

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 768

Introduced by Assembly Member Achadjian

February 21, 2013

An act to amend Section 6608.5 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 768, as amended, Achadjian. Sexually violent predators: conditional release.

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. Existing law authorizes the conditional release of a sexually violent predator under specified circumstances. *Existing law requires that a person who is conditionally released must be released to his or her county of domicile unless extraordinary circumstances, as defined, are present.* 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 prohibit a sexually violent predator who has been granted conditional release from being released as a transient in any

~~county.~~ county or being placed in housing that consists of a recreational or other vehicle. The bill would also declare that extraordinary circumstances justifying the placement of a person who has been granted conditional release in a county other than his or her county of domicile are present when housing, as specified, cannot be located within the county of domicile within 180 days of a court ordering that the person be conditionally released.

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 6608.5 of the Welfare and Institutions
 2 Code is amended to read:
 3 6608.5. (a) A person who is conditionally released pursuant
 4 to this article shall be placed in the county of the domicile of the
 5 person prior to the person’s incarceration, unless the court finds
 6 that extraordinary circumstances require placement outside the
 7 county of domicile. Under no circumstances shall a person who
 8 is granted conditional release be released as a transient in any
 9 ~~county.~~ county or placed in housing that consists of a recreational
 10 or other vehicle.
 11 (b) (1) For the purposes of this section, “county of domicile”
 12 means the county where the person has his or her true, fixed, and
 13 permanent home and principal residence and to which he or she
 14 has manifested the intention of returning whenever he or she is
 15 absent. For the purposes of determining the county of domicile,
 16 the court may consider information found on a California driver’s
 17 license, California identification card, recent rent or utility receipt,
 18 printed personalized checks or other recent banking documents
 19 showing that person’s name and address, or information contained
 20 in an arrest record, probation officer’s report, trial transcript, or
 21 other court document. If no information can be identified or
 22 verified, the county of domicile of the individual shall be
 23 considered to be the county in which the person was arrested for
 24 the crime for which he or she was last incarcerated in the state
 25 prison or from which he or she was last returned from parole.
 26 (2) In a case where the person committed a crime while being
 27 held for treatment in a state hospital, or while being confined in a
 28 state prison or local jail facility, the county wherein that facility

1 was located shall not be considered the county of domicile unless
2 the person resided in that county prior to being housed in the
3 hospital, prison, or jail.

4 (c) For the purposes of this section, “extraordinary
5 circumstances” means circumstances that would inordinately limit
6 the department’s ability to effect conditional release of the person
7 in the county of domicile in accordance with Section 6608 or any
8 other provision of this article, and the procedures described in
9 Sections 1605 to 1610, inclusive, of the Penal Code. *Extraordinary*
10 *circumstances shall be deemed present when fixed, permanent*
11 *housing that does not consist of a recreational or other vehicle*
12 *cannot be located within the county of domicile within 180 days*
13 *of a court ordering that the person be conditionally released.*

14 (d) The county of domicile shall designate a county agency or
15 program that will provide assistance and consultation in the process
16 of locating and securing housing within the county for persons
17 committed as sexually violent predators who are about to be
18 conditionally released under Section 6608. Upon notification by
19 the department of a person’s potential or expected conditional
20 release under Section 6608, the county of domicile shall notify the
21 department of the name of the designated agency or program, at
22 least 60 days before the date of the potential or expected release.

23 (e) In recommending a specific placement for community
24 outpatient treatment, the department or its designee shall consider
25 all of the following:

26 (1) The concerns and proximity of the victim or the victim’s
27 next of kin.

28 (2) The age and profile of the victim or victims in the sexually
29 violent offenses committed by the person subject to placement.
30 For purposes of this subdivision, the “profile” of a victim includes,
31 but is not limited to, gender, physical appearance, economic
32 background, profession, and other social or personal characteristics.

33 (f) Notwithstanding any other provision of law, a person released
34 under this section shall not be placed within one-quarter mile of
35 any public or private school providing instruction in kindergarten
36 or any of grades 1 to 12, inclusive, if either of the following
37 conditions exist:

38 (1) The person has previously been convicted of a violation of
39 Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of
40 subdivision (c) of Section 288 of, the Penal Code.

- 1 (2) The court finds that the person has a history of improper
- 2 sexual conduct with children.

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