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AB-1954 Sexually violent predators. (2023-2024)

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Date Published: 09/30/2024 02:00 PM

Assembly Bill No. 1954

CHAPTER 816

An act to amend Sections 6608.5 and 6609.1 of the Welfare and Institutions Code, relating to sexually violent predators.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1954, Alanis. Sexually violent predators.

Existing law provides for the civil commitment of a person who is determined to be a sexually violent predator. Existing law establishes a procedure by which a person committed as a sexually violent predator may petition for conditional release. Existing law requires the counsel for the committed individual, the sheriff or the chief of police of the locality for placement, and the county counsel and the district attorney of the county of domicile, or the designees of each of those entities, to provide assistance and consultation in the State Department of State Hospitals' process of locating and securing housing within the county and requires those individuals to provide appropriate contact information for their respective office to the department. Existing law also requires the department to convene a committee of those individuals. Existing law generally requires the committed individual to be placed in their county of domicile before their incarceration, but authorizes consideration of, and placement in, an alternative placement county in extraordinary circumstances. When the department makes a recommendation for conditional release or community outpatient treatment, existing law requires the department to notify specified persons of its recommendation and include specified information.

This bill would additionally require the sheriff or the chief of police of an alternative placement locality and the county counsel and the district attorney of an alternative placement county, as specified, to provide assistance and consultation in the department's process of locating and securing housing for a sexually violent predator and to provide appropriate contact information for their office to the department. The bill would include these individuals in the committee meeting the department is required to convene and would also authorize those committee meetings to be held by teleconference. The bill would require the above-described notice to be sent electronically and by certified mail.

By imposing a higher level of service on local government, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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) 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.

SEC. 2. Section 6609.1 of the Welfare and Institutions Code is amended to read:

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.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.