

**Introduced by Senator Figueroa**

February 22, 2001

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An act to amend Sections 206 and 237 of the Code of Civil Procedure, relating to juror confidentiality.

LEGISLATIVE COUNSEL'S DIGEST

SB 552, as introduced, Figueroa. Juror confidentiality: sexually violent predators.

(1) Existing law provides for the commitment of sexually violent predators to mental health treatment, as specified. Existing law also provides for a juror's right of confidentiality regarding juror deliberations in a criminal matter, and requires the sealing of personal identifying information of trial jurors in a criminal proceeding until further order of the court. Disclosure or solicitation of disclosure of personal juror information in violation of these provisions is a misdemeanor.

This bill would extend these confidentiality and sealing provisions to jurors in initial commitment and postcommitment proceedings involving commitment of a person as a sexually violent predator, thereby imposing a state-mandated local program by expanding the definition of a crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 206 of the Code of Civil Procedure is  
2 amended to read:

3 206. (a) Prior to discharging the jury from the case, the judge  
4 in a criminal action, *or in an initial commitment or*  
5 *postcommitment proceeding involving commitment as a sexually*  
6 *violent predator*, shall inform the jurors that they have an absolute  
7 right to discuss or not to discuss the deliberation or verdict with  
8 anyone. The judge shall also inform the jurors of the provisions set  
9 forth in subdivisions (b), (d), and (e).

10 (b) Following the discharge of the jury in a criminal case, *or in*  
11 *an initial commitment or postcommitment proceeding involving*  
12 *commitment as a sexually violent predator*, the defendant, or his  
13 or her attorney or representative, or the prosecutor, or his or her  
14 representative, may discuss the jury deliberation or verdict with a  
15 member of the jury, provided that the juror consents to the  
16 discussion and that the discussion takes place at a reasonable time  
17 and place.

18 (c) If a discussion of the jury deliberation or verdict with a  
19 member of the jury pursuant to subdivision (b) occurs at any time  
20 more than 24 hours after the verdict, prior to discussing the jury  
21 deliberation or verdict with a member of a jury pursuant to  
22 subdivision (b), the defendant or his or her attorney or  
23 representative, or the prosecutor or his or her representative, shall  
24 inform the juror of the identity of the case, the party in that case  
25 which the person represents, the subject of the interview , the  
26 absolute right of the juror to discuss or not discuss the deliberations  
27 or verdict in the case with the person, and the juror’s right to review  
28 and have a copy of any declaration filed with the court.

29 (d) Any unreasonable contact with a juror by the defendant, or  
30 his or her attorney or representative, or by the prosecutor, or his or  
31 her representative, without the juror’s consent shall be  
32 immediately reported to the trial judge.

33 (e) Any violation of this section shall be considered a violation  
34 of a lawful court order and shall be subject to reasonable monetary  
35 sanctions in accordance with Section 177.5 of the Code of Civil  
36 Procedure.

37 (f) Nothing in the section shall prohibit a peace officer from  
38 investigating an allegation of criminal conduct.



1 (g) Pursuant to Section 237, a defendant or defendant’s counsel  
2 may, following the recording of a jury’s verdict in a criminal  
3 proceeding, *or in an initial commitment or postcommitment*  
4 *proceeding involving commitment as a sexually violent predator*,  
5 petition the court for access to personal juror identifying  
6 information within the court’s records necessary for the defendant  
7 to communicate with jurors for the purpose of developing a motion  
8 for new trial or any other lawful purpose. This information consists  
9 of jurors’ names, addresses, and telephone numbers. The court  
10 shall consider all requests for personal juror identifying  
11 information pursuant to Section 237.

12 SEC. 2. Section 237 of the Code of Civil Procedure is  
13 amended to read:

14 237. (a) (1) The names of qualified jurors drawn from the  
15 qualified juror list for the superior court shall be made available  
16 to the public upon request unless the court determines that a  
17 compelling interest, as defined in subdivision (b), requires that this  
18 information should be kept confidential or its use limited in whole  
19 or in part.

20 (2) Upon the recording of a jury’s verdict in a criminal jury  
21 proceeding, *or in an initial commitment or postcommitment*  
22 *proceeding involving commitment as a sexually violent predator*  
23 *initiated pursuant to Article 4 (commencing with Section 6600) of*  
24 *Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions*  
25 *Code*, the court’s record of personal juror identifying information  
26 of trial jurors, as defined in Section 194, consisting of names,  
27 addresses, and telephone numbers, shall be sealed until further  
28 order of the court as provided by this section.

29 (3) For purposes of this section, “sealed” or “sealing” means  
30 extracting or otherwise removing the personal juror identifying  
31 information from the court record.

32 (4) This subdivision applies only to cases in which a jury  
33 verdict was returned *in a criminal matter* on or after January 1,  
34 1996, *or in a matter involving commitment as a sexually violent*  
35 *predator in which a jury verdict was returned on or after January*  
36 *1, 2002.*

37 (b) Any person may petition the court for access to these  
38 records. The petition shall be supported by a declaration that  
39 includes facts sufficient to establish good cause for the release of  
40 the juror’s personal identifying information. The court shall set the



1 matter for hearing if the petition and supporting declaration  
2 establish a prima facie showing of good cause for the release of the  
3 personal juror identifying information, but shall not set the matter  
4 for hearing if there is a showing on the record of facts that establish  
5 a compelling interest against disclosure. A compelling interest  
6 includes, but is not limited to, protecting jurors from threats or  
7 danger of physical harm. If the court does not set the matter for  
8 hearing, the court shall by minute order set forth the reasons and  
9 make express findings either of a lack of a prima facie showing of  
10 good cause or the presence of a compelling interest against  
11 disclosure.

12 (c) If a hearing is set pursuant to subdivision (b), the petitioner  
13 shall provide notice of the petition and the time and place of the  
14 hearing at least 20 days prior to the date of the hearing to the parties  
15 in the criminal action. The court shall provide notice to each  
16 affected former juror by personal service or by first-class mail,  
17 addressed to the last known address of the former juror as shown  
18 in the records of the court. In a capital case, the petitioner shall also  
19 serve notice on the Attorney General. Any affected former juror  
20 may appear in person, in writing, by telephone, or by counsel to  
21 protest the granting of the petition. A former juror who wishes to  
22 appear at the hearing to oppose the unsealing of the personal juror  
23 identifying information may request the court to close the hearing  
24 in order to protect the former juror's anonymity.

25 (d) After the hearing, the records shall be made available as  
26 requested in the petition, unless a former juror's protest to the  
27 granting of the petition is sustained. The court shall sustain the  
28 protest of the former juror if, in the discretion of the court, the  
29 petitioner fails to show good cause, the record establishes the  
30 presence of a compelling interest against disclosure as defined in  
31 subdivision (b), or the juror is unwilling to be contacted by the  
32 petitioner. The court shall set forth reasons and make express  
33 findings to support the granting or denying of the petition to  
34 disclose. The court may require the person to whom disclosure is  
35 made, or his or her agent or employee, to agree not to divulge  
36 jurors' identities or identifying information to others; the court  
37 may otherwise limit disclosure in any manner it deems  
38 appropriate.

39 (e) Any court employee who has legal access to personal juror  
40 identifying information sealed under subdivision (a), who



1 discloses the information, knowing it to be a violation of this  
2 section or a court order issued under this section, is guilty of a  
3 misdemeanor.

4 (f) Any person who intentionally solicits another to unlawfully  
5 access or disclose personal juror identifying information  
6 contained in records sealed under subdivision (a), knowing that the  
7 records have been sealed, or who, knowing that the information  
8 was unlawfully secured, intentionally discloses it to another  
9 person is guilty of a misdemeanor.

10 SEC. 3. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

