

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 2104 (Carrillo) – As Amended March 9, 2026

SUMMARY: Requires a court presiding over a proceeding involving the commitment of a sexually violent predator (SVP) that is open to the public to provide the public with a remote access option that allows members of the public to remotely observe the proceeding.

EXISTING LAW:

- 1) Provides for the civil commitment for psychiatric and psychological treatment of a prison inmate found to be an SVP after the person has served their prison commitment. This is known as the Sexually Violent Predator Act (“SVPA”). (Welf. & Inst. Code, § 6600, et seq.)
- 2) Defines a “sexually violent predator” as “a person who has been convicted of a sexually violent offense against at least one victim, 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.” (Welf. & Inst. Code, § 6600, subd. (a)(1).)
- 3) Mandates that any of the following 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, as specified.
 - b) A conviction for a sexually violent offense 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 a sexually violent offense, as specified.
 - d) A conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense, as specified.
 - e) A prior conviction for which the inmate received a grant of probation for a sexually violent offense, as specified.
 - f) A prior finding of not guilty by reason of insanity for a sexually violent offense, as specified.
 - g) A conviction resulting in a finding that the person was a mentally disordered sex offender.

- h) A prior conviction for a sexually violent offense, as specified, which the person was committed to the *former* Division of Juvenile Facilities, Department of Corrections and Rehabilitation.
 - i) A prior conviction for a sexually violent offense, as specified, that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(2)(A)-(I).)
- 4) Defines “sexually violent offense” as 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 rape, *former* spousal rape, rape with a foreign object, aggravated sexual assault of a child, sodomy, forcible oral copulation, child molestation, continuous sexual abuse of a child, or sexual penetration, or *former* provision on child molest, or any felony violation of kidnapping, kidnapping for ransom, or assault with intent to committed rape, *former* spousal rape, rape with a foreign object, sodomy, forcible oral copulation, child molestation, or sexual penetration, or *former* child molest. (Welf. & Inst. Code, § 6600, subd. (b).)
 - 5) Permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)
 - 6) Establishes a process whereby a person committed as an SVP can petition for conditional release or an unconditional discharge any time after one year of commitment, notwithstanding the lack of recommendation or concurrence by the Director of DSH. (Welf. & Inst. Code, § 6608, subds. (a), (f) & (m).)
 - 7) Provides that if the petition is made without the consent of the director of the treatment facility, no action may be taken on the petition without first obtaining the written recommendation of the director of the treatment facility. (Welf. & Inst. Code, § 6608, subd. (e).)
 - 8) Provides that before actually placing a person on conditional release, the community program director designated by the DSH must recommend the program most appropriate for supervising and treating the person. (Welf. & Inst. Code, § 6608, subd. (h).)
 - 9) Provides that a person who is conditionally released 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:
 - a) The court finds that extraordinary circumstances require placement outside the county of domicile; and,
 - b) 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. (Welf. & Inst. Code, 6608.5, subd. (a).)
 - 10) States that 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 SVPs who are about to be conditionally released. (Welf. & Inst. Code, § 6608.5, subd. (d).)

- 11) Specifies that in recommending a specific placement for community outpatient treatment, the DSH or its designee shall consider all of the following:
 - a) The concerns and proximity of the victim or the victim's next of kin; and,
 - b) The age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. The "profile" of a victim includes, but is not limited to, gender, physical appearance, economic background, profession, and other social or personal characteristics. (Welf. & Inst. Code, § 6608.5, subd. (e)(1)-(2).)
- 12) States that if the court determines that placement of a person in the county of their domicile is not appropriate, the court shall consider the following circumstances in designating his or her placement in a county for conditional release:
 - a) If and how long the person has previously resided or been employed in the county; and,
 - b) If the person has next of kin in the county. (Welf. & Inst. Code, § 6608.5, subd. (g)(1)-(2).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "AB 2104 improves access to justice by requiring that court hearings related to sexually violent predators (SVPs), that are already open to the public provide a remote access option. Court determinations regarding SVP placement directly affect the residents of the communities where placement may occur, and our constituents have a fundamental right to stay informed about the decision-making process.

"For many Californians, and especially those living in rural areas like my district, lack of reliable transportation can create a significant barrier to attending court hearings in person. Additional challenges, such as financial hardship, the need for childcare, illness or disability, and the inability to miss work, can make traveling to a courthouse nearly impossible. By providing remote access, AB 2104 uses available technology to reduce these barriers and ensure that rural residents can stay informed and engaged when decisions are made that impact their communities."

- 2) **Sexually Violent Predator Act (SVPA):** Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense ... 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.**" (Emphasis added.) (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA **are to be treated not as criminals, but as sick**

persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society.” (Emphasis added.) (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.) A SVP is a person convicted of specified sex offenses against at least one person 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. (Welf. & Inst. Code, § 6600, subd. (a)(1).)

a. Offenders that may be designated SVP:

A sexually violent predator is defined in Welfare & Institutions Code section 6600 as “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.” (Welf. & Inst. Code, § 6600, subd. (a).) (Emphasis added.) Welfare and Institutions Code, section 6600 further defines a sexually violent predator as someone who suffered the following:

- i. A prior or current conviction that resulted in a determinate prison sentence for a sexually violent offense.
- ii. A conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.
- iii. A prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense.
- iv. A conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense.
- v. A prior conviction for which the inmate received a grant of probation for a sexually violent offense.
- vi. A prior finding of not guilty by reason of insanity for a sexually violent offense.
- vii. A conviction resulting in a finding that the person was a mentally disordered sex offender.
- viii. A prior conviction for a sexually violent offense for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, as specified.

- ix. A prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(1)(A-I).)

A sexually violent offense means any of the following crimes 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 the SVPA and resulted in a conviction or a finding of not guilty by reason of insanity: (i) a felony violation of rape, (ii) former provision of spousal rape, (iii) aiding abetting rape or sexual penetration, (iv) aggravated sexual assault of a child, (v) sodomy, (vi) forcible oral copulation, (vii) child molestation, (viii) continuous sexual abuse of a child, or (ix) sexual penetration, or (x) former provision on child molest, or any felony violation of (xi) kidnapping, (xii) kidnapping with intent to commit robbery or rape, or (xiii) assault with intent to commit rape, (xiv) former provision of spousal rape, (xv) aiding and abetting rape, (xvi) sodomy, (xvii) forcible oral copulation, (xviii) child molest, or (xix) sexual penetration. (Welf. & Inst. Code, § 6600, subd. (b).)

The SVPA was formally enacted in its current form after the U.S. Supreme Court approved SVP designations in *Kansas v. Hendricks* (1997) 521 U.S. 346. The SVPA was somewhat controversial at the time because offenders had already served their prison sentence and were being re-incarcerated in a mental health facility for the same crimes. As a general matter, that is, on its face, an unconstitutional violation of the Ex Post Facto clause, the double jeopardy clause, and the due process clause of the 5th Amendment. (*Kansas v. Hendricks*, 521 U.S. at 371.) However, in validating the involuntary commitment of sexually violent offenders who are compelled to commit sex offenses due to a “mental illness,” the court explained that due process demands the individual have a mental illness and be provided a meaningful opportunity to be released when the mental illness is controlled. (*Ibid.*, 521 U.S. at 377, conc. Kennedy.)

In 1997, the SVPA required that an offender be committed for two or more sexually violent offenses that received a determinate sentence.¹ However, Proposition 83 and its mostly duplicative legislative companion, SB 1128 (Alquist), Chapter 337, Statutes of 2006 broadened the definition of a sexually violent predator and restricted the subsequent civil proceedings necessary to ensure the offender still constitutes a danger to society.

b. Process of SVP designation:

When the Department of Corrections and Rehabilitation (CDCR) determines that an inmate “may be a sexually violent predator,” the CDCR Secretary refers the inmate to the DSH for a thorough evaluation. (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1145; Welf. & Inst., § 6601, subd. (b).) A “diagnosed mental disorder” for purposes of determining whether someone is a SVP means 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.” (Welf. & Inst. Code, § 6600, subd. (c).)

¹ 1995 Cal ALS 763 | 1995 Cal AB 888 | 1995 Cal Stats. ch. 763.

An evaluation “must be conducted by at least two practicing psychiatrists or psychologists in accordance with a standardized assessment protocol[.]” (Welf. & Inst. Code, § 6601, subd. (c)-(d).) If the two evaluators agree the inmate is likely to reoffend without treatment or custody due to their mental disorder, the Director of DSH must request a petition for commitment pursuant to the Welfare and Institutions Code section 6602 to the county in which the inmate was last convicted. (Welf. & Inst. Code, § 6601, subd. (d).) Thereafter, the county district attorney will file a petition for civil commitment. Due process requires any deprivation of liberty by the state requires notice and a meaningful opportunity to be heard.

Accordingly, a court then reviews the petition and determines whether there is probable cause to believe the inmate “is likely to engage in sexually violent predatory criminal behavior upon their release. If the court or jury determines that the person is a sexually violent predator, the person [is] committed for an indeterminate term” to a state mental hospital “for appropriate treatment and confinement.” (Welf. & Inst. Code, § 6604.)

The burden then shifts to the “offender seeking his or her release from an SVPA commitment” to prove he or she is no longer a significant risk to society. (Ashley Felando (2012) *California’s Sexually Violent Predator Act and the Dangerous Patient Exception*, 40 W. St. U. L.Rev. 73, 76; Note (2014) *Examining the Conditions of Confinement for Civil Detainees under California’s Sexually Violent Predators Act*, 68 Hastings L.J. 1441, 1444-1446.)

If the Director of DSH determines that the inmate’s diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. If the court at the hearing determines that the SVP would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court will order the person placed with an appropriate forensic conditional release program operated by the state for one year, a substantial portion of which is required to include outpatient supervision and treatment. (Welf. & Inst. Code, § 6608, subd. (f).)

After a judicial determination that a person would not be a danger to the health and safety of others (i.e., 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), they will be placed in their pre-incarceration county of domicile, unless the court finds that extraordinary circumstances require placement outside the county domicile. (Welf. & Inst. Code, § 6608.5, subd. (a); see Welf. & Inst. Code, § 6608.5, subd. (b).)

c. Restrictions on Conditionally Released SVPs

A conditionally released SVP is deemed by DSH and a court to no longer pose a danger to the community and may be treated in the community rather than confinement in the state hospital. However, a conditionally released SVP is tightly monitored and supervised in the community. A person released as an SVP may not be released to any residence that is within one-quarter mile of any public or private school providing instruction in kindergarten or any grades 1 through 12, inclusive, if the person has been previously convicted of child molestation or continuous sexual abuse of a child or the court finds the person has a history

of improperly sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1)-(2).) Additionally, a conditionally released SVP must be monitored by a global positioning system (“GPS”) until they are unconditionally released. (Welf. & Inst. Code, § 6608.1.)

- 3) **Confidentiality:** As explained above, SVP trials and hearings consider whether a defendant is mentally ill and poses a continuing danger to society. These hearings are ordinarily closed to the public because they involve mental health evaluations. The Confidentiality of Medical Information Act (CMIA) prohibits releasing mental health records to the public. (See Civ. Code, § 56.10, et seq.) Additionally, Welfare and Institutions Code section 5328 provides:

“Information and records obtained in the course of providing services in accordance with statutes related to [legally required mental health evaluations], to either voluntary or involuntary recipients of services are confidential.” (Welf. & Inst. Code, § 5328, subd. (a).)

This includes SVP evaluations. However, law enforcement and district attorneys may receive SVP or sex offender evaluations in accordance with Welfare and Institutions Code section 5328.01. (See also, *People v. Superior Court (Smith)* (2018) 6 Cal.5th 457, 463.) Courts are prohibited from making mental health records publicly available. (Cal. Rules Ct., 2.503, subd. (c)(4) [“A court that maintains the following records in electronic form must provide electronic access to them at the courthouse, to the extent it is feasible to do so, but may not provide public remote access to these records: ... Records in a mental health proceeding.”])

This bill requires a court to provide remote access to any SVP hearing *that is open to the public*. The court in *People v. Dixon* (2007) 148 Cal.App.4th 414, 428-429 generally prohibited public access to SVP proceedings.

While the psychological reports must be made available to the parties and the court (see Welf. & Inst. Code, §§ 5328, subd. (f), 6601, subd. (d); *Albertson v. Superior Court* (2001) 25 Cal.4th 796, 805; *People v. Angulo* (2005) 129 Cal.App.4th 1349, 1363, they remain confidential for all other purposes. Psychological evaluations obtained in the course of providing services under the SVPA are confidential. (Welf. & Inst. Code, § 5328; *People v. Martinez* (2001) 88 Cal.App.4th 465, 474–475.) While Welfare and Institutions Code section 6603 permits disclosure of defendant's psychological records to the district attorney for use in the civil commitment proceedings, the statute does not authorize their release to the general public. The Legislature's decision specifically to authorize disclosure to certain individuals, including the district attorney, implies that the documents should not be made available to just anyone. To allow open access to the public would make Welfare and Institutions section 6603 entirely unnecessary. ... There is, therefore, a compelling basis for arguing that involuntary civil commitment proceedings under the SVPA are not ordinary civil proceedings that must be open to the public. (*People v. Dixon, supra*, 148 Cal.App.4th 414, 428-29.)

Based on existing statute and case law, it appears that SVP proceedings are closed and, theoretically, no SVP hearing would be open to the public. Therefore, since the bill requires remote access for any SVP proceeding that is open to the public, it is unclear whether it requires anything at all.

As the court in *Dixon* noted, the SVPA is in the Welfare & Institutions Code rather than the Penal Code, and is expressly not punitive. (*Dixon, supra*, at 428.) In fact, as the U.S. Supreme Court made clear, the absence of a punitive purpose was critical to holding the SVPA constitutional. (See *Hendricks, supra*, at p. 363.) To open SVP proceedings to the public would likely further erode the constitutional underpinnings of the SVPA – putting the scheme entirely in jeopardy.

- 4) **Argument in Support:** According to the *California District Attorneys Association*: “AB 2104 increases access to the courts for the public and removes procedural and logistic barriers that prevent members of the public from participating in matters of great public interest. Remote access to the courts eliminates the need for gas, public transit fares and costly parking fees. Remote access also reduces the amount of time participants have to be away from their workplace. By allowing increased access to the courts through remote proceedings, the court provides greater institutional accountability and transparency. Strengthening access to the courts encourages members of the public to come forward and actively participate in the judicial process.”
- 5) **Argument in Opposition:** According to the *California Public Defenders Association*: Sexually Violent Predator [SVP] proceedings are not properly open to the public. Second, this bill would strip the judiciary of properly vested discretion to formulate policies governing public access to remote proceedings.

The constitutional right held by the public to access non-criminal and ordinary civil proceedings is not absolute, and access can be limited or denied to ensure a fair trial or the privacy of participants. (See, e.g. *Branzburg v. Hayes* (1972) 408 U.S. 665 (excluding press from grand jury proceedings); *Gannett Co., Inc. v. DePasquale* (1979) 443 U.S. 368 (excluding public from pretrial suppression hearing.) Although the public enjoys a qualified constitutional right to attend criminal and ordinary civil proceedings, SVP proceedings are neither criminal nor ordinary civil cases. Instead, they are “aimed at determining the status of a person’s mental health” and “involve primarily personal and confidential matters.” (*People v. Dixon* (2007) 148 Cal App 4th 414.) Because civil commitment proceedings are typically closed; because SVP proceedings are designed to ensure treatment, not punishment, of people with mental disorders; and because the psychological evaluations discussed during SVP proceedings must remain confidential, public access to SVP proceedings is properly limited.

The constitutional right to access proceedings in criminal and ordinary civil cases does not entitle the public to remotely access those proceedings, and the extent to and manner in which members of the public may remotely access the criminal and ordinary civil proceedings they are entitled to personally, physically attend are administrative matters properly sorted out by the judiciary. The Judicial Council is constitutionally tasked with “adopt[ing] rules for court administration, practice, and procedure,” (Cal. Const. Art. IV, § 6. and it has crafted detailed, robust rules regarding both remote **proceedings (Cal. Rule of**

Court 3.672) and the use of photography, recording, and broadcasting equipment in court. (Cal. Rule of Court 1.150.)

AB 2104 seeks to curtail and override judicial discretion. Local courts, applying those rules, have implemented county-specific practices for tailoring public access to remote proceedings in criminal and ordinary civil cases. For example, in Los Angeles County, the public may not remotely access criminal or ordinary civil proceedings while in Kern County, a member of the public wishing to access remote proceedings in a criminal or ordinary civil case must submit a form requesting access and explaining why physical, in-person attendance is impossible. Legislative intervention is neither necessary nor appropriate.

6) Related Legislation:

- a) AB 22 (DeMaio) requires, among other things, DSH to approve a potential placement before a department employee or vendor proposes a potential placement to a court, including signing a lease or rental agreement regarding the placement of a SVP who is scheduled to be conditionally released into the community. AB 22 was referred to, but never heard in, this committee.
- b) AB 767 (Alanis) expands areas in which a SVP, as specified, may not reside to include within one-quarter mile of a child daycare facility and expands the definition of a private school. AB 767 is pending referral in the Senate Rules Committee.
- c) AB 1545 (Krell) requires the Executive Officer of the Board of Parole Hearings to make an SVP referral and additionally apply the SVPA to an offender serving a current indeterminate term. AB 1545 is pending hearing in this committee.
- d) SB 379 (Jones) states that the DSH is responsible for ensuring that department vendors consider public safety in the placement of a conditionally released SVPs. SB 379 was held on the Assembly Appropriations Committee suspense file.

7) Prior Legislation:

- a) AB 763 (Davies), of the 2023-24 Legislative Session, would have prohibited placing an SVP released on conditional release within 1/4 mile of a home school. AB 763 was referred to this committee but never heard.
- b) AB 2035 (Patterson), of the 2023-24 Legislative Session, would have prohibited the DSH from placing a conditionally released SVP into the community if the person does not have housing in a qualified dwelling, which is defined as a structure intended for human habitation by one person or a single family and that is not within 10 feet of another dwelling. AB 2035 failed passage in this committee.
- c) SB 841 (Jones), of the 2021-22 Legislative Session, would have enacted the Sexually Violent Predator Accountability, Fairness, and Enforcement Act, would have required the DSH to take specified actions regarding the placement of SVPs in communities, including notifying the county's executive officer of the placement location, as specified. SB 841 failed passage in the Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Juniper Hills Town Council
Lake Los Angeles Town Council
1 Private Individual

Opposition

California Public Defenders Association

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