violent offense" for purposes of Section 6600.

(Amended November 7, 2006, by initiative Proposition 83, Sec. 25.)

6601. (a) (1) When the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, who is either serving a determinate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) When an individual is in custody under the jurisdiction of the Department of Corrections and Rehabilitation for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, the Secretary of the Department of Corrections and Rehabilitation shall, at least six months prior to the individual's scheduled date for release from prison, refer the person directly to the State Department of State Hospitals for a full evaluation of

whether the person still meets the criteria in Section 6600. However, if the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date. The evaluation shall be conducted in accordance with subdivisions (c) to (g), inclusive. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a court order no less than 20 calendar days prior to the scheduled release date of the person to the county designated in subdivision (i) authorizing a transfer of the individual from the Department of Corrections and Rehabilitation to the State Department of State Hospitals to continue serving the remainder of the individual's original indeterminate commitment as a sexually violent predator if the original petition has not been dismissed. If the petition has previously been dismissed, the Director of State Hospitals shall forward a request for a new petition to be filed for commitment to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person consistent with subdivision (d).

(3) A petition may be filed under this section if the individual was in custody pursuant to a determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph applies to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of State Hospitals in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of State Hospitals for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of State Hospitals shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of State Hospitals, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of State Hospitals. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of State Hospitals shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) An independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) (1) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(2) If a hold is placed pursuant to Section 6601.3 and the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the end of the hold.

(3) The person shall have no right to enforce the time limit set forth in this subdivision and shall have no remedy for its violation.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. A person's subsequent conviction for an offense that is not a sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section shall not change jurisdiction for the petition from the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. If a person is convicted of a subsequent sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section a subsequent petition for commitment as a sexually violent predator pursuant to this section shall be filed in the superior court of the county in which the person was convicted of the subsequent sexually violent offense. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) An order issued by a judge pursuant to Section 6601.5, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon release, shall toll that person's parole pursuant to paragraph (4) of subdivision (a) of Section 3000 of the Penal Code, if that individual is determined to be a sexually violent predator.

(k) The attorney designated by the county pursuant to subdivision (i) shall notify the State Department of State Hospitals of its decision regarding the filing of a petition for commitment pursuant to subdivision (d) within 15 days of making that decision.

(Amended by Stats. 2021, Ch. 383, Sec. 1. (SB 248) Effective January 1, 2022. Note: Section 6601 was amended on Nov. 7, 2006, by initiative Prop. 83.)

6601.3. (a) Upon a showing of good cause, the Board of Parole Hearings may order that a person referred to the State Department of State Hospitals pursuant to subdivision (b) of Section 6601 remain in custody for no more than 45 days beyond the person's scheduled release date for full evaluation pursuant to subdivisions (c) to (i), inclusive, of Section 6601.

(b) For purposes of this section, good cause means circumstances where there is a recalculation of credits or a restoration of denied or lost credits by any custodial agency or court, a resentencing by a court, the receipt of the prisoner into custody, or equivalent exigent circumstances that result in there being less than 45 days prior to the person's scheduled release date for the full evaluation described in subdivisions (c) to (i), inclusive, of Section 6601.

(Amended by Stats. 2016, Ch. 878, Sec. 2. (AB 1906) Effective January 1, 2017.)

6601.5. Upon filing of the petition and a request for review under this section, a judge of the superior court shall review the petition and determine whether the petition states or contains sufficient facts that, if true, would constitute probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. If the judge determines that the petition, on its face, supports a finding of probable cause, the judge shall order that the person be detained in a secure facility until a hearing can be completed pursuant to Section 6602. The probable cause hearing provided for in Section 6602 shall commence within 10 calendar days of the date of the order issued by the judge pursuant to this section.

(Amended by Stats. 2000, Ch. 41, Sec. 2. Effective June 26, 2000.)

6602. (a) A judge of the superior court shall review the petition and shall determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. The person named in the petition shall be entitled to assistance of counsel at the probable cause hearing. Upon the commencement of the probable cause hearing, the person shall remain in custody pending the completion of the probable cause hearing. If the judge determines there is not probable cause, he or she shall dismiss the petition and any person subject to parole shall report to parole. If the judge determines that there is probable cause, the judge shall order that the person remain in custody in a secure facility until a trial is completed and shall order that a trial be conducted to determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of others in that the person is likely to engage in acts of sexual violence upon his or her release from the jurisdiction of the Department of Corrections and Rehabilitation or other secure facility.

(b) The probable cause hearing shall not be continued except upon a showing of good cause by the party requesting the continuance.

(c) The court shall notify the State Department of State Hospitals of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

(Amended by Stats. 2012, Ch. 24, Sec. 141. (AB 1470) Effective June 27, 2012.)

6602.5. (a) No person may be placed in a state hospital pursuant to the provisions of this article until there has been a determination pursuant to Section 6601.3 or 6602 that there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior.

(b) The State Department of State Hospitals shall identify each person for whom a petition pursuant to this article has been filed who is in a state hospital on or after January 1, 1998, and who has not had a probable cause hearing pursuant to Section 6602. The State Department of State Hospitals shall notify the court in which the petition was filed that the person has not had a probable cause hearing. Copies of the notice shall be provided by the court to the attorneys of record in the case. Within 30 days of notice by the State Department of State Hospitals, the court shall either order the person removed from the state hospital and returned to local custody or hold a probable cause hearing pursuant to Section 6602.

(c) In no event shall the number of persons referred pursuant to subdivision (b) to the superior court of any county exceed 10 in any 30-day period, except upon agreement of the presiding judge of the superior court, the district attorney, the public defender, the sheriff, and the Director of State Hospitals.

(d) This section shall be implemented in Los Angeles County pursuant to a letter of agreement between the Department of State Hospitals, the Los Angeles County district attorney, the Los Angeles County public defender, the Los Angeles County sheriff, and the Los Angeles County Superior Court. The number of persons referred to the Superior Court of Los Angeles County pursuant to subdivision (b) shall be governed by the letter of agreement.

(Amended by Stats. 2012, Ch. 24, Sec. 142. (AB 1470) Effective June 27, 2012.)

6603. (a) A person subject to this article is entitled to a trial by jury, to the assistance of counsel, to the right to retain experts or professional persons to perform an examination on the person's behalf, and to have access to all relevant medical and psychological records and reports. If the person is indigent, the court shall appoint counsel to assist that person and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. Any right that may exist under this section to request DNA testing on prior cases shall be made in conformity with Section 1405 of the Penal Code.

(b) The attorney petitioning for commitment under this article has the right to demand that the trial be before a jury.

(c) To continue a trial, written notice shall be filed and served on all parties to the proceeding, together with affidavits or declarations detailing specific facts showing that a continuance is necessary.

(1) All moving and supporting papers shall be served and filed at least 10 court days before the hearing, except as provided in paragraph (2). The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court.

(2) If the written notice is served by mail, the 10-day period of notice before the hearing shall be increased as follows:

(A) Five calendar days if the place of mailing and the place of address are within the State of California.

(B) Ten calendar days if either the place of mailing or the place of address is outside the State of California, but within the United States.

(C) Twenty calendar days if either the place of mailing or the place of address is outside the United States.

(D) Two calendar days if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery.

(3) All papers opposing a continuance motion noticed pursuant to this subdivision shall be filed with the court and a copy shall be served on each party at least four court days before the hearing. All reply papers shall be served on each party at least two court days before the hearing. A party may waive the right to have documents served in a timely manner after receiving actual notice of the request for continuance.

(4) If a party makes a motion for a continuance that does not comply with the requirements described in this subdivision, the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(5) Continuances shall be granted only upon a showing of good cause. The court shall not find good cause solely based on the convenience of the parties or a stipulation of the parties. At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding.

(6) In determining good cause, the court shall consider the general convenience and prior commitments of all witnesses. The court shall also consider the general convenience and prior commitments of each witness in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(7) Except as specified in paragraph (8), a continuance shall be granted only for the period of time shown to be necessary by the evidence considered at the hearing on the motion. If a continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance.

(8) For purposes of this subdivision, "good cause" includes, but is not limited to, those cases in which the attorney assigned to the case has another trial or probable cause hearing in progress. A continuance granted pursuant to this subdivision as the result of another trial or hearing in progress shall not exceed 10 court days after the conclusion of that trial or hearing.

(d) (1) If the attorney petitioning for commitment under this article determines that updated evaluations are necessary in order to properly present the case for commitment, the attorney may request the State Department of State Hospitals to perform updated evaluations. If one or more of the original evaluators is no longer available to testify for the petitioner in court proceedings, the attorney petitioning for commitment under this article may request the State Department of State Hospitals to perform replacement evaluations. When a request is made for updated or replacement evaluations, the State Department of State Hospitals shall perform the requested evaluations and forward them to the petitioning attorney and to the counsel for the person subject to this article. However, updated or replacement evaluations shall not be performed except as necessary to update one or more of the original evaluations or to replace the evaluation of an evaluator who is no longer available to testify for the petitioner in court proceedings. These updated or replacement evaluations shall include review of available medical and psychological records, including treatment records, consultation with current treating clinicians, and interviews of the person being evaluated, either voluntarily or by court order. If an updated or replacement evaluation results in a split opinion as to whether the person subject to this article meets the criteria for commitment, the State Department of State Hospitals shall conduct two additional evaluations in accordance with subdivision (f) of Section 6601.

(2) For purposes of this subdivision, "no longer available to testify for the petitioner in court proceedings" means that the evaluator is no longer authorized by the Director of State Hospitals to perform evaluations regarding sexually violent predators as a result of any of the following:

(A) The evaluator has failed to adhere to the protocol of the State Department of State Hospitals.

(B) The evaluator's license has been suspended or revoked.

(C) The evaluator is unavailable pursuant to Section 240 of the Evidence Code.

(D) The independent professional or state employee who has served as the evaluator has resigned or retired and has not entered into a new contract to continue as an evaluator in the case, unless this evaluator, in the evaluator's most recent evaluation of the person subject to this article, opined that the person subject to this article does not meet the criteria for commitment.

(e) This section does not prevent the defense from presenting otherwise relevant and admissible evidence.

(f) If the person subject to this article or the petitioning attorney does not demand a jury trial, the trial shall be before the court without a jury.

(g) A unanimous verdict shall be required in any jury trial.

(h) The court shall notify the State Department of State Hospitals of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

(i) This section does not limit any legal or equitable right that a person may have to request DNA testing.

(j) Subparagraph (D) of paragraph (2) of subdivision (d) does not affect the authority of the State Department of State Hospitals to conduct two additional evaluations when an updated or replacement evaluation results in a split opinion.

(k) (1) Notwithstanding any other law, the evaluator performing an updated evaluation shall include with the evaluation a statement listing all records reviewed by the evaluator pursuant to subdivision (d). The court shall issue a subpoena, upon the request of either party, for a certified copy of these records. The records shall be provided to the attorney petitioning for commitment and the counsel for the person subject to this article. The attorneys may use the records in proceedings under this article and shall not disclose them for any other purpose.

(2) This subdivision does not affect the right of a party to object to the introduction at trial of all or a portion of a record subpoenaed under paragraph (1) on the ground that it is more prejudicial than probative pursuant to Section 352 of the Evidence Code or that it is not material to the issue of whether the person subject to this article is a sexually violent predator, as defined in subdivision (a) of Section 6600, or to any other issue to be decided by the court. If the relief is granted, in whole or in part, the record or records shall retain any confidentiality that may apply under Section 5328 of this code and Section 1014 of the Evidence Code.

(3) This subdivision does not affect any right of a party to seek to obtain other records regarding the person subject to this article.

(4) Except as provided in paragraph (1), this subdivision does not affect any right of a committed person to assert that records are confidential under Section 5328 of this code or Section 1014 of the Evidence Code.

(Amended by Stats. 2019, Ch. 606, Sec. 1. (AB 303) Effective January 1, 2020.)

6603.3. (a) (1) Except as provided in paragraph (2), no attorney may disclose or permit to be disclosed to a person subject to this article, family members of the person subject to this article, or any other person, the name, address, telephone number, or other identifying information of a victim or witness whose name is disclosed to the attorney pursuant to Section 6603 and Chapter 1 (commencing with Section 2016.010) of Part 4 of Title 4 of the Code of Civil Procedure, unless specifically permitted to do so by the court after a hearing and showing of good cause.

(2) Notwithstanding paragraph (1), an attorney may disclose or permit to be disclosed, the name, address, telephone number, or other identifying information of a victim or witness to persons employed by the attorney or to a person hired or appointed for the purpose of assisting the person subject to this article in the preparation of the case, if that disclosure is required for that preparation. Persons provided this information shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.

(3) A willful violation of this subdivision by an attorney, persons employed by an attorney, or persons appointed by the court is a misdemeanor.

(b) If the person subject to this article is acting as his or her own attorney, the court shall endeavor to protect the name, address, telephone number, or other identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.

(Added by Stats. 2008, Ch. 155, Sec. 1. Effective January 1, 2009.)

6603.5. No employee or agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of State Hospitals shall disclose to any person, except to employees or agents of each named department, the prosecutor, the respondent's counsel, licensed private investigators hired or appointed for the respondent, or other persons or agencies where authorized or required by law, the name, address, telephone number, or other identifying information of a person who was involved in a civil commitment hearing under this article as the victim of a sex offense except where authorized or required by law.

(Amended by Stats. 2012, Ch. 440, Sec. 67. (AB 1488) Effective September 22, 2012.)

6603.7. (a) Except as provided in Section 6603.3, the court, at the request of the victim of a sex offense relevant in a proceeding under this article, may order the identity of the victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that the order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the party petitioning for commitment under this article or the person subject to this article.

(b) If the court orders the victim to be identified as Jane Doe or John Doe pursuant to subdivision (a), and if there is a jury trial, the court shall instruct the jury at the beginning and at the end of the trial that the victim is being so identified only for the purposes of protecting his or her privacy.

(Added by Stats. 2008, Ch. 155, Sec. 3. Effective January 1, 2009.)

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of State Hospitals for appropriate treatment and confinement in a secure facility designated by the Director of State Hospitals. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

(Amended by Stats. 2012, Ch. 24, Sec. 143. (AB 1470) Effective June 27, 2012. Note: This section was amended on Nov. 7, 2006, by initiative Prop. 83.)

6604.1. (a) The indeterminate term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of State Hospitals. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to all commitment proceedings.

(Amended by Stats. 2012, Ch. 440, Sec. 68. (AB 1488) Effective September 22, 2012. Note: This section was amended on Nov. 7, 2006, by initiative Prop. 83.)

6604.9. (a) A person found to be a sexually violent predator and committed to the custody of the State Department of State Hospitals shall have a current examination of his or her mental condition made at least once every year. The report shall be in the form of a declaration and shall be prepared by a professionally qualified person. The person may retain or, if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative, pursuant to Section 6608, or an unconditional discharge, pursuant to Section 6605, is in the best interest of the person and conditions can be imposed that would adequately protect the community.

(c) The State Department of State Hospitals shall file this periodic report with the court that committed the person under this article. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person.

(d) If the State Department of State Hospitals determines that either: (1) the person's condition has so changed that the person no longer meets the definition of a sexually violent predator and should, therefore, be considered for unconditional discharge, or (2) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the director shall authorize the person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment.

(e) The court, upon receipt of the petition for conditional release to a less restrictive alternative, shall consider the petition using procedures described in Section 6608.

(f) The court, upon receiving a petition for unconditional discharge, shall order a show cause hearing, pursuant to the provisions of Section 6605, at which the court may consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney, or the committed person.

(Amended by Stats. 2014, Ch. 71, Sec. 189. (SB 1304) Effective January 1, 2015.)

6605. (a) (1) The court, upon receiving a petition for unconditional discharge, shall order a show cause hearing at which the court can consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney, or the committed person.

(2) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(3) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections that were afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged. Where the person's failure to participate in or complete treatment is relied upon as proof that the person's condition has not changed, and there is evidence to support that reliance, the jury shall be instructed substantially as follows:

"The committed person's failure to participate in or complete the State Department of State Hospitals Sex Offender Commitment Program (SOCP) are facts that, if proved, may be considered as evidence that the committed person's condition has not changed.

The weight to be given that evidence is a matter for the jury to determine.”

(b) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (a), the term of commitment of the person shall run for an indeterminate period from the date of this ruling and the committed person may not file a new petition until one year has elapsed from the date of the ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(c) If the State Department of State Hospitals has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person’s commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

(Amended by Stats. 2013, Ch. 182, Sec. 2. (SB 295) Effective January 1, 2014. Note: This section was amended on Nov. 7, 2006, by initiative Prop. 83.)

6606. (a) A person who is committed under this article shall be provided with programming by the State Department of State Hospitals which shall afford the person with treatment for his or her diagnosed mental disorder. Persons who decline treatment shall be offered the opportunity to participate in treatment on at least a monthly basis.

(b) Amenability to treatment is not required for a finding that any person is a person described in Section 6600, nor is it required for treatment of that person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(c) The programming provided by the State Department of State Hospitals in facilities shall be consistent with current institutional standards for the treatment of sex offenders, and shall be based on a structured treatment protocol developed by the State Department of State Hospitals. The protocol shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual’s risk of reoffense.

(d) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, and consistent with information and standards described in subdivision (c), the State Department of State Hospitals is authorized to provide the programming using an outpatient/day treatment model, wherein treatment is provided by licensed professional clinicians in living units not licensed as health facility beds within a secure facility setting, on less than a 24-hour a day basis. The State Department of State Hospitals shall take into consideration the unique characteristics, individual needs, and choices of persons committed under this article, including whether or not a person needs antipsychotic medication, whether or not a person has physical medical conditions, and whether or not a person chooses to participate in a specified course of offender treatment. The State Department of State Hospitals shall ensure that policies and procedures are in place that address changes in patient needs, as well as patient choices, and respond to treatment needs in a timely fashion. The State Department of State Hospitals, in implementing this subdivision, shall be allowed by the State Department of Public Health to place health facility beds at Coalinga State Hospital in suspense in order to meet the mental health and medical needs of the patient population. Coalinga State Hospital may remove all or any portion of its voluntarily suspended beds into active license status by request to the State Department of Public Health. The facility’s request shall be granted unless the suspended beds fail to comply with current operational requirements for licensure.

(e) The department shall meet with each patient who has chosen not to participate in a specific course of offender treatment during monthly treatment planning conferences. At these conferences the department shall explain treatment options available to the patient, offer and re-offer treatment to the patient, seek to obtain the patient’s cooperation in the recommended treatment options, and document these steps in the patient’s health record. The fact that a patient has chosen not to participate in treatment in the past shall not establish that the patient continues to choose not to participate.

(Amended by Stats. 2012, Ch. 24, Sec. 145. (AB 1470) Effective June 27, 2012.)

6607. (a) If the Director of State Hospitals determines that the person’s diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release in accordance with Section 6608 to the county attorney designated in subdivision (i) of Section 6601, the attorney of record for the person, and the committing court.

(b) When a report and recommendation for conditional release is filed by the Director of State Hospitals pursuant to subdivision (a), the court shall set a hearing in accordance with the procedures set forth in Section 6608.

(Amended by Stats. 2012, Ch. 440, Sec. 69. (AB 1488) Effective September 22, 2012.)

6608. (a) A person who has been committed as a sexually violent predator shall be permitted to petition the court for conditional release with or without the recommendation or concurrence of the Director of State Hospitals. If a person has previously filed a petition for conditional release without the concurrence of the director and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the committed person’s condition had not so changed that the person

would not be a danger to others in that it is not likely that the person will engage in sexually violent criminal behavior if placed under supervision and treatment in the community, the court shall deny the subsequent petition unless it contains facts upon which a court could find that the condition of the committed person had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the concurrence of the director, the court shall endeavor whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, shall deny the petition without a hearing. The person petitioning for conditional release under this subdivision shall be entitled to assistance of counsel in all hearings under this section. The person petitioning for conditional release shall serve a copy of the petition on the State Department of State Hospitals at the time the petition is filed with the court.

(b) The procedure for a conditional release hearing in a case where the county of domicile has not yet been determined shall be as follows:

(1) If the court deems the petition not frivolous pursuant to subdivision (a), the court shall give notice to the attorney designated in subdivision (i) of Section 6601, the retained or appointed attorney for the committed person, and the Director of State Hospitals of its intention to set a conditional release hearing. The person petitioning for conditional release, the Director of State Hospitals, and the designated attorney of the county of commitment shall notify the court within 30 court days of receipt of this notice if it appears that a county other than the county of commitment may be the county of domicile.

(2) If no county other than the county of commitment appears to be the county of domicile, the court shall determine, consistent with Section 6608.5, that the county of commitment is the county of domicile.

(3) If it appears or there are allegations that one or more counties, other than the county of commitment, may be the county of domicile, the court shall set a hearing to determine the county of domicile, consistent with the provisions of Section 6608.5. The court shall, at least 30 court days prior to the hearing, give notice of the domicile hearing to the persons listed in paragraph (1) and to the designated attorney for any county that is alleged to be the county of domicile. Persons listed in this paragraph and paragraph (1) may, at least 10 court days prior to the hearing, file and serve declarations, documentary evidence, and other pleadings, that are specific only to the issue of domicile. The court may, consistent with Section 6608.5, decide the issue of domicile solely on the pleadings, or additionally permit, in the interests of justice, argument and testimony.

(4) After determining the county of domicile pursuant to paragraph (2) or (3), the court shall set a date for a conditional release hearing and shall give notice of the hearing at least 30 court days before the hearing to the persons described in paragraph (1) and the designated attorney for the county of domicile.

(5) (A) If the county of domicile is different than the county of commitment, the designated attorney for the county of domicile and the designated attorney for the county of commitment may mutually agree that the designated attorney for the county of domicile will represent the state at the conditional release hearing. If the designated attorneys do not make this agreement, the designated attorney for the county of commitment will represent the state at the conditional release hearing.

(B) At least 20 court days before the conditional release hearing, the designated attorney for the county of commitment shall give notice to the parties listed in paragraph (1) and to the court whether the state will be represented by the designated attorney of the county of domicile or the designated attorney of the county of commitment.

(C) The designated attorney for the county of domicile and the designated attorney for the county of commitment should cooperate with each other to ensure that all relevant evidence is submitted on behalf of the state. No attorney other than the designated attorney for the county representing the state shall appear on behalf of the state at the conditional release hearing.

(6) The court's determination of a county of domicile shall govern the current and any subsequent petition for conditional release under this section.

(7) For the purpose of this subdivision, the term "county of domicile" shall have the same meaning as defined in Section 6608.5.

(8) For purposes of this section, the term "designated attorney of the county of commitment" means the attorney designated in subdivision (i) of Section 6601 in the county of commitment.

(9) For purposes of this section, the term "designated attorney for the county of domicile" means the attorney designated in subdivision (i) of Section 6601 in the county of domicile.

(c) The proceedings for a conditional release hearing in a case where the court has previously determined the county of domicile shall be as follows:

(1) If the court determines, pursuant to subdivision (a), that the petition is not frivolous, the court shall give notice of the hearing date at least 30 days prior to the hearing to the designated attorneys for the county of domicile and the county of commitment, the retained or appointed attorney for the petitioner, and the Director of State Hospitals.

(2) Representation of the state at the conditional release hearing shall be pursuant to paragraph (5) of subdivision (b).

(d) (1) If a committed person has been conditionally released by a court to a county other than the county of domicile, and the jurisdiction of the person has been transferred to that county, pursuant to subdivision (g) of Section 6608.5, the notice specified in paragraph (1) of subdivision (c) shall be given to the designated attorney of the county of placement, who shall represent the state in any further proceedings.

(2) The term "county of placement" means the county where the court has placed a person who is granted conditional release.

(e) If the petition for conditional release is made without the consent of the director of the treatment facility, no action shall be taken on the petition by the court without first obtaining the written recommendation of the director of the treatment facility.

(f) A hearing upon the petition shall not be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of State Hospitals for not less than one year from the date of the order of commitment. A hearing upon the petition shall not be held until the community program director designated by the State Department of State Hospitals submits a report to the court that makes a recommendation as to the appropriateness of placing the person in a state-operated forensic conditional release program.

(g) The court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder if under supervision and treatment in the community. The attorney designated pursuant to paragraph (5) of subdivision (b) shall represent the state and may have the committed person evaluated by experts chosen by the state. The committed person shall have the right to the appointment of experts, if the committed person so requests. If the court at the hearing determines that the committed person would not be a danger to others due to the committed person's diagnosed mental disorder while under supervision and treatment in the community, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. A substantial portion of the state-operated forensic conditional release program shall include outpatient supervision and treatment. The court shall retain jurisdiction of the person throughout the course of the program, except as provided in subdivision (g) of Section 6608.5.

(h) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of State Hospitals shall submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the committed person. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the record. The procedures described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

(i) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or their designee, shall make the necessary placement arrangements and, within 30 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

(j) If the court denies the petition to place the person in an appropriate forensic conditional release program, the person may not file a new application until one year has elapsed from the date of the denial.

(k) In a hearing authorized by this section, the committed person shall have the burden of proof by a preponderance of the evidence, unless the report required by Section 6604.9 determines that conditional release to a less restrictive alternative is in the best interest of the person and that conditions can be imposed that would adequately protect the community, in which case the burden of proof shall be on the state to show, by a preponderance of the evidence, that conditional release is not appropriate.

(l) Time spent in a conditional release program pursuant to this section shall not count toward the term of commitment under this article unless the person is confined in a locked facility by the conditional release program, in which case the time spent in a locked facility shall count toward the term of commitment.

(m) After a minimum of one year on conditional release, the committed person, with or without the recommendation or concurrence of the Director of State Hospitals, may petition the court for unconditional discharge. The court shall use the procedures described in subdivisions (a) and (b) of Section 6605 to determine if the person should be unconditionally discharged from commitment on the basis that, by reason of a diagnosed mental disorder, the person is no longer a danger to the health and safety of others in that it is not likely that the person will engage in sexually violent criminal behavior.

(Amended by Stats. 2022, Ch. 880, Sec. 1. (SB 1034) Effective January 1, 2023.)

6608.1. A person who is released on outpatient status or granted conditional release pursuant to this article shall be monitored by a global positioning system (GPS) until the person is unconditionally discharged.

(Added by Stats. 2022, Ch. 104, Sec. 1. (AB 1641) Effective January 1, 2023.)

6608.5. (a) After a judicial determination that a person would not be a danger to the health and safety of others in that it is not likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder while under

supervision and treatment in the community, a person who is conditionally released pursuant to this article shall be placed in the county of domicile of the person prior to the person's incarceration, unless both of the following conditions are satisfied:

(1) The court finds that extraordinary circumstances require placement outside the county of domicile as set forth in Section 6608.6.

(2) The designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county, according to procedures set forth in Section 6609.1.

(b) (1) For the purposes of this section, "county of domicile" means the county where the person has their true, fixed, and permanent home and principal residence and to which the person has manifested the intention of returning whenever the person is absent. For the purposes of determining the county of domicile, the court shall consider information found on a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or information contained in an arrest record, probation officer's report, trial transcript, or other court document. If no information can be identified or verified, the county of domicile of the individual shall be considered to be the county in which the person was arrested for the crime for which the person was last incarcerated in the state prison or from which the person was last returned from parole.

(2) In a case where the person committed a crime while being held for treatment in a state hospital, or while being confined in a state prison or local jail facility, the county wherein that facility was located shall not be considered the county of domicile unless the person resided in that county prior to being housed in the hospital, prison, or jail.

(c) For the purposes of this section, "extraordinary circumstances" means circumstances that would inordinately limit the department's ability to effect conditional release of the person in the county of domicile in accordance with Section 6608 or any other provision of this article, and the procedures described in Sections 1605 to 1610, inclusive, of the Penal Code.

(d) (1) The counsel for the committed individual; the sheriff or the chief of police of the locality for placement, the county counsel, and the district attorney from the county of domicile; and the sheriff or the chief of police of, and the county counsel and the district attorney of, an alternative placement locality where a potential placement location has been identified and is being considered by the department for potential recommendation to the court for placement of the individual; or their designees, shall provide assistance and consultation in the department's process of locating and securing housing within the county for persons committed as sexually violent predators who are about to be conditionally released under Section 6608. Upon notification by the department of a person's potential or expected conditional release under Section 6608, the counsel for the committed individual; the sheriff or the chief of police of the locality for placement, the county counsel, and the district attorney of the county of domicile; and the sheriff or chief of police of, and the county counsel and district attorney of, an alternative placement locality; or their designees, shall provide appropriate contact information for their respective office to the department, at least 60 days before the date of the potential or expected release.

(2) The department shall convene a committee with the participants listed in paragraph (1) for the purpose of obtaining relevant assistance and consultation information in order to secure suitable housing for the person to be conditionally released. Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), these committee meetings may be held by teleconference as long as the public is afforded teleconference access to the public portion of the committee meetings.

(3) The court may order a status conference to evaluate the department's progress in locating and securing housing and in obtaining relevant assistance and consultation information from the participants listed in paragraph (1). The court may sanction any of the participants listed in paragraph (1) for failure to appear at the status conference unless the participant shows good cause for their failure to appear.

(4) This subdivision does not require the participants listed in paragraph (1) to perform a housing site assessment.

(e) In recommending a specific placement for community outpatient treatment, the department or its designee shall consider all of the following:

(1) The concerns and proximity of the victim or the victim's next of kin.

(2) The age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. For purposes of this subdivision, the "profile" of a victim includes, but is not limited to, gender, physical appearance, economic background, profession, and other social or personal characteristics.

(f) Notwithstanding any other law, a person released under this section shall not be placed within one-quarter mile of any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if either of the following conditions exist:

(1) The person has previously been convicted of a violation of Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 of, the Penal Code.

(2) The court finds that the person has a history of improper sexual conduct with children.

(g) (1) Except as provided in paragraph (2), if the committed person is ordered to be conditionally released in a county other than the county of commitment due to extraordinary circumstances pursuant to Section 6608.6, the court shall order that jurisdiction of the person and all records related to the case be transferred to the court of the county of placement. Upon transfer of jurisdiction to the county of placement, the designated attorney of the county of placement shall represent the state in all further proceedings.

(2) The designated attorney of the county of commitment shall serve written notice upon the designated attorney for the county of placement within 15 court days of an order to place a committed person in the county of placement. The designated attorney of the county of placement may file an affidavit with the court in the county of commitment objecting to the transfer of jurisdiction within 15 court days after receiving the notice. If the affidavit objecting to the transfer of jurisdiction is timely filed, the court shall not transfer jurisdiction. If an affidavit objecting to the transfer of jurisdiction is not timely filed, paragraph (1) shall apply.

(3) For the purpose of this section, "county of placement" means the county where the court orders the committed person to be placed for conditional release.

(4) For the purpose of this section, "designated attorney of the county of placement" means the attorney designated in subdivision (l) of Section 6601 in the county of placement.

(5) This section shall not be construed to negate or in any way affect the decision of the court of the county of commitment to conditionally release the committed person in the county of placement.

(Amended by Stats. 2024, Ch. 816, Sec. 1. (AB 1954) Effective January 1, 2025.)

6608.6. (a) A court may make a finding of extraordinary circumstances only after the committed person's county of domicile has petitioned the court to make this finding.

(b) The court may grant the county of domicile's petition and make a finding of extraordinary circumstances only after all of the following have occurred:

(1) The county of domicile has demonstrated to the court that the county of domicile has engaged in an exhaustive housing search with meaningful and robust participation from the participants listed in subdivision (d) of Section 6608.5 in both committee conferences and status conferences. The county of domicile shall provide the court with declarations from the county of domicile and all the participants attesting to the exhaustive housing search.

(2) (A) The county of domicile has provided at least one alternative placement county for consideration and has noticed the district attorney, or district attorneys, of the alternative placement county, or counties, and the department regarding the county of domicile's intention to petition for a finding of extraordinary circumstance.

(B) The county of domicile shall indicate, if applicable, how the committed person has a community connection to a proposed alternative placement county, including whether the committed person has previously resided, been employed, or has next of kin in a proposed alternative placement county.

(3) The county of domicile has provided the declarations and community connection information required by paragraphs (1) and (2) to the department and to the district attorney of a proposed alternative placement county.

(4) The department and the district attorney of a proposed alternative placement county have had an opportunity to be heard at a hearing, which shall be noticed no fewer than 30 days before the date of the hearing.

(c) (1) If the court finds that extraordinary circumstances require the placement to occur outside the county of domicile, the court shall state its findings on the record and the grounds supporting its findings.

(2) Extraordinary costs associated with a housing placement inside the county of domicile shall not be grounds for a finding of extraordinary circumstances.

(d) A court shall not order a search of alternative housing placements outside of the county of domicile until after the court has granted a petition finding that extraordinary circumstances exist.

(e) The Judicial Council shall report to the Legislature on an annual basis the instances in which a court issues a finding of extraordinary circumstances and shall detail the court's findings and grounds supporting the findings, as stated by the court pursuant to subdivision (c). The annual report required by this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(f) Notwithstanding any other law, a court may order the placement of the committed person in an alternative placement county upon stipulation between the domicile county and the alternative placement county.

(Added by Stats. 2022, Ch. 880, Sec. 3. (SB 1034) Effective January 1, 2023.)

6608.7. The State Department of State Hospitals may enter into an interagency agreement or contract with the Department of Corrections and Rehabilitation or with local law enforcement agencies for services related to supervision or monitoring of sexually violent predators who have been conditionally released into the community under the forensic conditional release program pursuant to this article.

(Amended by Stats. 2014, Ch. 442, Sec. 17. (SB 1465) Effective September 18, 2014.)

6608.8. (a) For any person who is proposed for community outpatient treatment under the forensic conditional release program, the department shall provide to the court a copy of the written contract entered into with any public or private person or entity responsible for monitoring and supervising the patient's outpatient placement and treatment program. This subdivision does not apply to subcontracts between the contractor and clinicians providing treatment and related services to the person.

(b) The terms and conditions of conditional release shall be drafted to include reasonable flexibility to achieve the aims of conditional release, and to protect the public and the conditionally released person.

(c) The court in its discretion may order the department to, notwithstanding Section 4514 or 5328, provide a copy of the written terms and conditions of conditional release to the sheriff or chief of police, or both, that have jurisdiction over the proposed or actual placement community.

(d) (1) Except in an emergency, the department or its designee shall not alter the terms and conditions of conditional release without the prior approval of the court.

(2) The department shall provide notice to the person committed under this article and the district attorney or designated county counsel of any proposed change in the terms and conditions of conditional release.

(3) The court on its own motion, or upon the motion of either party to the action, may set a hearing on the proposed change. The hearing shall be held as soon as is practicable.

(4) If a hearing on the proposed change is held, the court shall state its findings on the record. If the court approves a change in the terms and conditions of conditional release without a hearing, the court shall issue a written order.

(5) In the case of an emergency, the department or its designee may deviate from the terms and conditions of the conditional release if necessary to protect public safety or the safety of the person. If a hearing on the emergency is set by the court or requested by either party, the hearing shall be held as soon as practicable. The department, its designee, and the parties shall endeavor to resolve routine matters in a cooperative fashion without the need for a formal hearing.

(e) Notwithstanding any provision of this section, including, but not limited to, subdivision (d), matters concerning the residential placement, including any changes or proposed changes in the residence of the person, shall be considered and determined pursuant to Section 6609.1.

(Amended by Stats. 2007, Ch. 302, Sec. 20. Effective January 1, 2008.)

6609. Within 10 days of a request made by the chief of police of a city or the sheriff of a county, the State Department of State Hospitals shall provide the following information concerning each person committed as a sexually violent predator who is receiving outpatient care in a conditional release program in that city or county: name, address, date of commitment, county from which committed, date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than $3\frac{1}{8} \times 3\frac{1}{8}$ inches in size, or clear copies of the fingerprints and photograph.

(Amended by Stats. 2014, Ch. 442, Sec. 18. (SB 1465) Effective September 18, 2014.)

6609.1. (a) (1) When the State Department of State Hospitals makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or is aware, of the filing of the petition, and when a community placement location is recommended or proposed, the department shall notify the sheriff or chief of police, or both, the district attorney, or the county's designated counsel, that have jurisdiction over the following locations:

(A) The community in which the person may be released for community outpatient treatment.

(B) The community in which the person maintained their last legal residence as defined by Section 3003 of the Penal Code.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The department shall also notify the Department of Justice.

(3) The notice shall be given when the department or its designee makes a recommendation under subdivision (e) of Section 6608 or proposes a placement location without making a recommendation, or when any other person proposes a placement location to the court and the department or its designee is made aware of the proposal.

(4) The notice shall be given at least 30 days prior to the department's submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment under Section 6607, or in which the department or its designee is recommending or proposing a placement location, or in the case of a petition or placement proposal by someone other than the department or its designee, within 48 hours after becoming aware of the petition or placement proposal.

(5) The notice shall state that it is being made under this section and include all of the following information concerning each person committed as a sexually violent predator who is proposed or is petitioning to receive outpatient care in a conditional release program in that city or county:

(A) The name, proposed placement address, date of commitment, county from which committed, proposed date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than 3¹/₈ by 3¹/₈ inches in size, or clear copies of the fingerprints and photograph.

(B) The date, place, and time of the court hearing at which the location of placement is to be considered and a proof of service attesting to the notice's mailing in accordance with this subdivision.

(C) A list of agencies that are being provided this notice and the addresses to which the notices are being sent.

(6) The notice shall be sent electronically and by certified mail. The timeframe for notice provisions under this section begins when the notice is sent.

(b) Those agencies receiving the notice referred to in paragraphs (1) and (2) of subdivision (a) may provide written comment to the department and the court regarding the impending release, placement, location, and conditions of release. All community agency comments shall be combined and consolidated. The written comment shall be filed with the court at the time that the comment is provided to the department. The written comment shall identify differences between the comment filed with the court and that provided to the department, if any. In addition, a single agency in the community of the specific proposed or recommended placement address may suggest appropriate, alternative locations for placement within that community. A copy of the suggested alternative placement location shall be filed with the court at the time that the suggested placement location is provided to the department. The State Department of State Hospitals shall issue a written statement to the commenting agencies and to the court within 10 days of receiving the written comments with a determination as to whether to adjust the release location or general terms and conditions, and explaining the basis for its decision. In lieu of responding to the individual community agencies or individuals, the department's statement responding to the community comment shall be in the form of a public statement.

(c) The agencies' comments and department's statements shall be considered by the court which shall, based on those comments and statements, approve, modify, or reject the department's recommendation or proposal regarding the community or specific address to which the person is scheduled to be released or the conditions that shall apply to the release if the court finds that the department's recommendation or proposal is not appropriate.

(d) (1) When the State Department of State Hospitals makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section 6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

(A) The community in which the person maintained their last legal residence as defined by Section 3003 of the Penal Code.

(B) The community in which the person will probably be released, if recommending not to pursue recommitment.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The State Department of State Hospitals shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The State Department of State Hospitals shall also notify the Department of Justice. The notice shall be made at least 15 days prior to the department's submission of its recommendation to the court.

(3) Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. At the time that the written comment is made to the department, a copy of the written comment shall be filed with the court by the agency or agencies making the comment. Those comments shall be considered by the department, which may modify its decision regarding the community in which the person is scheduled to be released, based on those comments.

(e) (1) If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation. The Department of Corrections and Rehabilitation shall notify the Department of Justice, the State Department of State Hospitals, the sheriff or chief of police, or both, and the district attorney, that have jurisdiction over the following locations:

(A) The community in which the person is to be released.

(B) The community in which the person maintained their last legal residence as defined in Section 3003 of the Penal Code.

(2) The Department of Corrections and Rehabilitation shall make the notifications required by this subdivision regardless of whether the person released will be serving a term of parole after release by the court.

(f) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections and Rehabilitation to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

(g) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(h) The time limits imposed by this section are not applicable when the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of State Hospitals and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate's release, but notice shall be given as soon as practicable.

(i) In the case of any subsequent community placement or change of community placement of a conditionally released sexually violent predator, notice required by this section shall be given under the same terms and standards as apply to the initial placement, except in the case of an emergency where the sexually violent predator must be moved to protect the public safety or the safety of the sexually violent predator. In the case of an emergency, the notice shall be given as soon as practicable, and the affected communities may comment on the placement as described in subdivision (b).

(j) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Amended by Stats. 2024, Ch. 816, Sec. 2. (AB 1954) Effective January 1, 2025.)

6609.2. (a) When any sheriff or chief of police is notified by the State Department of State Hospitals of its recommendation to the court concerning the disposition of a sexually violent predator pursuant to subdivision (a) or (b) of Section 6609.1, that sheriff or chief of police may notify any person designated by the sheriff or chief of police as an appropriate recipient of the notice.

(b) A law enforcement official authorized to provide notice pursuant to this section, and the public agency or entity employing the law enforcement official, shall not be liable for providing or failing to provide notice pursuant to this section.

(Amended by Stats. 2012, Ch. 440, Sec. 71. (AB 1488) Effective September 22, 2012.)

6609.3. (a) At the time a notice is sent pursuant to subdivisions (a) and (b) of Section 6609.1, the sheriff, chief of police, or district attorney notified of the release shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice, informing those persons of the fact that the person who committed the sexually violent offense may be released together with information identifying the court that will consider the conditional release, recommendation regarding recommitment, or review of commitment status pursuant to subdivision (f) of Section 6605. When a person is approved by the court to be conditionally released, notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notice, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notice. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the sheriff, chief of police, or the district attorney shall provide the witness, victim, or next of kin with the revised information.

(b) At the time a notice is sent pursuant to subdivision (c) of Section 6609.1 the Department of Corrections shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice informing those persons of the fact that the person who committed the sexually violent offense has been released.

(c) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the sheriff, chief of police, and district attorney who were notified under Section 679.03 of the Penal Code, informed of his or her current mailing address.

(Amended by Stats. 1998, Ch. 961, Sec. 11. Effective September 29, 1998.)