
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 2104 **Hearing Date:** June 23, 2026
Author: Carrillo
Version: March 9, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Sexually violent predators*

HISTORY

Source: Author

Prior Legislation: SB 380 (Jones), Ch. 581, Stats. of 2025
SB 379 (Jones), held in Assembly Appropriations, 2025
AB 1954 (Alanis), Ch. 816, Stats. of 2024
AB 763 (Davies), not heard in Assembly Public Safety, 2023
SB 832 (Jones), failed passage in Senate Public Safety, 2023
SB 1034 (Atkins), Ch. 880, Stats. of 2022
SB 841 (Jones), failed passage in Senate Public Safety, 2022
SB 248 (Bates), Ch. 383, Stats. of 2021
AB 303 (Cervantes), Ch. 606, Stats. of 2019
AB 2661 (Arambula), Ch. 821, Stats. of 2018
SB 507 (Pavley), Ch. 576, Stats. of 2015
AB 1607 (Fox), Ch. 877, Stats. of 2014
SB 295 (Emmerson), Ch. 182, Stats. of 2013
SB 760 (Alquist), Ch. 790, Stats. of 2012
Proposition 83, as approved by the voters on November 7, 2006
SB 1128 (Alquist), Ch. 337, Stats. of 2006
AB 893 (Horton), Ch. 162, Stats. of 2005
AB 2450 (Canciamilla), Ch. 425, Stats. of 2004
AB 493 (Salinas), Ch. 222, Stats. of 2004
SB 659 (Correa), Ch. 248, Stats. of 2001
AB 1142 (Runner), Ch. 323, Stats. of 2001
SB 2018 (Schiff), Ch. 420, Stats. of 2000
SB 451 (Schiff), Ch. 41, Stats. of 2000
AB 2849 (Havice), Ch. 643, Stats. of 2000
SB 746 (Schiff), Ch. 995, Stats. of 1999
SB 11 (Schiff), Ch. 136, Stats. of 1999
SB 1976 (Mountjoy), Ch. 961, Stats. of 1998
AB 888 (Rogan), Ch. 763, Stats. of 1995
SB 1143 (Mountjoy), Ch. 764, Stats. of 1995
AB 888 (Rogan), Ch. 763, Stats. of 1995
SB 1143 (Mountjoy), Ch. 762, Stats. of 1995

Support: California District Attorneys Association

Opposition: California Public Defenders Association; Ella Baker Center for Human Rights;
Judicial Council of California

Assembly Floor Vote: 70 - 0

PURPOSE

The purpose of this bill is to require any proceeding pertaining to the conditional release of a sexually violent predator (SVP) that is open to the public include a remote access option for the public to remotely observe the proceeding.

Existing law provides for the civil commitment for psychiatric and psychological treatment of a person incarcerated in the state prison who is found to be an SVP after the person has served their prison commitment. Provides that this law is known as the Sexually Violent Predator Act (“SVPA”). (Welf. & Inst. Code, § 6600, et seq.)

Existing law 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).)

Existing law permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)

Existing law establishes a process whereby a person committed as an SVP can petition for conditional release or an unconditional discharge with or without the recommendation or concurrence of the Department of State Hospitals (DSH). Provides that a hearing upon the petition cannot be held until the person who is committed has been under commitment for one year from the date of the order for commitment. (Welf. & Inst. Code, § 6608, subds. (a) & (f).)

Existing law provides that the committed person, with or without the recommendation or concurrence of DSH, may petition the court for unconditional discharge after a minimum of one year on conditional release. (Welf. & Inst. Code, § 6608, subd. (m).)

Existing law 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).)

Existing law requires the court to hold a hearing to determine whether the person 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. (Welf. & Inst. Code, § 6608, subd. (g).)

Existing law provides that before placing a person on conditional release, the community program director designated by DSH must submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the person. (Welf. & Inst. Code, § 6608, subd. (h).)

Existing law requires, after a judicial determination that a person should be conditionally released, the person to be placed in the county of domicile of the person prior to the person's incarceration, unless both of the following conditions are satisfied: the court finds that extraordinary circumstances require placement outside the county of domicile and 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).)

Existing law outlines the process for placing a person who has been approved for conditional release in the community. (Welf. & Inst. Code, § 6608.5, subds. (b)-(g).)

Existing law, the Confidentiality of Medical Information Act, generally prohibits a provider of health care, health care service plan, or contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization. (Civ. Code, § 56.10.)

Existing law provides that all information and records obtained in the course of providing services to individuals subject to specified voluntary and involuntary commitments, including SVPs, are confidential. Specifies the circumstances under which information and records can be shared, including to the courts, as necessary for the administration of justice, and to parties to a judicial or administrative proceeding as permitted by law. (Welf. & Inst. Code, § 5328, subd. (a).)

This bill requires any proceeding pertaining to the conditional release of an SVP that is open to the public include a remote access option for the public to remotely observe the proceeding.

COMMENTS

1. Need For This Bill

According to the author:

Assembly Bill 2104 ... would allow members of the public to appear remotely at any Sexually Violent Predator proceeding that is open to the public. The bill would allow members of the public to observe critical court proceedings without having to commute to the courthouse and navigate an unfamiliar court system.

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.

2. Background on Sexually Violent Predators (SVPs)

The Sexually Violent Predator Act (SVPA) established an extended civil commitment scheme for sex offenders who are about to be released from prison but are referred to DSH for treatment

in a state hospital because they have suffered from a mental illness which causes them to be a danger to the safety of others. The initial screening is conducted by the California Department of Corrections and Rehabilitation (CDCR) and the Board of Parole Hearings. (Welf. & Inst. Code, § 6601, subd. (b).) If a determination is made that the person is likely a sexually violent predator, CDCR is required to refer to the person to DSH for a full evaluation. (*Ibid.*)

Under existing law, a person may be deemed an SVP if: the person has been convicted of specified sex offenses against one or more victims; the person has been diagnosed with a mental disorder that makes the person a danger to the health and safety of others in that it is likely that the person will engage in sexually violent criminal behavior; and, two licensed psychiatrists or psychologists concur in the diagnosis. (Welf. & Inst. Code, §§ 6600, subd. (a), 6601, subd. (d).) If DSH finds that the person meets the criteria to be considered an SVP, the case is referred to the county's designated counsel who may file a petition for civil commitment. (Welf. & Inst. Code, § 6601, subd. (i).)

Once a petition has been filed, a judge holds a probable cause hearing. (Welf. & Inst. Code, § 6602.) If probable cause is found, the case proceeds to a trial at which the prosecutor must prove beyond a reasonable doubt that the person meets the statutory criteria to be considered an SVP. (Welf. & Inst. Code, § 6604.) If the prosecutor meets this burden, the person can be civilly committed to a DSH facility for treatment.

DSH must conduct an examination of an SVP's mental condition at least annually and submit an annual report to the court. (Welf. & Inst. Code, § 6604.9, subd. (a).) This annual review is prepared by a professionally qualified person. (*Ibid.*) In addition, DSH has an obligation to seek judicial review any time it believes a person committed as an SVP no longer meets the criteria. (Welf. & Inst. Code, § 6607.)

The SVPA was substantially amended by Proposition 83 ("Jessica's Law") which became operative on November 7, 2006. An SVP commitment, as originally enacted, was for two years and subject to possible extension. Under Jessica's Law, a person committed as an SVP may be held for an indeterminate term upon commitment or until it is shown that the defendant no longer poses a danger to others. (See *People v. McKee* (2010) 47 Cal.4th 1172, 1185-87.) Jessica's Law also amended the SVPA to make it more difficult for SVPs to petition for less restrictive alternatives to commitment. These changes have survived due process, ex post facto, and equal protection challenges. (See *Id.* at p. 1193 (finding no due process violation because the SVPA has appropriate constitutional protections in place and the committed person "may not be held in civil commitment when he or she no longer meets the requisites of such commitment" (i.e., the person has the opportunity for release); *People v. McKee* (2012) 207 Cal.App.4th 1325; *People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774.) Due to the significant deprivation of a person's liberty while SVP proceedings are conducted, and potentially indefinitely after being committed as an SVP, the California Supreme Court recently held that all trial courts in the state are required to advise criminal defendants prior to pleading guilty or nolo contendere to an offense enumerated in the SVPA, or in cases where the court is aware that the defendant has a prior conviction for such an offense, of potential repercussions related to the SVPA. (*In re Tellez* (2024) 17 Cal.5th 77, 92.)

3. Release of SVPs

Two types of release exist for SVPs—unconditional discharge and conditional release. Both types of release require a petition for release. The petition can be filed with or without the

concurrence of the Director of State Hospitals, and the Director's concurrence or lack thereof determines which is process used.

If an SVP is not eligible for an unconditional discharge, the person may petition the court for conditional release, with or without the recommendation or concurrence of the Director of State Hospitals. (Welf. & Inst. Code, § 6608, subd. (a).) A hearing on the petition cannot be held until the SVP has been under commitment for at least one year. (Welf. & Inst. Code, § 6608, subd. (f).) Upon receipt of a first or subsequent petition from a committed person without the concurrence of the Director, the court is required whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, to deny the petition without a hearing. (Welf. & Inst. Code, § 6608, subd. (a).) If the petition is not found to be frivolous, the court is required to hold a hearing. (*People v. Smith* (2013) 216 Cal.App.4th 947.)

Once the court sets the hearing on the petition, the petitioner is entitled to both the assistance of counsel and the appointment of experts. (Welf. & Inst. Code, § 6608, subs. (c), (g); *People v. McKee, supra*, 47 Cal.4th 1172, 1193.) At the hearing, the court must determine whether the petitioner would be a danger to the health and safety of others which is defined to mean "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." (Welf. & Inst. Code, § 6608, subd. (h).) At the hearing, the person petitioning for release has the burden of proof by a preponderance of the evidence. (Welf. & Inst. Code, § 6608, subd. (i); *People v. Rasmuson* (2006) 145 Cal.App.4th 1487, 1503.) If the petition is denied, the SVP may not file a subsequent petition until one year from the date of the denial. (Welf. & Inst. Code, § 6608, subd. (j).)

If a person is approved for conditional release, DSH is required to find a suitable housing placement for the person in the community. Existing law requires that the person be placed in the county of domicile prior to the person's incarceration unless the court finds that extraordinary circumstances require placement outside the county of domicile and 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).) For purposes of determining the county of domicile, the court may consider information found on a California's driver's license, California identification card, recent rent or utilities receipt, printed personalized checks or other recent banking documents, or any arrest record. If no information can be verified, the county of domicile is considered to be the county in which the person was arrested and convicted or last returned on parole. (Welf. & Inst. Code, § 6608.5, subd. (b)(1).) If that county is not suitable, the court, DSH, and CDCR may choose an alternative county for placement.

DSH is required to convene a housing committee consisting of the committed person's attorney, 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 housing committee is required to provide assistance and consultation in DSH's process of locating and securing housing. (Welf. & Inst. Code, § 6608.5, subd. (d)(1).) DSH must consider a number of factors when locating housing. Specifically, a conditionally-released person is prohibited from being placed within a quarter-mile of any public or private school providing instruction in kindergarten through twelfth grade if the court finds that the person has "a history of improper sexual conduct with children" or has previously been convicted of specified sex offenses. (Welf. & Inst. Code, § 6608.5, subd. (f).) DSH must additionally consider the concerns and proximity to the victim or victim's next of kin, and the age and profile of the victim or victims of the sexually violent offenses committed by the person subject to placement. (Welf. & Inst. Code, § 6608.5, subs. (e) & (f).)

A court may approve, modify, or reject the recommended or proposed specific address within a community. The city and the address must be approved by the court. (Welf. & Inst. Code, 6609.1, subd. (a)(5)(A).) Welfare and Institutions Code section 6609.1 requires that a community be given 30 days' notice if an SVP is pending conditional release in that community. (Welf. & Inst. Code, § 6609.1, subd. (a)(4).) Agencies receiving notice of an SVP's placement in a specific county may comment on the placement or location of release and may suggest alternative locations for placement within a community. (Welf. & Inst. Code, § 6609.1, subd. (a)(5)(A), (b).)

Notably, if no housing placement has been found and the court has ordered the person to conditional release, the person can be released as a transient. (*Karsai, supra*, at p. 788-89.)

4. CONREP

In October 2024, the California State Auditor published a report on DSH's Sexually Violent Predator Conditional Release Program (CONREP). The Auditor examined the administration of the program, obstacles DSH faced in attempting to place program participants in the community, and the department's oversight of the contractor it uses to provide various services related to the program. (State Auditor, *Conditional Release Program for Sexually Violent Predators: Program Participants Are Less Likely to Reoffend, While the State Has Difficulty Finding Suitable Housing*, Report 2023-130, available at <<https://www.auditor.ca.gov/reports/2023-130/>> (hereafter Auditor's Report).)

The Auditor found that individuals who participated in the program were convicted of new offenses less often than SVPs who were unconditionally released and did not participate in the program. (Auditor's Report, *supra*, p. 1.) Notably, of the 56 people who been released into the community on supervised release since 2003, only two have committed new offenses—one for possession of child pornography for which he was returned to custody and one failed to timely register as a sex offender. (*Id.* at p. 9.) The report also highlighted the numerous hurdles that the department has faced when attempting to locate suitable housing for program participants and found that DSH could improve its oversight of its contractor's administration of the program. (*Id.* at pp. 1-2.)

5. Effect of This Bill

This bill requires any proceeding pertaining to the conditional release of an SVP that is open to the public include a remote access option for the public to remotely observe the proceeding. It is unclear how many SVP-related court proceedings occur annually or how many of those proceedings are open to the public currently.

This bill does not clearly specify if the remote access option required must include video. However, the language of the bill does require that the remote access option allow the public to "observe" the proceeding which suggests that the intent is to require video streaming. According to the Assembly Appropriations Committee's analysis of this bill, the Judicial Council of California has indicated that an audio-only remote access option would not present significant challenges for the courts to implement whereas an audio-visual remote access option would have that impact. As such, the author may wish to consider specifying that an audio-only option would satisfy the mandate in the bill.

6. Argument in Support

According to the California District Attorneys Association:

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7. Argument in Opposition

The Judicial Council of California writes:

While the courts are supportive of remote technology being used in the courts, remote participation is generally limited to those who are a party to the case or involved in the hearing (e.g. a witness). Some courts, including Los Angeles and San Bernardino, already have a process where the public can request a remote access option to these commitment hearings given the hardship the geographical distances present in those counties can create. A statewide mandate for all of these public hearings to be a live video broadcast online creates a significant fiscal impact on the courts that would need to implement technology upgrades, including purchasing additional video equipment and livestreaming capabilities for the impacted courtrooms. Livestreaming court proceedings can also have the unintended consequence of disrupting proceedings and requiring additional court staff to ensure the video feed is functioning properly.

Furthermore, the unique considerations involving sexually violent predators (SVPs) and the caselaw outlining when an SVP proceeding “is open”, as stated in the bill, complicate future attempts to implement AB 2104’s mandate. The caselaw surrounding the right of public access to SVP proceedings, seems to suggest that the inclusion of mostly sensitive information, such as the defendant’s psychological treatment and testimony from victims of sex crimes, serves as, “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* (2007) 148 Cal.App.4th 414, 429.) Based on the fact that, “such proceedings are aimed at determining the status of a person’s mental health, they involve primarily personal and confidential matters.” (*Id.* at 428.) The initial psychiatric evaluations to classify a defendant as an SVP, the trial proceedings, and release evaluations each involve confidential information to varying extents. (See Welf. & Inst. Code, § 6600 *et seq.*) In turn, courts must

carefully examine constitutional precedent to determine which proceedings must be open or closed. (*Dixon, supra*, 148 Cal.App.4th at 429.) AB 2104 inserts a general mandate to livestream proceedings without considering any specific determinations in line with constitutional requirements. Such a general rule would require courts to repeatedly start and the livestream, which would place an unnecessary burden on SVPA proceedings.

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