

AMENDED IN ASSEMBLY MARCH 19, 1998
AMENDED IN ASSEMBLY SEPTEMBER 2, 1997
AMENDED IN ASSEMBLY AUGUST 11, 1997
AMENDED IN ASSEMBLY JULY 10, 1997
AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 536

**Introduced by Senator Mountjoy
(Coauthor: Senator Polanco)**

February 24, 1997

An act to amend Sections ~~6601.3, 6601.5~~, 6602, 6609.1, 6609.2, and 6609.3 of, ~~to amend, repeal, and add Section 6604 of, and to add Section 6602.5 to Sections 6601.3, 6601.5, and 6602.5 to, and to add and repeal Section 6604.1 of,~~ the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, Mountjoy. Sexually violent predators.

(1) ~~Under existing~~ Existing law, ~~in effect until repealed by its own terms as of January 1, 1998, authorized~~ the Board of Prison Terms ~~may~~ to order that a person who is screened as a sexually violent predator and referred to the State Department of Mental Health for full evaluation remain in custody for no more than 45 days.

This bill would ~~delete the repeal date of reenact~~ this provision ~~and would authorize the Director of Corrections to~~

~~refer the person to the State Department of Mental Health for evaluation at a date that is less than 6 months prior to the inmate's scheduled release date, and the Board of Prison Terms to order imposition of a temporary hold on the inmate for up to 3 working days pending a probable cause hearing by the board, under specified circumstances. If probable cause is found at the hearing that the inmate is a sexually violent predator, the bill would authorize the board to order that the person remain in custody for full evaluation by the State Department of Mental Health, as described above, for evaluation of the case by the county's designated counsel, and for a court hold, as specified. The bill would provide that no person may be placed in a state hospital pursuant to these provisions until there has been a determination that there is probable cause to believe that the person is a sexually violent predator named in the petition filed pursuant to these provisions is likely to engage in sexually violent predatory criminal behavior. The bill also would require the State Department of Mental Health to identify each person for whom a petition has been filed who has not had a probable cause hearing and to notify the court that the person has not had a hearing.~~

(2) Existing law ~~requires, repealed by its own terms as of January 1, 1998, required~~ a judge of the superior court to review any petition for ~~commitment of a person determined to be a sexually violent predator by the State Department of Mental Health pursuant to the provisions in (1) above,~~ *submitted by an agency requesting an urgency review in cases where an inmate's parole or temporary parole hold will expire before a probable cause hearing is conducted* and to determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release.

This bill ~~instead would require the judge to determine whether there is probable cause to believe that the individual named in the petition is a sexually violent predator. The bill would specify that this provision does not constitute a change in, but is declaratory of, existing law and consistent with current practice~~ *reenact this provision.*



(3) Existing law requires a person who is determined to be a sexually violent predator to be committed for 2 years to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility, as specified.

This bill would provide, until January 1, 1999, that the 2-year ~~period~~ term of commitment as a sexually violent predator commences on the date upon which the court issues the initial order of commitment and shall not be reduced by any time spent in a secure facility prior to the order of commitment. The bill would specify that this provision does not constitute a change in, but is declaratory of, existing law.

(4) Existing law requires the State Department of Mental Health to notify local law enforcement officials 15 days prior to the scheduled release of a sexually violent predator.

This bill instead would require the department to notify local law enforcement officials 15 days prior to the submission to a court of its recommendation for community outpatient treatment for any person committed as a sexually violent predator or its recommendation not to pursue recommitment of the person.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 6601.3 of the Welfare and~~
2 ~~Institutions Code is amended to read:~~
3 ~~6601.3. If the inmate was received by the Department~~
4 ~~of Corrections with less than nine months of his or her~~
5 ~~sentence to serve, or if the inmate's release date is~~
6 ~~modified by judicial or administrative action, the director~~
7 ~~may refer the person to the State Department of Mental~~
8 ~~Health for evaluation in accordance with this section at~~
9 ~~a date that is less than six months prior to the inmate's~~
10 ~~scheduled release date, and the Board of Prison Terms~~
11 ~~may order imposition of a temporary hold on the inmate~~
12 ~~for up to three working days pending a probable cause~~



1 hearing by the board. If probable cause is found at the
2 hearing that the inmate is a sexually violent predator, the
3 board may order the person to remain in custody for no
4 more than 45 days for full evaluation pursuant to
5 subdivisions (e) to (i), inclusive, of Section 6601, for
6 evaluation of the case by the county's designated counsel,
7 and for the court hold imposed pursuant to Sections
8 6601.5 and 6602, unless his or her scheduled date of release
9 falls more than 45 days after referral.

10 SEC. 2. Section 6601.5 of the Welfare and Institutions
11 Code is amended to read:

12 6601.5. In cases where an inmate's prison term, return
13 to custody, or temporary hold pursuant to Section 6601.3
14 will expire before a probable cause hearing is conducted
15 pursuant to Section 6602, the agency bringing the petition
16 may request an urgency review pursuant to this section.
17 Upon that request, a judge of the superior court shall
18 review the petition and determine whether the petition
19 states or contains sufficient facts that, if true, would
20 constitute probable cause to believe that the individual
21 named in the petition is likely to engage in sexually
22 violent predatory criminal behavior upon his or her
23 release. If the judge determines that the petition, on its
24 face, supports a finding of probable cause, the judge shall
25 order that the person be detained in a secure facility until
26 a hearing can be held pursuant to Section 6602. The
27 probable cause hearing provided for in Section 6602 shall
28 be held within 10 calendar days of the date of the order
29 issued by the judge pursuant to this section.

30 SECTION 1. Section 6601.3 is added to the Welfare
31 and Institutions Code, to read:

32 6601.3. The Board of Prison Terms may order that a
33 person referred to the State Department of Mental
34 Health pursuant to subdivision (b) of Section 6601 remain
35 in custody for no more than 45 days for full evaluation
36 pursuant to subdivisions (c) to (h), inclusive, of Section
37 6601, unless his or her scheduled date of release falls more
38 than 45 days after referral.

39 SEC. 2. Section 6601.5 is added to the Welfare and
40 Institutions Code, to read:



1 6601.5. *In cases where an inmate's parole or*
2 *temporary parole hold pursuant to Section 6601.3 will*
3 *expire before a probable cause hearing is conducted*
4 *pursuant to Section 6602, the agency bringing the petition*
5 *may request an urgency review pursuant to this section.*
6 *Upon that request, a judge of the superior court shall*
7 *review the petition and determine whether the petition*
8 *states or contains sufficient facts that, if true, would*
9 *constitute probable cause to believe that the individual*
10 *named in the petition is likely to engage in sexually*
11 *violent predatory criminal behavior upon his or her*
12 *release. If the judge determines that the petition, on its*
13 *face, supports a finding of probable cause, the judge shall*
14 *order that the person be detained in a secure facility until*
15 *a hearing can be held pursuant to Section 6602. The*
16 *probable cause hearing provided for in Section 6602 shall*
17 *be held within 10 calendar days of the date of the order*
18 *issued by the judge pursuant to this section.*

19 SEC. 3. Section 6602 of the Welfare and Institutions
20 Code is amended to read:

21 6602. A judge of the superior court shall review the
22 petition and shall determine whether there is probable
23 cause to believe that the individual named in the petition
24 is ~~a sexually violent predator~~ *likely to engage in sexually*
25 *violent predatory criminal behavior upon his or her*
26 *release. The person named in the petition shall be*
27 *entitled to assistance of counsel at the probable cause*
28 *hearing. If the judge determines that there is not*
29 *probable cause, he or she shall dismiss the petition and*
30 *any person subject to parole shall report to parole. If the*
31 *judge determines that there is probable cause, the judge*
32 *shall order that the person remain in custody in a secure*
33 *facility until a trial is completed and shall order that a trial*
34 *be conducted to determine whether the person is, by*
35 *reason of a diagnosed mental disorder, a danger to the*
36 *health and safety of others in that the person is likely to*
37 *engage in acts of sexual violence upon his or her release*
38 *from the jurisdiction of the Department of Corrections or*
39 *other secure facility.*



1 SEC. 4. Section 6602.5 is added to the Welfare and
2 Institutions Code, to read:

3 6602.5. No person may be placed in a state hospital
4 pursuant to the provisions of this article until there has
5 been a determination pursuant to Section 6601.3 or 6602
6 that there is probable cause to believe that the individual
7 ~~is a sexually violent predator.~~ *named in the petition is*
8 *likely to engage in sexually violent predatory criminal*
9 *behavior.*

10 *The State Department of Mental Health shall identify*
11 *each person for whom a petition pursuant to this article*
12 *has been filed who is in a state hospital on or after January*
13 *1, 1998, and who has not had a probable cause hearing*
14 *pursuant to Section 6602. The State Department of*
15 *Mental Health shall notify the court in which the petition*
16 *was filed that the person has not had a probable cause*
17 *hearing. Copies of the notice shall be provided by the*
18 *court to the attorneys of record in the case. Within 30 days*
19 *of notice by the State Department of Mental Health, the*
20 *court shall either order the person removed from the*
21 *state hospital and returned to local custody or hold a*
22 *probable cause hearing pursuant to Section 6602.*

23 ~~SEC. 5. Section 6604 of the Welfare and Institutions~~
24 ~~Code is amended to read:~~

25 ~~6604. (a) The court or jury shall determine whether,~~
26 ~~beyond a reasonable doubt, the person is a sexually~~
27 ~~violent predator. If the court or jury is not satisfied~~
28 ~~beyond a reasonable doubt that the person is a sexually~~
29 ~~violent predator, the court shall direct that the person be~~
30 ~~released at the conclusion of the term for which he or she~~
31 ~~was initially sentenced, or that the person be~~
32 ~~unconditionally released at the end of parole, whichever~~
33 ~~is applicable. If the court or jury determines that the~~
34 ~~person is a sexually violent predator, the person shall be~~
35 ~~committed for a period of two years to the State~~
36 ~~Department of Mental Health for appropriate treatment~~
37 ~~and confinement in a secure facility designated by the~~
38 ~~Director of Mental Health pursuant to Section 6600.05,~~
39 ~~and the person shall not be kept in actual custody longer~~
40 ~~than two years unless a subsequent extended~~



1 ~~commitment is obtained from the court incident to the~~
2 ~~filing of a new petition for commitment under this article~~
3 ~~or unless the term of commitment changes pursuant to~~
4 ~~subdivision (e) of Section 6605. The two-year period of~~
5 ~~commitment shall commence on the date upon which the~~
6 ~~court issues the initial order of commitment pursuant to~~
7 ~~this section. The two-year period shall not be reduced by~~
8 ~~any time spent in a secure facility prior to the order of~~
9 ~~commitment. For subsequent extended commitments,~~
10 ~~the term of commitment shall be from the date of the~~
11 ~~termination of the previous commitment. Time spent on~~
12 ~~conditional release shall not count toward the two-year~~
13 ~~term of commitment, unless the person is placed in a~~
14 ~~locked facility by the conditional release program, in~~
15 ~~which case the time in a locked facility shall count toward~~
16 ~~the two-year term of commitment.~~

17 ~~(b) This section shall remain in effect only until~~
18 ~~January 1, 1999, and as of that date is repealed, unless a~~
19 ~~later enacted statute, that is enacted before January 1,~~
20 ~~1999, deletes or extends that date.~~

21 ~~SEC. 6. Section 6604 is added to the Welfare and~~
22 ~~Institutions Code, to read:~~

23 ~~6604. (a) The court or jury shall determine whether,~~
24 ~~beyond a reasonable doubt, the person is a sexually~~
25 ~~violent predator. If the court or jury is not satisfied~~
26 ~~beyond a reasonable doubt that the person is a sexually~~
27 ~~violent predator, the court shall direct that the person be~~
28 ~~released at the conclusion of the term for which he or she~~
29 ~~was initially sentenced, or that the person be~~
30 ~~unconditionally released at the end of parole, whichever~~
31 ~~is applicable. If the court or jury determines that the~~
32 ~~person is a sexually violent predator, the person shall be~~
33 ~~committed for a period of two years to the State~~
34 ~~Department of Mental Health for appropriate treatment~~
35 ~~and confinement in a secure facility designated by the~~
36 ~~Director of Mental Health pursuant to Section 6600.05,~~
37 ~~and the person shall not be kept in actual custody longer~~
38 ~~than two years unless a subsequent extended~~
39 ~~commitment is obtained from the court incident to the~~
40 ~~filing of a new petition for commitment under this article~~



~~1 or unless the term of commitment changes pursuant to
2 subdivision (e) of Section 6605. Time spent on conditional
3 release shall not count toward the two-year term of
4 commitment, unless the person is placed in a locked
5 facility by the conditional release program, in which case
6 the time in a locked facility shall count toward the
7 two-year term of commitment.~~

~~8 (b) This section shall become operative on January 1,
9 1999.~~

10 ~~SEC. 7.—~~

11 *SEC. 5. Section 6604.1 is added to the Welfare and
12 Institutions Code, to read:*

13 *6604.1. (a) The two-year term of commitment
14 provided for in Section 6604 shall commence on the date
15 upon which the court issues the initial order of
16 commitment pursuant to that section. The two-year term
17 shall not be reduced by any time spent in a secure facility
18 prior to the order of commitment. For subsequent
19 extended commitments, the term of commitment shall
20 be from the date of the termination of the previous
21 commitment.*

22 *(b) This section shall remain in effect only until
23 January 1, 1999, and as of that date is repealed, unless a
24 later enacted statute, that is enacted before January 1,
25 1999, deletes or extends that date.*

26 *SEC. 6. Section 6609.1 of the Welfare and Institutions
27 Code is amended to read:*

28 *6609.1. (a) When the State Department of Mental
29 Health is considering a recommendation to the court for
30 community outpatient treatment for any person
31 committed as a sexually violent predator, it shall notify
32 the sheriff or chief of police, or both, and the district
33 attorney, who has jurisdiction over the community in
34 which the person may be released. The notice shall be
35 given at least 15 days prior to the department's
36 submission of that recommendation to the court and shall
37 include the name of the person who is scheduled to be
38 released and the community in which civil commitment
39 was established.*



1 (b) When the State Department of Mental Health is
2 considering a recommendation not to pursue
3 recommitment of any person committed as a sexually
4 violent predator, it shall provide written notice of that
5 release to the sheriff or police chief, or both, and to the
6 district attorney, who has jurisdiction over the
7 community in which civil commitment was established.
8 The notice shall be made at least 15 days prior to the date
9 on which the notification is to be forwarded from the
10 department to the court that will consider the
11 department's recommendation not to pursue the
12 extension of the civil commitment.

13 Those agencies receiving the notice referred to in this
14 subdivision shall have 15 days from receipt of the notice
15 to provide written comment to the department
16 regarding the impending release. Those comments shall
17 be considered by the department, which may modify its
18 decision regarding the community in which the person is
19 scheduled to be released, based on those comments.

20 (c) If the court orders the immediate release of a
21 sexually violent predator, the department shall notify the
22 sheriff or chief of police, or both, and the district attorney,
23 who has jurisdiction over the community in which the
24 person is scheduled to be released at the time of release.

25 (d) The notice required by this section shall be made
26 whether or not a request has been made pursuant to
27 Section 6609.

28 (e) The time limits imposed by this section are not
29 applicable where the release date of a sexually violent
30 predator has been advanced by a judicial or
31 administrative process or procedure that could not have
32 reasonably been anticipated by the State Department of
33 Mental Health and where, as the result of the time
34 adjustments, there is less than 30 days remaining on the
35 commitment before the inmate's release, but notice shall
36 be given as soon as practicable. In no case shall notice
37 required by this section to the appropriate agency be
38 later than the day of release. If, after the 45-day notice is
39 given to law enforcement and to the district attorney
40 relating to an out-of-county placement, there is change of



1 county placement, notice to the ultimate county of
2 placement shall be made upon the determination of the
3 county of placement.

4 ~~SEC. 8.—~~

5 *SEC. 7.* Section 6609.2 of the Welfare and Institutions
6 Code is amended to read:

7 6609.2. (a) When any sheriff or chief of police is
8 notified by the State Department of Mental Health of its
9 intention to make a recommendation to the court
10 concerning the disposition of a sexually violent predator
11 pursuant to subdivision (a) or (b) of Section 6609.1, that
12 sheriff or chief of police may notify any person designated
13 by the sheriff or chief of police as an appropriate recipient
14 of the notice.

15 (b) A law enforcement official authorized to provide
16 notice pursuant to this section, and the public agency or
17 entity employing the law enforcement official, shall not
18 be liable for providing or failing to provide notice
19 pursuant to this section.

20 ~~SEC. 9.—~~

21 *SEC. 8.* Section 6609.3 of the Welfare and Institutions
22 Code is amended to read:

23 6609.3. At the time a notice is sent pursuant to
24 subdivision (a) or (b) of Section 6609.1, the sheriff, chief
25 of police, or district attorney so notified shall also send a
26 notice to persons described in Section 679.03 of the Penal
27 Code who have requested a notice, informing those
28 persons of the fact that the person who committed the
29 sexually violent offense may be released, together with
30 information identifying the court that will consider the
31 conditional or unconditional release. When a person is
32 approved by the court to be conditionally released, notice
33 of the community in which the person is scheduled to
34 reside shall also be given only if it is (1) in the county of
35 residence of a witness, victim, or family member of a
36 victim who has requested notice, or (2) within 25 miles
37 of the actual residence of a witness, victim, or family
38 member of a victim who has requested notice. If, after
39 providing the witness, victim, or next of kin with the
40 notice, there is any change in the release status or the



1 community in which the person is to reside, the sheriff,
2 chief of police, or district attorney shall provide the
3 witness, victim, or next of kin with the revised
4 information.

5 In order to be entitled to receive the notice set forth in
6 this section, the requesting party shall keep the sheriff,
7 chief of police, and district attorney who were notified
8 under Section 679.03 of the Penal Code, informed of his
9 or her current mailing address.

10 ~~SEC. 10.—~~

11 *SEC. 9.* The Legislature finds and declares that
12 Section 3 of this act, which amends Section 6602 of the
13 Welfare and Institutions Code, does not constitute a
14 change in, but is declaratory of, existing law and
15 consistent with current practice.

16 ~~SEC. 11.—~~

17 *SEC. 10.* The Legislature finds and declares that the
18 provisions of Article 4 (commencing with Section 6600)
19 of Chapter 2 of Part 2 of Division 6 of the Welfare and
20 Institutions Code establish a civil mental health
21 commitment for a period of two years for persons found
22 to be sexually violent predators and that, consistent with
23 a civil mental health commitment, credits that may
24 reduce a term of imprisonment are not applicable.
25 Accordingly, the Legislature finds and declares that
26 Section 5 of this act, which ~~amends Section 6604 of~~ *adds*
27 *Section 6604.1* to the Welfare and Institutions Code, does
28 not constitute a change in, but is declaratory of, existing
29 law.

30 ~~SEC. 12.—~~

31 *SEC. 11.* This act is an urgency statute necessary for
32 the immediate preservation of the public peace, health,
33 or safety within the meaning of Article IV of the
34 Constitution and shall go into immediate effect. The facts
35 constituting the necessity are:

36 In order to provide immediate protection to the public
37 from sexually violent predators who will be released in



1 the near future, it is necessary that this act take effect
2 immediately.

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