# SENATE COMMITTEE ON PUBLIC SAFETY

**Senator Jesse Arreguín, Chair**
**2025 - 2026 Regular**

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| **Bill No:** | AB 767 | **Hearing Date:** | June 9, 2026 |
| **Author:** | Alanis | | |
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| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | SJ | | |

**Subject:** ***Sexually violent predators: schools***

## 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: Arcadia Police Officers' Association; Brea Police Association; Burbank Police Officers' Association; California Association of School Police Chiefs; California

Coalition of School Safety Professionals; California Narcotic Officers' Association; California Police Chiefs Association; California Reserve Peace Officers Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers' Association; Los Angeles County Office of Education; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association

Opposition: ACLU California Action; California Public Defenders Association; Justice2Jobs Coalition; La Defensa; Smart Justice California

Assembly Floor Vote: 71 - 0

## PURPOSE

***The purpose of this bill is to prohibit a sexually violent predator (SVP) from residing within one-quarter mile of a child daycare facility and to provide that home schools are included within the definition of a private school for purposes of SVP residency restrictions.***

*Existing law* 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.)

*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* defines "county of domicile" as "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." Specifies the information the court must consider when determining the county of domicile. Provides that if no information can be identified or verified, the county of domicile of the individual is 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. (Welf. & Inst. Code, § 6608.5, subd. (b).)

*Existing law* defines "extraordinary circumstances" to mean "circumstances that would inordinately limit the department's ability to effect conditional release of the person in the county of domicile." (Welf. & Inst. Code, § 6608.5, subd. (c).)

*Existing law* requires specified government officials from the county of domicile to 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).)

*Existing law* requires DSH or its designee to consider the following in recommending a specific placement for community outpatient treatment: the concerns and proximity of the victim or the victim's next of kin and the age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. Provides that 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).)

*Existing law* prohibits a conditionally-released person 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).)

*Existing law* requires the court, if the committed person is ordered to be conditionally released in a county other than the county of commitment due to extraordinary circumstances, to order that

jurisdiction of the person and all records related to the case be transferred to the court of the county of placement. (Welf. & Inst. Code, § 6608.5, subd. (g).)

*This bill* prohibits an SVP from residing within one-quarter mile of a child day care facility if the person has been convicted of child molestation or continuous sexual abuse of a child.

*This bill* defines "private school" as a facility or home that has filed a private school affidavit with the State Department of Education (CDE), that provides private school instruction to any student between 6 to 18 years of age, inclusive, and is publicly listed on the directory maintained by CDE.

*This bill* provides that a home school is only considered a private school, as defined, if it was operating as a home school at the time of the SVP's placement. Prohibits the subsequent establishment of a private school, including a private school that is a home, from rendering an existing placement of an SVP noncompliant.

## COMMENTS

### 1. Need For This Bill

According to the author:

> AB 767 aims to ensure that families have peace of mind by strengthening protections for all children, regardless of where they learn. Over the past year, I have witnessed firsthand how SVP placement laws have caused fear and anxiety in my district. Children are among our most vulnerable populations, and their safety must always be the top priority. Students who learn at home deserve the same level of protection as those in public schools. California families should feel secure in their own homes, not simply hope that the law will keep them safe. AB 767 is a critical step toward providing the certainty and protection our communities need.

### 2. SVP Background

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.

An SVP can, with the concurrence of the Director of State Hospitals, petition for unconditional discharge if the patient "no longer meets the definition of a sexually violent predator," or for conditional release. (Welf. & Inst. Code, § 6604.9, subd. (d).) When the petition is filed for unconditional discharge (i.e., with the concurrence of the DSH), the court must order a show cause hearing. (Welf. & Inst. Code, § 6604.9, subd. (f).) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court must hold a hearing on the issue. (Welf. & Inst. Code, § 6605, subd. (a)(2).) At the hearing, the committed

person has a right to a jury trial and is entitled to relief unless the prosecuting attorney proves "beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent behavior if discharged." (Welf. & Inst. Code, § 6605, subd. (a)(3).)

A person committed as an SVP may also 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, subds. (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, subds. (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).) Specific findings of the report are discussed in Section 5 of this analysis.

The Auditor's Report provided the following information about the goals of CONREP and the components of the program:

> According to DSH's CONREP Operations Manual (operations manual), the primary mission of the program is to protect the public through the reduction or prevention of reoffenses by individuals who have been identified as SVPs. Since the program's inception, DSH has contracted with Liberty Healthcare, a health care services company, to provide outpatient mental health treatment, supervision, and assessment services to program participants.
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> …
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> Once program participants are placed in housing, Liberty Healthcare provides them with treatment and monitoring in their residences or at designated locations. DSH structures community outpatient treatment according to levels of care that reflect program participants' levels of functioning and specific treatment and supervision needs. … This structure allows Liberty Healthcare to develop an individualized treatment plan for each program participant that reinforces positive behavioral changes directed toward a goal of eventual unconditional release from DSH's care and that prepares the participant for this release. Ideally, program participants steadily and sequentially progress from one treatment level to the next until the court determines that they can be unconditionally released from DSH oversight. Liberty Healthcare applies treatment goals and outcome standards

to program participants according to their assigned level of treatment. (Auditor's Report, *supra*, at pp. 5-6.)

Among CONREP's core clinical treatment services are one-on-one therapy with a clinician, group therapy, home visits by a clinician, substance use screening, an annual case review, dynamic risk and personality testing assessments, polygraphic assessment, and sexual interest screening or sexual arousal assessment. (Auditor's Report, *supra*, at pp. 5, 40.)

**5. State Auditor's Report**

As mentioned above, the Auditor published a report in 2024 on DSH's Sexually Violent Predator Conditional Release Program. 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.)

Among the challenges faced by DSH with respect to finding housing for program participants, the report noted that there are complex program requirements, few property owners willing to rent for the purpose of housing program participants, and community opposition to placements which resulted in an average of 17 months for Liberty Healthcare to secure housing for program participants. (Auditor's Report, *supra*, at pp. 13-17.) The report shared information about one particularly difficult placement. Following the Stanislaus County Superior Court's order of a person into the program, more than 6,500 housing sites were considered over nearly three years. (*Id*. at p. 16.) Residential restrictions contribute to the complexity of finding suitable placements. State law prohibits the placement of some conditionally-released individuals within a quarter-mile of any public or private K-12 school. (Welf. & Inst. Code, § 6608.5, subd. (f).) The report noted that "an appellate court ruled that *home schools* fall within the definition of *schools* under this law, including home schools that are established after a program participant location was already determined. … [T]he establishment of a home school can necessitate relocating a program participant from existing housing to a state hospital" until a new placement can be secured. (Auditor's Report, *supra*, at p. 14.)

**6. Private Schools**

Under current law, any person who wants to establish a private school, either in their home or elsewhere, must file an affidavit annually with the Superintendent of Public Instruction stating the business name, the business address, the address of the custodian of records, the name of the directors and officers of the business, the school enrollment, number of teachers, and whether it is co-educational and if not, whether it is for boys or girls, that records are properly maintained, and that all required criminal background checks have been completed. (Ed. Code, § 33190.) The private school affidavit can be filed online. According to CDE, there were over 545,000 K-12 students enrolled in over 33,000 private schools statewide during the 2024-2025 schoolyear. (CDE, *Private School Counts & Enrollment* <https://www.cde.ca.gov/ds/si/ps/psastatcountsbyyear.asp>.)

Existing law prohibits a conditionally-released person 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).) A private school includes a home school. (*People v. Superior Court (Cheek)*, 87 Cal. App. 5th 373, 380-381.) A school need not be planned or in existence prior to an SVP's placement or notice of an SVP's placement is given to the community. (*Id*. at p. 379.)

This bill defines "private school" as a facility or home that has filed a private school affidavit with the CDE, that provides private school instruction to any student between 6 to 18 years of age, inclusive, and is publicly listed on the directory maintained by CDE. However, this bill provides that a home school is only considered a private school if it was operating as a home school at the time of the SVP's placement and prohibits the subsequent establishment of a private school, including a private school in a home, from rendering an existing placement of an SVP noncompliant.

**7. Day Care Facilities**

Health and Safety Code section 1596.80 requires that all child day care facilities in the state be licensed. Health and Safety Code section 1596.750 defines a "child day care facility" as "a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis." The statute specifies that the term "child day care facility" includes day care centers, employer-sponsored child care centers, and family day care homes. (*Ibid*.)

Existing provides additional definitions for the types of child day care facilities. A "day care center" is defined as "a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers." (Health & Saf. Code, § 1596.76.) An "employer-sponsored child care center" means "any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer." (Health & Saf. Code, § 1596.771.) Health and Safety Code section 1596.78 provides that a "family daycare home" means a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. Family daycare homes are divided into two categories: large and small family daycare homes, with large family daycare homes providing care to seven to 14 children, and small family daycare homes providing care to eight or fewer children. (Health & Saf. Code, § 1596.78, subds. (b) & (c).) Section 1596.78 specifies that a small or large family daycare home is where the daycare provider resides and includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. The dwelling or a dwelling unit could be rented, leased, or owned. (*Ibid*.)

According to data published by KidsData, there were over 10,000 child care centers and over 25,000 family child care homes in the state in 2023. (KidsData, *Licensed Child Care Facility, by Type* <https://www.kidsdata.org/topic/102/child-care-facilities/pie#fmt=260&loc=2&tf=164&ch=222,223,224&pdist=105>.)

This bill prohibits an SVP from residing within one-quarter mile of a child day care facility if the person has been convicted of child molestation or continuous sexual abuse of a child.

**8. Considerations**

This bill raises several questions about its likely impact. As noted earlier in the analysis, DSH currently faces numerous challenges when identifying housing options for conditionally-released SVPs. Any additional residency restrictions on SVP placement options will further impede the ability of DSH to locate a housing placement. The inability of DSH to find a placement does not mean that the individual will continue to be held in a state hospital indefinitely. Rather, the person can be released as a transient.

This bill does not define child daycare facility. However, the existing definition in the Health and Safety Code is quite broad and as noted above, would apply to over 35,000 day care facilities throughout the state. Assuming this definition were to apply, this bill arguably imposes extreme limitations on DSH's ability to locate suitable housing for SVPs, presumably leading to greater delays which will result in longer periods of confinement in a state hospital following a court finding that an SVP would not be a danger to the health and safety of others (i.e., not likely that the person will engage in sexually violent criminal behavior due to their diagnosed mental disorder if supervised and treated in the community).

The addition of the child daycare residency restriction may jeopardize the constitutionality of the current residency restrictions. In *People v. Superior Court* (*Cheek)*, DSH argued that interpreting "private school" to include home schools "would make placement of sexually violent predators who have a history of sexual conduct with children 'exceedingly difficult, if not impossible' " due to the ubiquity of home schools. (*People v. Superior Court (Cheek)*, *supra*, p. 382.) The court rejected this argument because DSH had not provided evidence to support that conclusion. The court contrasted the state's lack of data on the prevalence of home schools in the state with the data presented in *In re Taylor* (2015) 60 Cal.4th 1019, which resulted in the California Supreme Court finding that the blanket enforcement of residency restrictions as applied to sex offender parolees in San Diego County violated the Constitution. (*Ibid*.)[1]

Given the concerns outlined above, the Committee may wish to consider whether it would be prudent to add child daycare facilities to the residency restriction in Welfare and Institutions section 6608.5 and if so, whether the term "child daycare facility" should be defined or narrowed.

Finally, it should be noted that although this bill limits the residency restriction placed on SVPs to home schools operating at the time of an SVP's placement, the placement process can be drawn out. As drafted, this bill does not appear to apply to pending placements. The Committee may wish to consider specifying that home schools that were in operation "at the time of placement" includes pending placements.

[1] The California Supreme Court reached the conclusion that blanket enforcement of residency restrictions violated the basic rights and liberty interests that all parolees retain and the constitutional protection enjoyed "against the arbitrary, oppressive and unreasonable curtailment of 'the core values of unqualified liberty,' " in part, because the evidence established the restrictions excluded the parolees from 97 percent of rental properties in the county and resulted in 34 percent of affected parolees being unhoused. (*In re Taylor*, *supra*, p. 1042 (internal citations omitted).)

**9. Argument in Support**

The California Police Chiefs Association writes:

> AB 767 strengthens important public safety protections governing the conditional release and placement of sexually violent predators (SVPs) by expanding existing location restrictions to include child daycare facilities and by providing additional clarity regarding qualifying private schools. The bill represents a measured and commonsense enhancement to California's existing statutory framework for protecting children and communities when SVPs are transitioned into community-based placements.
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> California law appropriately recognizes that certain sexually violent predators may eventually qualify for conditional release after a court determines they no longer present a danger requiring continued confinement. However, the conditional release process must always prioritize community safety and minimize unnecessary risks to vulnerable populations. Existing law already prohibits the placement of qualifying SVPs within one-quarter mile of public and private schools when the individual has a history of sexual misconduct involving children. AB 767 builds upon these protections by extending the same safeguard to child daycare facilities, locations where young children regularly gather and where parents reasonably expect heightened protections.
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> From a law enforcement perspective, the bill addresses a clear public safety concern. Child daycare facilities serve some of the youngest and most vulnerable members of our communities. These facilities often operate throughout the day, provide services to large numbers of children, and frequently involve outdoor activities, playgrounds, and regular parent drop-off and pick-up activity. Given the Legislature’s existing determination that placement restrictions are appropriate around schools, extending similar protections to licensed daycare facilities is both logical and prudent.
>
> AB 767 also promotes consistency within California's placement framework. The bill does not prohibit the conditional release of qualifying individuals, nor does it alter the legal standards governing release decisions. Instead, it ensures that placement decisions appropriately account for locations where children are regularly present. By creating a more comprehensive set of child-safety buffer zones, the bill helps reduce potential risks while preserving the conditional release process established under existing law.
>
> The measure further enhances public confidence in the sexually violent predator placement process. Community concerns regarding SVP placements are often most acute when proposed housing locations are situated near places where children gather. By providing clearer statutory guidance and strengthening existing placement safeguards, AB 767 helps reassure parents, schools, childcare providers, and local communities that public safety remains the foremost consideration during the placement process.
>
> Importantly, AB 767 represents a balanced approach. It neither changes the criteria for determining whether an individual qualifies for conditional release nor

imposes an outright prohibition on release. Rather, it makes a targeted adjustment designed to better protect children while maintaining the integrity of California's existing SVP conditional release system.

Protecting children from sexual predators remains one of the most fundamental responsibilities of government. AB 767 advances that objective through reasonable and narrowly tailored enhancement to existing law.

**10. Argument in Opposition**

The California Public Defenders Association writes:

> [AB 767] would make it even more difficult to place individuals who have been found by a court safe to release under supervision to the community.
> Our concerns are two-fold:
>
> 1. The expansion of the placement prohibition to daycare facilities means that most of these individuals will be banned from any urban or suburban community in California.
>
> 2. The amendments are no bar to the intentional manipulation of establishing home schools as obstacles to community placement. Since requiring that a "private school" be registered with the Department of Education pursuant to Education Code section 33190 entails merely filling out an online form anytime during 11 months of the year (available online at https://www3.cde.ca.gov/psa ) and preventing subsequent establishment of a "private school" after placement when much of the effort to bar community placement occurs during the mandatory community notification period, the amendments do little. In other words, it appears that one parent can register one child attending virtual/online classes as a home school and bar the placement of an individual who has been found by a court safe to release under supervision to the community.
>
> Although as amended AB 767 is marginally better, it remains a well-intentioned but misguided legislative effort that would make our children and communities less safe while wasting precious taxpayer dollars that could be better spent on schools, health and mental health care, housing and nutrition. Individuals released on CONREP (conditional release to the community) are closely supervised and continuously monitored by both human and electronic means even though they have already been found by a court to be suitable for such release.
>
> **How Placements in the Community Work:**
>
> … Conditionally released individuals are closely supervised, continuously monitored, and subject to re-confinement if they fail to comply with the conditions of their release. Potential placements are subjected to lengthy, meticulous assessment processes designed to ensure both the feasibility of monitoring and the safety of the community to ensure that the location complies with existing statutes. The prosecution, defense, the DSH contractor Liberty and law enforcement are all involved in the process. (Welf. & Inst. Code §

6608.5(d)(1)-(4).) The potential placement community is notified and their objections duly noticed. (Welf. & Inst. Code § 6609.1, et seq.) All of this happens before the court approves a placement.

…

**School and Daycare Restrictions:**

Current law prohibits placement of conditionally released, non-dangerous individuals who have either been convicted of certain offenses against children or have been found to have a history of improper sexual conduct with children "within one-quarter mile of any public or private school[.]" (Welf. & Inst. Code § 6608.5(f)).

"Private school" has recently been construed by an appellate court to include homeschools operated by parents. (*People v. Superior Court (Cheek)* (2023) 87 Cal.App.5th 373). AB 767 proposes to both codify that construction and designate private school satellite programs, private online or virtual schools, and certified nonpublic nonsectarian schools as private schools and expand the ban to daycare centers, employer-sponsored childcare centers, and family daycare homes of prohibited possible placements for non-dangerous, conditionally released individuals.

AB 767 makes it more likely by banning appropriate placements that courts will be forced to release non-dangerous individuals without placements homeless in the community. …

Daycare facilities do not, however, require protection identical to those in place for schools. Unlike schools, childcare facilities are required to maintain low adult-to-children ratios. A home daycare, for example, can only accommodate six non-school-aged children. (Cal. Code Regs. Tit. 22, § 102416.5). Children in daycare facilities are unlikely to spend any time outside of an adult's line of sight. Given the low adult-to-child ratios mandated in daycare settings and the close supervision that those ratios facilitate, the protections that AB 767 seeks to extend to daycares are unnecessary.

AB 767 is unnecessary and counterproductive because although it appears to promote community safety by limiting potential placements for conditionally released individuals, the restrictions it adds can be expected to make suitable housing even more difficult to find. Fewer placement options mean lengthier housing searches. Lengthier housing searches will extend non-dangerous individuals' terms of confinement. The longer non-dangerous individuals are confined, the more likely courts will order transient release. Although non-dangerous individuals released as transients are subjected to the same intensive monitoring as their peers with fixed addresses, an amendment that works to increase the number of homeless releases can hardly be touted as promoting community safety.

**-- END --**