

AMENDED IN SENATE JUNE 10, 2004

AMENDED IN ASSEMBLY MAY 20, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2450

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend Section 6609.1 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Canciamilla. Sexually violent predators: notice.

Existing law requires the State Department of Mental Health to notify local law enforcement officials when it makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when it is aware that such a person has petitioned a court for release to the community.

This bill would, in addition, require notice to be given when the ~~community placement is proposed by the court. This department or its designee makes a recommendation regarding a state-operated forensic conditional release program or proposes a placement location without making a recommendation, or when any other person proposes a placement location to the court and the department or its designee is made aware of the proposal.~~ The bill would require the notice to include, among other things, the date, place, and time of the court hearing, would authorize the local agencies to provide written comment to the department and the court, would require the department to issue

a written statement, and would require the court to consider those comments and statements. This bill would delete the prohibition against notice being given after the release date.

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 6609.1 of the Welfare and Institutions
2 Code is amended to read:

3 6609.1. (a) (1) When the State Department of Mental Health
4 makes a recommendation to the court for community outpatient
5 treatment for any person committed as a sexually violent predator,
6 or when a person who is committed as a sexually violent predator
7 pursuant to this article has petitioned a court pursuant to Section
8 6608 for conditional release under supervision and treatment in the
9 community pursuant to a conditional release program, or has
10 petitioned a court pursuant to Section 6608 for subsequent
11 unconditional discharge, and the department is notified, or is
12 aware, of the filing of the petition, *and when a community*
13 *placement location is recommended or proposed*, the department
14 shall notify the sheriff or chief of police, or both, the district
15 attorney, or the county’s designated counsel, that have jurisdiction
16 over the following locations:

17 (A) The community in which the person may be released for
18 community outpatient treatment.

19 (B) The community in which the person maintained his or her
20 last legal residence as defined by Section 3003 of the Penal Code.

21 (C) The county that filed for the person’s civil commitment
22 pursuant to this article.

23 (2) The department shall also notify the Sexually Violent
24 Predator Parole Coordinator of the Department of Corrections, if
25 the person is otherwise subject to parole pursuant to Article 1
26 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3
27 of the Penal Code.

28 (3) The notice shall be given when the department *or its*
29 *designee* makes a recommendation under subdivision (e) of
30 Section 6608 ~~or when a community placement is proposed by the~~
31 ~~court.~~ *or proposes a placement location without making a*
32 *recommendation, or when any other person proposes a placement*



1 *location to the court and the department or its designee is made*
2 *aware of the proposal.*

3 (4) The notice shall be given at least 15 days prior to the
4 department's submission of its recommendation to the court in
5 those cases in which the department recommended community
6 outpatient treatment, ~~or in the case of a recommendation under~~
7 *Section 6607, or in which the department or its designee is*
8 *recommending or proposing a placement location, or in the case*
9 *of a petition or placement proposal by someone other than the*
10 *department or its designee, within 48 hours after becoming aware*
11 *of the recommendation, whichever is later petition or placement*
12 *proposal.*

13 (5) The notice shall *state that it is being made under this section*
14 *and include all of the following information concerning each*
15 *person committed as a sexually violent predator who is proposed*
16 *or is petitioning to receive outpatient care in a conditional release*
17 *program in that city or county:*

18 (A) The name, proposed placement address, date of
19 commitment, county from which committed, proposed date of
20 placement in the conditional release program, fingerprints, and a
21 glossy photograph no smaller than 3 1/8 X 3 1/8 inches in size, or
22 clear copies of the fingerprints and photograph.

23 (B) The date, place, and time of the court hearing at which the
24 location of placement is to be considered and a proof of service
25 attesting to the notice's mailing in accordance with this
26 subdivision.

27 (C) *A list of agencies that are being provided this notice and the*
28 *addresses to which the notices are being sent.*

29 (b) Those agencies receiving the notice referred to in
30 paragraphs (1) and (2) of subdivision (a) may provide written
31 combined and consolidated comment to the department and the
32 court regarding the impending release, placement, location, and
33 conditions of release. The State Department of Mental Health shall
34 issue a written statement to the commenting agencies and to the
35 court within 10 days of receiving the written comments with a
36 determination as to whether to adjust the release location or
37 general terms and conditions, and explaining the basis for its
38 decision.

39 (c) The agencies' comments and department's statements shall
40 be considered by the court which shall, based on those comments



1 and statements, approve, modify, or reject the department's
2 recommendation or proposal regarding the community or specific
3 address to which the person is scheduled to be released or the
4 conditions that shall apply to the release if the court finds that the
5 department's recommendation or proposal is not appropriate.

6 (d) (1) When the State Department of Mental Health makes a
7 recommendation to pursue recommitment, makes a
8 recommendation not to pursue recommitment, or seeks a judicial
9 review of commitment status pursuant to subdivision (f) of Section
10 6605, of any person committed as a sexually violent predator, it
11 shall provide written notice of that action to the sheriff or chief of
12 police, or both, and to the district attorney, that have jurisdiction
13 over the following locations:

14 (A) The community in which the person maintained his or her
15 last legal residence as defined by Section 3003 of the Penal Code.

16 (B) The community in which the person will probably be
17 released, if recommending not to pursue recommitment.

18 (C) The county that filed for the person's civil commitment
19 pursuant to this article.

20 (2) The State Department of Mental Health shall also notify the
21 Sexually Violent Predator Parole Coordinator of the Department
22 of Corrections, if the person is otherwise subject to parole pursuant
23 to Article 1 (commencing with Section 3000) of Chapter 8 of Title
24 1 of Part 3 of the Penal Code. The notice shall be made at least 15
25 days prior to the department's submission of its recommendation
26 to the court.

27 (3) Those agencies receiving the notice referred to in this
28 subdivision shall have 15 days from receipt of the notice to provide
29 written comment to the department regarding the impending
30 release. Those comments shall be considered by the department,
31 which may modify its decision regarding the community in which
32 the person is scheduled to be released, based on those comments.

33 (e) (1) If the court orders the release of a sexually violent
34 predator, the court shall notify the Sexually Violent Predator
35 Parole Coordinator of the Department of Corrections. The
36 Department of Corrections shall notify the State Department of
37 Mental Health, the sheriff or chief of police, or both, and the
38 district attorney, that have jurisdiction over the following
39 locations:

40 (A) The community in which the person is to be released.



1 (B) The community in which the person maintained his or her
2 last legal residence as defined in Section 3003 of the Penal Code.

3 (2) The Department of Corrections shall make the notifications
4 required by this subdivision regardless of whether the person
5 released will be serving a term of parole after release by the court.

6 (f) If the person is otherwise subject to parole pursuant to
7 Article 1 (commencing with Section 300) of Chapter 8 of Title 1
8 of Part 3 of the Penal Code, to allow adequate time for the
9 Department of Corrections to make appropriate parole
10 arrangements upon release of the person, the person shall remain
11 in physical custody for a period not to exceed 72 hours or until
12 parole arrangements are made by the Sexually Violent Predator
13 Parole Coordinator of the Department of Corrections, whichever
14 is sooner. To facilitate timely parole arrangements, notification to
15 the Sexually Violent Predator Parole Coordinator of the
16 Department of Corrections of the pending release shall be made by
17 telephone or facsimile and, to the extent possible, notice of the
18 possible release shall be made in advance of the proceeding or
19 decision determining whether to release the person.

20 (g) The notice required by this section shall be made whether
21 or not a request has been made pursuant to Section 6609.

22 (h) The time limits imposed by this section are not applicable
23 when the release date of a sexually violent predator has been
24 advanced by a judicial or administrative process or procedure that
25 could not have reasonably been anticipated by the State
26 Department of Mental Health and where, as the result of the time
27 adjustments, there is less than 30 days remaining on the
28 commitment before the inmate's release, but notice shall be given
29 as soon as practicable.

30 (i) The provisions of this section are severable. If any provision
31 of this section or its application is held invalid, that invalidity shall
32 not affect other provisions or applications that can be given effect
33 without the invalid provision or application.

