

Introduced by Senator Denham

February 22, 2005

An act relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as introduced, Denham. Sexually violent predators.

Existing law requires the Director of Corrections, prior to the release of a person from custody resulting from conviction for certain crimes of a sexual nature against 2 or more victims, to refer the person to the State Department of Mental Health for evaluation. The law authorizes civil commitment, as a sexually violent predator, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged. Under existing law, if the court finds that the person is no longer likely to commit acts of predatory sexual violence while under supervision and treatment in the community, it is required to a one-year community placement with an appropriate forensic conditional release program operated by the state.

Existing law requires that a nonparolee who is conditionally released under these provisions be placed in the county of the domicile, unless the court finds that extraordinary circumstances require otherwise. The law requires the department to notify certain persons of the proposed community placement, including, but not limited to, the sheriff or chief of police.

This bill would require the department to formulate a plan for the establishment of a secure, remote facility to house and treat persons committed as sexually violent predators who are under court order to be released from the state hospital, and report the plan to the Governor and the Legislature by January 1, 2007.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The forensic conditional release program that permits the
4 state to place persons who have been committed as sexually
5 violent predators, including, but not limited to, Brian Devries,
6 Cary Verse, and Patrick Ghilotti, into our unsuspecting rural and
7 urban communities for further treatment is both problematic and
8 dangerous.

9 (2) Although the state has an interest in assuring that predators
10 who qualify for community placement under the law are not the
11 cause of community unrest, this interest must at all times be
12 secondary to the state's primary interest in assuring that its
13 citizens are safe. The state should not confuse the predators with
14 the victims and should focus at all times on its primary duty to
15 ensure that its actions don't increase the risks for unsuspecting
16 communities by making dangerous new placements without
17 notifying the communities and giving them an opportunity to be
18 fully involved in the process.

19 (3) Persons who qualify for treatment in the community under
20 the Conditional Release Program are still dangerous and require
21 treatment and supervision. A change in the treatment setting from
22 the state hospital to the community requires by necessity that the
23 department transfer some oversight to the community. For this to
24 be accomplished in a rational manner, the law must permit the
25 community to be more actively involved in the decisionmaking.

26 (4) Despite enactment of AB 493 (Chapter 222 of the Statutes
27 of 2004) requiring sexually violent predators on community
28 release to be placed in the county of domicile, some exceptions
29 are still permitted under the law and communities are still not
30 fully included in the placement process.

31 (5) Moreover, the costs of the forensic conditional release
32 program are excessive, in some instances reaching as much a
33 \$1,000,000 per released predator.

1 (6) The sole-source, no-bid contractor that the State
2 Department of Mental Health has selected for supervision of the
3 released predators has been hostile, unresponsive, and callous to
4 local law enforcement and families who live near placed
5 predators and have contacted the contractor for information or to
6 report incidents.

7 (7) In the 1990s when then Governor Pete Wilson was faced
8 with a court-ordered release of serial rapist Melvin Carter, he
9 ordered Carter housed at a secure, remote, work-camp called
10 “The Devil’s Garden” in Modoc County. The State of
11 Washington has a unique program where sexually violent
12 predators are housed away from state’s population in a secure
13 facility on an island off the coast.

14 (8) If the state is unwilling or unable to fully involve target
15 communities in the treatment and monitoring process, the
16 alternative of selecting secure isolated sites for state hospital
17 release of sexually violent predators reduces the risk for the
18 unsuspecting population.

19 (b) The State Department of Mental Health shall formulate a
20 plan for the establishment of a secure, remote facility to house
21 and treat persons committed to a state hospital as sexually violent
22 predators but who are under court order to be released from the
23 state hospital pursuant to the forensic conditional release
24 program.

25 (c) The State Department of Mental Health shall expend no
26 more than \$49,000 on formulating the plan, and shall complete
27 the plan and report to the Governor and the Legislature by
28 January 1, 2007.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety
31 within the meaning of Article IV of the Constitution and shall go
32 into immediate effect. The facts constituting the necessity are:

33 In order to protect the community from dangerous sexually
34 violent predators, it is necessary that this act take effect
35 immediately.