

Introduced by Senator Schiff

February 25, 2000

An act to amend Section 6603 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

SB 2018, as introduced, Schiff. Sexually violent predators: commitment evaluations.

Existing law provides that a person who is subject to commitment as a sexually violent predator, as defined, shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts to perform an examination on his or her behalf, and shall have access to all relevant medical and psychological records and reports. Existing law provides that the attorney bringing the petition to have the defendant committed also has the right to demand a trial by jury, but if no demand for a jury trial is made by either side, that the trial shall be conducted before a court without a jury. Existing law also provides for the examination of a person subject to commitment under these provisions by at least 2 psychiatrists or psychologists designated by the State Department of Mental Health, with additional evaluations to be performed as specified.

This bill would provide that the attorney bringing the petition to have a person committed as a sexually violent predator may request the State Department of Mental Health to perform updated evaluations as specified, and if an original evaluator is no longer available to testify, a replacement evaluation. The bill would direct the department to perform

the requested evaluations and forward them to the petitioning attorney, but would provide that updated or replacement evaluations shall only be performed for these specified reasons. This bill would provide that an updated or replacement evaluation shall include a review of available medical and psychological records, including treatment records, consultation with treating clinicians, and voluntary interviews with the subject, and would also provide that if an updated or replacement evaluation results in a split opinion as to whether the subject meets the criteria for commitment, the department shall conduct 2 additional evaluations as specified.

Vote: majority. 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 6603 of the Welfare and
2 Institutions Code is amended to read:

3 6603. (a) A person subject to this article shall be
4 entitled to a trial by jury, the assistance of counsel, the
5 right to retain experts or professional persons to perform
6 an examination on his or her behalf, and have access to all
7 relevant medical and psychological records and reports.
8 In the case of a person who is indigent, the court shall
9 appoint counsel to assist him or her, and, upon the
10 person’s request, assist the person in obtaining an expert
11 or professional person to perform an examination or
12 participate in the trial on the person’s behalf.

13 (b) The attorney petitioning for commitment under
14 this article shall have the right to demand that the trial be
15 before a jury.

16 (c) *If the attorney petitioning for commitment under
17 this article determines that updated evaluations are
18 necessary in order to properly present the case for
19 commitment, the attorney may request the State
20 Department of Mental Health to perform updated
21 evaluations. If one or more of the original evaluators is no
22 longer available to testify in court proceedings, the
23 attorney petitioning for commitment under this article*



1 may request the State Department of Mental Health to
2 perform replacement evaluations. When a request is
3 made for an updated or replacement evaluation, the State
4 Department of Mental Health shall perform the
5 requested evaluations and forward them to the
6 petitioning attorney. However, updated or replacement
7 evaluations shall not be performed except as necessary to
8 update one or both original evaluations or to replace the
9 evaluation of an evaluator that is no longer available for
10 testimony. These updated or replacement evaluations
11 shall include review of available medical and
12 psychological records, including treatment records,
13 consultation with current treating clinicians, and
14 interviews of the person being evaluated unless that
15 person declines to be interviewed. If an updated or
16 replacement evaluation results in a split opinion as to
17 whether the subject meets the criteria for commitment,
18 the State Department of Mental Health shall conduct two
19 additional evaluations in accordance with subdivision (f)
20 of Section 6601.

21 (d) If no demand is made by the person subject to this
22 article or the petitioning attorney, the trial shall be before
23 the court without jury.

24 ~~(d)~~

25 (e) A unanimous verdict shall be required in any jury
26 trial.

27 ~~(e)~~

28 (f) The court shall notify the State Department of
29 Mental Health of the outcome of the trial by forwarding
30 to the department a copy of the minute order of the court
31 within 72 hours of the decision.

