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AB-767 Sexually violent predators: schools. (2025-2026)

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AMENDED IN ASSEMBLY MARCH 11, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 767

Introduced by Assembly Member Alanis

February 18, 2025

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

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Alanis. Sexually violent predators: schools.

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 and requires the court, if it makes a specified determination, to place the person on conditional release. Existing law generally requires that a person released on conditional release pursuant to these provisions be placed in the person's county of domicile prior to their incarceration unless extraordinary circumstances exist requiring placement outside the county, as specified. Existing law prohibits a person being released under these provisions from being placed within $\frac{1}{4}$ mile of any public or private school, as specified, if the person has previously been convicted of specified sexual misconduct of a child or if the court finds that the person has a history of improper sexual conduct with children.

This bill would additionally prohibit a person being released under the above-described provisions from being placed within $\frac{1}{4}$ mile of a child daycare facility, as defined. The bill would define private school to mean a facility or home that has filed a private school affidavit with the State Department of Education and provides private school instruction at the elementary or high school level, including, but not limited to, conventional or traditional private schools and parents who operate a private home school level.

Vote: majority Appropriation: no Fiscal Committee: yes 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) 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) (1) Notwithstanding any other law, a person released under this section shall not be placed within one-quarter mile of any child daycare facility or public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if either of the following conditions exist:

(A) 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.

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

(2) For purposes of this subdivision, the following definitions apply:

(A) "Child daycare facility" means the same as defined in Section 1596.750 of the Health and Safety Code.

(B) "Private school" means a facility or home that has filed a private school affidavit with the State Department of Education and provides private school instruction at the elementary or high school level. ~~This includes, but is not limited to, conventional or traditional private schools, private school satellite programs, private online or virtual schools, parents who operate a private home school, and certified nonpublic nonsectarian schools.~~

(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.