

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Alanis

February 18, 2025

An act to amend Section 6608.5 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as introduced, Alanis. Sexually violent predators: schools.

Existing law provides for the civil commitment of a person who is determined to be a sexually violent predator. Existing law establishes a procedure by which a person committed as a sexually violent predator may petition for conditional release and requires the court, if it makes a specified determination, to place the person on conditional release. Existing law generally requires that a person released on conditional release pursuant to these provisions be placed in the person's county of domicile prior to their incarceration unless extraordinary circumstances exist requiring placement outside the county, as specified. Existing law prohibits a person being released under these provisions from being placed within $\frac{1}{4}$ mile of any public or private school, as specified, if the person has previously been convicted of specified sexual misconduct of a child or if the court finds that the person has a history of improper sexual conduct with children.

This bill would additionally prohibit a person being released under the above-described provisions from being placed within $\frac{1}{4}$ mile of a child daycare facility, as defined. The bill would define private school to mean a facility or home that has filed a private school affidavit with the State Department of Education and provides private school instruction at the elementary or high school level, including, but not

limited to, conventional or traditional private schools and parents who operate a private home school.

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 6608.5 of the Welfare and Institutions
2 Code is amended to read:

3 6608.5. (a) After a judicial determination that a person would
4 not be a danger to the health and safety of others in that it is not
5 likely that the person will engage in sexually violent criminal
6 behavior due to the person's diagnosed mental disorder while under
7 supervision and treatment in the community, a person who is
8 conditionally released pursuant to this article shall be placed in
9 the county of domicile of the person prior to the person's
10 incarceration, unless both of the following conditions are satisfied:

11 (1) The court finds that extraordinary circumstances require
12 placement outside the county of domicile as set forth in Section
13 6608.6.

14 (2) The designated county of placement was given prior notice
15 and an opportunity to comment on the proposed placement of the
16 committed person in the county, according to procedures set forth
17 in Section 6609.1.

18 (b) (1) For the purposes of this section, "county of domicile"
19 means the county where the person has their true, fixed, and
20 permanent home and principal residence and to which the person
21 has manifested the intention of returning whenever the person is
22 absent. For the purposes of determining the county of domicile,
23 the court shall consider information found on a California driver's
24 license, California identification card, recent rent or utility receipt,
25 printed personalized checks or other recent banking documents
26 showing that person's name and address, or information contained
27 in an arrest record, probation officer's report, trial transcript, or
28 other court document. If no information can be identified or
29 verified, the county of domicile of the individual shall be
30 considered to be the county in which the person was arrested for
31 the crime for which the person was last incarcerated in the state
32 prison or from which the person was last returned from parole.

1 (2) In a case where the person committed a crime while being
2 held for treatment in a state hospital, or while being confined in a
3 state prison or local jail facility, the county wherein that facility
4 was located shall not be considered the county of domicile unless
5 the person resided in that county prior to being housed in the
6 hospital, prison, or jail.

7 (c) For the purposes of this section, “extraordinary
8 circumstances” means circumstances that would inordinately limit
9 the department’s ability to effect conditional release of the person
10 in the county of domicile in accordance with Section 6608 or any
11 other provision of this article, and the procedures described in
12 Sections 1605 to 1610, inclusive, of the Penal Code.

13 (d) (1) The counsel for the committed individual; the sheriff
14 or the chief of police of the locality for placement, the county
15 counsel, and the district attorney from the county of domicile; and
16 the sheriff or the chief of police of, and the county counsel and the
17 district attorney of, an alternative placement locality where a
18 potential placement location has been identified and is being
19 considered by the department for potential recommendation to the
20 court for placement of the individual; or their designees, shall
21 provide assistance and consultation in the department’s process
22 of locating and securing housing within the county for persons
23 committed as sexually violent predators who are about to be
24 conditionally released under Section 6608. Upon notification by
25 the department of a person’s potential or expected conditional
26 release under Section 6608, the counsel for the committed
27 individual; the sheriff or the chief of police of the locality for
28 placement, the county counsel, and the district attorney of the
29 county of domicile; and the sheriff or chief of police of, and the
30 county counsel and district attorney of, an alternative placement
31 locality; or their designees, shall provide appropriate contact
32 information for their respective office to the department, at least
33 60 days before the date of the potential or expected release.

34 (2) The department shall convene a committee with the
35 participants listed in paragraph (1) for the purpose of obtaining
36 relevant assistance and consultation information in order to secure
37 suitable housing for the person to be conditionally released.
38 Notwithstanding the Bagley-Keene Open Meeting Act (Article 9
39 (commencing with Section 11120) of Chapter 1 of Part 1 of
40 Division 3 of Title 2 of the Government Code), these committee

1 meetings may be held by teleconference as long as the public is
2 afforded teleconference access to the public portion of the
3 committee meetings.

4 (3) The court may order a status conference to evaluate the
5 department's progress in locating and securing housing and in
6 obtaining relevant assistance and consultation information from
7 the participants listed in paragraph (1). The court may sanction
8 any of the participants listed in paragraph (1) for failure to appear
9 at the status conference unless the participant shows good cause
10 for their failure to appear.

11 (4) This subdivision does not require the participants listed in
12 paragraph (1) to perform a housing site assessment.

13 (e) In recommending a specific placement for community
14 outpatient treatment, the department or its designee shall consider
15 all of the following:

16 (1) The concerns and proximity of the victim or the victim's
17 next of kin.

18 (2) The age and profile of the victim or victims in the sexually
19 violent offenses committed by the person subject to placement.
20 For purposes of this subdivision, the "profile" of a victim includes,
21 but is not limited to, gender, physical appearance, economic
22 background, profession, and other social or personal characteristics.

23 (f) (1) Notwithstanding any other law, a person released under
24 this section shall not be placed within one-quarter mile of any *child*
25 *daycare facility* or public or private school providing instruction
26 in kindergarten or any of grades 1 to 12, inclusive, if either of the
27 following conditions exist:

28 ~~(1)~~

29 (A) The person has previously been convicted of a violation of
30 Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of
31 subdivision (c) of Section 288 of, the Penal Code.

32 ~~(2)~~

33 (B) The court finds that the person has a history of improper
34 sexual conduct with children.

35 (2) *For purposes of this subdivision, the following definitions*
36 *apply:*

37 (A) "*Child daycare facility*" means the same as defined in
38 *Section 1596.750 of the Health and Safety Code.*

39 (B) "*Private school*" means a facility or home that has filed a
40 *private school affidavit with the State Department of Education*

1 *and provides private school instruction at the elementary or high*
2 *school level. This includes, but is not limited to, conventional or*
3 *traditional private schools, private school satellite programs,*
4 *private online or virtual schools, parents who operate a private*
5 *home school, and certified nonpublic nonsectarian schools.*

6 (g) (1) Except as provided in paragraph (2), if the committed
7 person is ordered to be conditionally released in a county other
8 than the county of commitment due to extraordinary circumstances
9 pursuant to Section 6608.6, the court shall order that jurisdiction
10 of the person and all records related to the case be transferred to
11 the court of the county of placement. Upon transfer of jurisdiction
12 to the county of placement, the designated attorney of the county
13 of placement shall represent the state in all further proceedings.

14 (2) The designated attorney of the county of commitment shall
15 serve written notice upon the designated attorney for the county
16 of placement within 15 court days of an order to place a committed
17 person in the county of placement. The designated attorney of the
18 county of placement may file an affidavit with the court in the
19 county of commitment objecting to the transfer of jurisdiction
20 within 15 court days after receiving the notice. If the affidavit
21 objecting to the transfer of jurisdiction is timely filed, the court
22 shall not transfer jurisdiction. If an affidavit objecting to the
23 transfer of jurisdiction is not timely filed, paragraph (1) shall apply.

24 (3) For the purpose of this section, “county of placement” means
25 the county where the court orders the committed person to be
26 placed for conditional release.

27 (4) For the purpose of this section, “designated attorney of the
28 county of placement” means the attorney designated in subdivision
29 (l) of Section 6601 in the county of placement.

30 (5) This section shall not be construed to negate or in any way
31 affect the decision of the court of the county of commitment to
32 conditionally release the committed person in the county of
33 placement.