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AB-255 Sexually violent predators: out-of-county placement. (2017-2018)

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Assembly Bill No. 255

CHAPTER 39

An act to amend Section 6608.5 of the Welfare and Institutions Code, relating to sexually violent predators.

[Approved by Governor July 10, 2017. Filed with Secretary of State July 10, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 255, Gallagher. Sexually violent predators: out-of-county placement.

Existing law generally requires a sexually violent predator who is conditionally released to be placed in the county that was the person's county of domicile prior to the person's incarceration. Existing law provides for placement outside of the county of domicile if specified circumstances exist. Existing law specifies certain information to be considered in determining the county of domicile, and provides that if that information cannot be identified or verified, that the county of domicile is the county in which the person was arrested for the crime for which he or she was last incarcerated in the state prison or from which he or she was last returned from parole.

This bill would require the court to consider additional factors when determining the county of placement that is not the county of domicile, including if and how long the person has previously resided or been employed in the county and if the person has next of kin in the county.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6608.5 of the Welfare and Institutions Code is amended to read:

6608.5. (a) A person who is conditionally released pursuant to this article shall be placed in the county of the 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.
- (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 his or her true, fixed, and permanent home and principal residence and to which he or she has manifested the intention of returning whenever he or she 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 he or she was last incarcerated in the state prison or from which he or she 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) The county of domicile shall designate a county agency or program that will provide assistance and consultation in the 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 county of domicile shall notify the department of the name of the designated agency or program, at least 60 days before the date of the potential or expected release.

(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) If the court determines that placement of a person in the county of his or her domicile pursuant to subdivision (a) is not appropriate, the court shall consider the following circumstances in designating his or her placement in a county for conditional release:

(1) If and how long the person has previously resided or been employed in the county.

(2) If the person has next of kin in the county.

(h) (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, 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.