

**ASSEMBLY BILL**

**No. 768**

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**Introduced by Assembly Member Achadjian**

February 21, 2013

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An act to amend Section 6600 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 768, as introduced, Achadjian. Sexually violent predators: civil commitment.

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. Proposition 83 of the November 7, 2006, statewide general election, made various changes to the sexually violent predator civil commitment process. Proposition 83 permits the Legislature to amend its provisions, either by a  $\frac{2}{3}$  vote of the membership of each house, or by majority vote of the membership of each house if the amendments expand the scope of the application of the provisions of the proposition or increase the punishments or penalties provided in the proposition.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

- 1 SECTION 1. Section 6600 of the Welfare and Institutions Code
- 2 is amended to read:

1 6600. As used in this article, the following terms have the  
2 following meanings:

3 (a) (1) “Sexually violent predator” means a person who has  
4 been convicted of a sexually violent offense against one or more  
5 victims and who has a diagnosed mental disorder that makes the  
6 person a danger to the health and safety of others in that it is likely  
7 that he or she will engage in sexually violent criminal behavior.

8 (2) For purposes of this subdivision any of the following shall  
9 be considered a conviction for a sexually violent offense:

10 (A) A prior or current conviction that resulted in a determinate  
11 prison sentence for an offense described in subdivision (b).

12 (B) A conviction for an offense described in subdivision (b)  
13 that was committed prior to July 1, 1977, and that resulted in an  
14 indeterminate prison sentence.

15 (C) A prior conviction in another jurisdiction for an offense that  
16 includes all of the elements of an offense described in subdivision  
17 (b).

18 (D) A conviction for an offense under a predecessor statute that  
19 includes all of the elements of an offense described in subdivision  
20 (b).

21 (E) A prior conviction for which the inmate received a grant of  
22 probation for an offense described in subdivision (b).

23 (F) A prior finding of not guilty by reason of insanity for an  
24 offense described in subdivision (b).

25 (G) A conviction resulting in a finding that the person was a  
26 mentally disordered sex offender.

27 (H) A prior conviction for an offense described in subdivision  
28 (b) for which the person was committed to the Department of ~~the~~  
29 ~~Youth Authority~~ *Corrections and Rehabilitation, Division of*  
30 *Juvenile Facilities*, pursuant to Section 1731.5.

31 (I) A prior conviction for an offense described in subdivision  
32 (b) that resulted in an indeterminate prison sentence.

33 (3) Conviction of one or more of the crimes enumerated in this  
34 section shall constitute evidence that may support a court or jury  
35 determination that a person is a sexually violent predator, but shall  
36 not be the sole basis for the determination. The existence of ~~any~~  
37 prior convictions may be shown with documentary evidence. The  
38 details underlying the commission of an offense that led to a prior  
39 conviction, including a predatory relationship with the victim, may  
40 be shown by documentary evidence, including, but not limited to,

1 preliminary hearing transcripts, trial transcripts, probation and  
2 sentencing reports, and evaluations by the State Department of  
3 ~~Mental Health State Hospitals~~. Jurors shall be admonished that  
4 they may not find a person *to be* a sexually violent predator based  
5 on prior offenses absent relevant evidence of a currently diagnosed  
6 mental disorder that makes the person a danger to the health and  
7 safety of others in that it is likely that he or she will engage in  
8 sexually violent criminal behavior.

9 (4) The provisions of this section shall apply to ~~any~~ a person  
10 against whom proceedings were initiated for commitment as a  
11 sexually violent predator on or after January 1, 1996.

12 (b) “Sexually violent offense” means the following acts when  
13 committed by force, violence, duress, menace, fear of immediate  
14 and unlawful bodily injury on the victim or another person, or  
15 threatening to retaliate in the future against the victim or any other  
16 person, and that are committed on, before, or after the effective  
17 date of this article and result in a conviction or a finding of not  
18 guilty by reason of insanity, as defined in subdivision (a): a felony  
19 violation of Section 261, 262, 264.1, 269, 286, 288, 288a, 288.5,  
20 or 289 of the Penal Code, or ~~any~~ a felony violation of Section 207,  
21 209, or 220 of the Penal Code, committed with the intent to commit  
22 a violation of Section 261, 262, 264.1, 286, 288, 288a, or 289 of  
23 the Penal Code.

24 (c) “Diagnosed mental disorder” includes a congenital or  
25 acquired condition affecting the emotional or volitional capacity  
26 that predisposes the person to the commission of criminal sexual  
27 acts in a degree constituting the person a menace to the health and  
28 safety of others.

29 (d) “Danger to the health and safety of others” does not require  
30 proof of a recent overt act while the offender is in custody.

31 (e) “Predatory” means an act is directed toward a stranger, a  
32 person of casual acquaintance with whom no substantial  
33 relationship exists, or an individual with whom a relationship has  
34 been established or promoted for the primary purpose of  
35 victimization.

36 (f) “Recent overt act” means ~~any~~ a criminal act that manifests  
37 a likelihood that the actor may engage in sexually violent predatory  
38 criminal behavior.

39 (g) Notwithstanding any other ~~provision~~ of law and for purposes  
40 of this section, a prior juvenile adjudication of a sexually violent

1 offense may constitute a prior conviction for which the person  
2 received a determinate term if all of the following apply:

3 (1) The juvenile was 16 years of age or older at the time he or  
4 she committed the prior offense.

5 (2) The prior offense is a sexually violent offense as specified  
6 in subdivision (b).

7 (3) The juvenile was adjudged a ward of the juvenile court  
8 within the meaning of Section 602 because of the person's  
9 commission of the offense giving rise to the juvenile court  
10 adjudication.

11 (4) The juvenile was committed to the Department of ~~the Youth~~  
12 ~~Authority~~ *Corrections and Rehabilitation, Division of Juvenile*  
13 *Facilities*, for the sexually violent offense.

14 (h) A minor adjudged a ward of the court for commission of an  
15 offense that is defined as a sexually violent offense shall be entitled  
16 to specific treatment as a sexual offender. The failure of a minor  
17 to receive that treatment shall not constitute a defense or bar to a  
18 determination that ~~any~~ a person is a sexually violent predator within  
19 the meaning of this article.