

AMENDED IN ASSEMBLY JUNE 18, 2012
AMENDED IN ASSEMBLY SEPTEMBER 2, 2011
AMENDED IN ASSEMBLY JUNE 28, 2011
AMENDED IN SENATE MAY 25, 2011
AMENDED IN SENATE MAY 9, 2011
AMENDED IN SENATE APRIL 14, 2011
AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 760

Introduced by Senator Alquist

February 18, 2011

An act to ~~add Section 69433.3 the Education Code, relating to postsecondary education~~ amend Section 6603 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as amended, Alquist. ~~Postsecondary education: the Cal Grant Program.~~ Sexually violent predators: evaluations.

Existing law provides for the civil commitment of criminal offenders who have been determined to be sexually violent predators for treatment in a secure state hospital facility, as specified. Under existing law, persons to be evaluated for civil commitment are evaluated by 2 practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If the evaluators agree, then a petition for civil commitment may be filed.

Existing law specifies the judicial processes necessary for civil commitment as a sexually violent predator, including, but not limited to, the right by the attorney petitioning for commitment to demand a jury trial and request the State Department of Mental Health to perform updated evaluations. If one or more of the original evaluators is no longer available to testify for the petitioner in court proceedings, existing law authorizes this attorney to request the State Department of Mental Health to perform replacement evaluations. Existing law defines when an evaluator is no longer available to testify for this purpose.

This bill would include an evaluator who has resigned or retired within the definition of an evaluator who is no longer available to testify.

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

~~Existing law, the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Cal Grant Program), establishes the Cal Grant A and B Entitlement Awards, the California Community College Transfer Entitlement Awards, the Competitive Cal Grant A and B Awards, the Cal Grant C Awards, and the Cal Grant T Awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions.~~

~~Existing law requires Cal Grant participating institutions, beginning in 2012, to annually report to the California Student Aid Commission enrollment, persistence, and graduation data for all students and job placement rate and salary and wage information for each program that is either designed or advertised to lead to a particular type of job or advertised or promoted with any claim regarding job placement.~~

~~The bill would require the commission to annually report to specified committees of the Legislature the data, as specified, reported annually to the commission by Cal Grant participating institutions and the names of the postsecondary educational institutions that failed to report.~~

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

1 6603. (a) A person subject to this article shall be entitled to a
2 trial by jury, to the assistance of counsel, to the right to retain
3 experts or professional persons to perform an examination on his
4 or her behalf, and to have access to all relevant medical and
5 psychological records and reports. In the case of a person who is
6 indigent, the court shall appoint counsel to assist him or her, and,
7 upon the person’s request, assist the person in obtaining an expert
8 or professional person to perform an examination or participate in
9 the trial on the person’s behalf. Any right that may exist under this
10 section to request DNA testing on prior cases shall be made in
11 conformity with Section 1405 of the Penal Code.

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

14 (c) (1) If the attorney petitioning for commitment under this
15 article determines that updated evaluations are necessary in order
16 to properly present the case for commitment, the attorney may
17 request the State Department of Mental Health to perform updated
18 evaluations. If one or more of the original evaluators is no longer
19 available to testify for the petitioner in court proceedings, the
20 attorney petitioning for commitment under this article may request
21 the State Department of Mental Health to perform replacement
22 evaluations. When a request is made for updated or replacement
23 evaluations, the State Department of Mental Health shall perform
24 the requested evaluations and forward them to the petitioning
25 attorney and to the counsel for the person subject to this article.
26 However, updated or replacement evaluations shall not be
27 performed except as necessary to update one or more of the original
28 evaluations or to replace the evaluation of an evaluator who is no
29 longer available to testify for the petitioner in court proceedings.
30 These updated or replacement evaluations shall include review of
31 available medical and psychological records, including treatment
32 records, consultation with current treating clinicians, and interviews
33 of the person being evaluated, either voluntarily or by court order.
34 If an updated or replacement evaluation results in a split opinion
35 as to whether the person subject to this article meets the criteria
36 for commitment, the State Department of Mental Health shall
37 conduct two additional evaluations in accordance with subdivision
38 (f) of Section 6601.

39 (2) For purposes of this subdivision, “no longer available to
40 testify for the petitioner in court proceedings” means that the

1 evaluator is no longer authorized by the Director of Mental Health
2 to perform evaluations regarding sexually violent predators as a
3 result of any of the following:

4 (A) The evaluator has failed to adhere to the protocol of the
5 State Department of Mental Health.

6 (B) The evaluator’s license has been suspended or revoked.

7 (C) The evaluator is unavailable pursuant to Section 240 of the
8 Evidence Code.

9 (D) *The evaluator has resigned or retired.*

10 (d) Nothing in this section shall prevent the defense from
11 presenting otherwise relevant and admissible evidence.

12 (e) If the person subject to this article or the petitioning attorney
13 does not demand a jury trial, the trial shall be before the court
14 without a jury.

15 (f) A unanimous verdict shall be required in any jury trial.

16 (g) The court shall notify the State Department of Mental Health
17 of the outcome of the trial by forwarding to the department a copy
18 of the minute order of the court within 72 hours of the decision.

19 (h) Nothing in this section shall limit any legal or equitable right
20 that a person may have to request DNA testing.

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

25 *In order to protect communities from a public safety threat, it*
26 *is necessary that this act take effect immediately.*

27 ~~SECTION 1. Section 69433.3 is added to the Education Code,~~
28 ~~to read:~~

29 ~~69433.3. (a) The commission shall annually report to the~~
30 ~~Assembly Committee on Budget, the Senate Committee on Budget~~
31 ~~and Fiscal Review, and other appropriate policy committees of the~~
32 ~~Legislature the data reported pursuant to Section 69433.2 and the~~
33 ~~names of the postsecondary educational institutions that failed to~~
34 ~~report the data required pursuant to Section 69433.2.~~

35 ~~(b) (1) The requirement for submitting a report imposed under~~
36 ~~subdivision (a) is inoperative on January 1, 2016, pursuant to~~
37 ~~Section 10231.5 of the Government Code.~~

1 ~~(2) A report to be submitted pursuant to subdivision (a) shall~~
2 ~~be submitted in compliance with Section 9795 of the Government~~
3 ~~Code.~~

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