

THIRD READING

Bill No: AB 767
Author: Alanis (R)
Amended: 8/13/26 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/9/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 71-0, 1/26/26 - See last page for vote

SUBJECT: Sexually violent predators: schools

SOURCE: Author

DIGEST: This bill prohibits a sexually violent predator (SVP) from residing within one-quarter mile of a day care center and provides that home schools are included within the definition of a private school for purposes of SVP residency restrictions.

ANALYSIS:

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”). (Welfare & Institutions (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) Permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)
- 4) 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).)
- 5) 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).)
- 6) 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).)
- 7) 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).)
- 8) 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).)

- 9) 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).)
- 10) 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).)
- 11) 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).)
- 12) 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).)
- 13) 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:

- 1) Prohibits an SVP from residing within one-quarter mile of a day care center if the person has been convicted of child molestation or continuous sexual abuse of a child. Prohibits the subsequent establishment of a day care center from rendering an existing placement of an SVP noncompliant. Specifies that an existing placement includes, but is not limited to, any placement location where

a person is placed, or where a person was placed before the revocation of their conditional release and that person is later returned to that placement location. Defines at the time of placement to mean when the location was recommended or proposed, as specified, or was identified and is being considered, whichever comes first.

- 2) 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.
- 3) 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. Specifies that an existing placement includes, but is not limited to, any placement location where a person is placed, or where a person was placed before the revocation of their conditional release and that person is later returned to that placement location. Defines at the time of placement to mean when the location was recommended or proposed, as specified, or was identified and is being considered, whichever comes first.

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.)

Release. 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 process is 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 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.)

Residency restrictions. 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.)

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.)

This bill adds day care centers to the existing residency restriction. “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.) 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.

This bill prohibits the subsequent establishment of a day care center or a private school, including a private school in a home, from rendering an existing placement of an SVP noncompliant. This bill specifies that an existing placement includes, but is not limited to, any placement location where a person is placed, or where a person was placed before the revocation of their conditional release and that person is later returned to that placement location. This bill defines “at the time of placement” to mean when the location was recommended or proposed, as specified, or was identified and is being considered, whichever comes first.

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:No

According to the Senate Appropriations Committee:

Major annual costs, likely in the \$2 million range to the Department of State Hospitals (DSH) for significantly increase workload to operate the DSH Conditional Release Program for Sexually Violent Predators (CONREP-SVP) and for increased placement-related litigation, including the Department of Justice. Further restricting CONREP-SVP potential housing placements will lengthen the placement process with associated costs though more certainty from defining day care centers and private schools may reduce some placement related costs. Significant ongoing workload to search and assess prospective properties in coordination with county stakeholders via housing committee meetings (General Fund).

Unknown, potentially significant annual costs to house CONREP-SVPs in state facilities due to fewer prospective properties.

Unknown, potentially significant annual sunk costs when a potential housing placement becomes unavailable due to a later licensing of a day care center or private school (General Fund).

SUPPORT: (Verified 8/13/26)

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: (Verified 8/13/26)

ACLU California Action
California Public Defenders Association
California Sex Offender Management Board
Initiate Justice
Justice2Jobs Coalition
La Defensa
Smart Justice California

ASSEMBLY FLOOR: 71-0, 1/26/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Krell, Lackey, Lowenthal, Macedo,

McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin,
Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers,
Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria,
Stefani, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Bryan, Caloza, Elhawary, Kalra, Lee, Papan,
Celeste Rodriguez, Ta

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