

AMENDED IN ASSEMBLY MAY 6, 2014
AMENDED IN ASSEMBLY MARCH 24, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1607

Introduced by Assembly Member Fox

February 5, 2014

An act to amend Sections 6608, ~~6608.5~~, and ~~6608.8~~ and 6608.5 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, as amended, Fox. Sexually violent predators.

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 requires the Secretary of the Department of Corrections and Rehabilitation to refer a prisoner for evaluation by the State Department of State Hospitals when the secretary determines that the person may be a sexually violent predator and specifies the judicial processes necessary for civil commitment as a sexually violent predator, including, but not limited to, the right to a jury trial. Existing law establishes provisions by which a committed person may petition for conditional release. Existing law requires the court, if it decides a petition for conditional release is not frivolous, to give notice, as specified, at least 30 court days prior to the hearing date for the petition.

This bill would recast these provisions to require the court, if it determines that the petition is not frivolous, to give notice of the court's intention to conduct a conditional release hearing. The bill would require the person petitioning for conditional release, the Director of

State Hospitals, and the designated attorney of the county of commitment to notify the court within 30 court days of receipt of this notice if it appears that a county other than the county of commitment may be the county of domicile. The bill would provide that the court's determination of the county of domicile would be final, and would apply to further hearings pertaining to conditional release. The bill would require that after determining the county of domicile, the court set a date for the conditional release hearing and provide notice, as specified. The bill would authorize the county of domicile to elect to represent the state at the conditional release hearing. The bill would provide that if the committed person has been conditionally released in a county other than the county of commitment, the jurisdiction of the person would, upon request of the designated counsel of the county of placement, be transferred to the court of the county of placement.

By imposing additional duties on counties in regard to conditional releases of committed persons, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~This bill would additionally require the person petitioning for conditional release to list the county or counties of potential domicile to which the petitioner wishes to be conditionally released, and the reasons why each county is chosen for that purpose by the petitioner. The bill would require the court to provide notice of the hearing to a designated attorney from each potential domicile county, who would be authorized to be present, conduct an examination of witnesses, and present evidence at the conditional release hearing.~~

~~Existing law provides that a person who is conditionally released be placed in the county that was the county of domicile of the person prior to the person's incarceration for the commitment offense, unless the court finds that extraordinary circumstances require placement outside the county of domicile.~~

~~The bill would require the court, upon determining that the person is to be placed in a forensic conditional release program, to set a hearing~~

~~for the determination of the county of domicile. The bill would require the court to notify designated attorneys from the committing county and each county of potential domicile of that hearing at least 15 calendar days prior to the hearing. The bill would authorize the attorneys to examine witnesses regarding the appropriateness of domicile of the conditionally released person in the attorney's county. The bill would require the court to make a determination of the county of domicile based on specified criteria.~~

~~Existing law requires the terms and conditions of conditional release to be drafted to include reasonable flexibility to achieve the aims of conditional release, and to protect the public and the conditionally released person.~~

~~The bill would additionally require a conditionally released person, during the term of the conditional release, to submit his or her person and property to search and seizure at any time, day or night, by any law enforcement officer or peace officer, with or without probable cause or reasonable suspicion.~~

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

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

1 SECTION 1. Section 6608 of the Welfare and Institutions Code
 2 is amended to read:
 3 6608. (a) A person who has been committed as a sexually
 4 violent predator shall be permitted to petition the court for
 5 conditional release with or without the recommendation or
 6 concurrence of the Director of State Hospitals. If a person has
 7 previously filed a petition for conditional release without the
 8 concurrence of the director and the court determined, either upon
 9 review of the petition or following a hearing, that the petition was
 10 frivolous or that the committed person's condition had not so
 11 changed that he or she would not be a danger to others in that it is
 12 not likely that he or she will engage in sexually violent criminal
 13 behavior if placed under supervision and treatment in the
 14 community, ~~then~~ the court shall deny the subsequent petition unless
 15 it contains facts upon which a court could find that the condition
 16 of the committed person had so changed that a hearing was
 17 warranted. Upon receipt of a first or subsequent petition from a
 18 committed person without the concurrence of the director, the

1 court shall endeavor whenever possible to review the petition and
2 determine if it is based upon frivolous grounds and, if so, shall
3 deny the petition without a hearing. The person petitioning for
4 conditional release under this subdivision shall be entitled to
5 assistance of counsel *in all hearings under this section*. The person
6 petitioning for conditional release shall serve a copy of the petition
7 on the State Department of State Hospitals at the time the petition
8 is filed with the court.

9 *(b) The procedure for a conditional release hearing in a case*
10 *where the county of domicile has not yet been determined shall be*
11 *as follows.:*

12 ~~(b)~~

13 *(1) If the court deems the petition not frivolous pursuant to*
14 *subdivision (a), the court shall give notice of the hearing date to*
15 *the attorney designated in subdivision (i) of Section 6601, the*
16 *retained or appointed attorney for the committed person, and the*
17 *Director of State Hospitals at least 30 court days before the hearing*
18 *date. of its intention to set a conditional release hearing. The*
19 *person petitioning for conditional release, the Director of State*
20 *Hospitals, and the designated attorney of the county of commitment*
21 *shall notify the court within 30 court days of receipt of this notice*
22 *if it appears that a county other than the county of commitment*
23 *may be the county of domicile.*

24 *(2) If no county other than the county of commitment appears*
25 *to be the county of domicile, the court shall determine, consistent*
26 *with Section 6608.5, that the county of commitment is the county*
27 *of domicile.*

28 *(3) If it appears or there are allegations that one or more*
29 *counties, other than the county of commitment, may be the county*
30 *of domicile, the court shall set a hearing to determine the county*
31 *of domicile, consistent with the provisions of Section 6608.5. The*
32 *court shall, at least 30 court days prior to the hearing, give notice*
33 *of the domicile hearing to the persons listed in paragraph (1) and*
34 *to the designated attorney for any county that is alleged to be the*
35 *county of domicile. Persons listed in this paragraph and paragraph*
36 *(1) may, at least 10 days prior to the hearing, file and serve*
37 *declarations, documentary evidence, and other pleadings, that are*
38 *specific only to the issue of domicile. The court may, consistent*
39 *with Section 6608.5, decide the issue of domicile solely on the*

1 *pleadings, or additionally permit, in the interests of justice,*
2 *argument and testimony.*

3 *(4) After determining the county of domicile pursuant to*
4 *paragraph (3), the court shall set a date for a conditional release*
5 *hearing and shall give notice of the hearing at least 30 court days*
6 *before the hearing to the persons described in paragraph (1) and*
7 *the designated attorney for the county of domicile.*

8 *(5) In a hearing under paragraph (4), the designated attorney*
9 *of the county of domicile shall have the right to represent the state*
10 *at the conditional release hearing. If the designated attorney for*
11 *the county of domicile elects to represent the state at the*
12 *conditional release hearing, the designated attorney shall give*
13 *notice at least 20 days before the conditional release hearing to*
14 *the parties listed in paragraph (1) and to the court. If the election*
15 *is made to represent the state, the designated attorney for the*
16 *county of commitment shall cooperate with the designated attorney*
17 *for the county of domicile but will not appear at the hearing on*
18 *behalf of the state, except in the case where the county of*
19 *commitment and the county of domicile are the same.*

20 *(6) The court's determination of a county of domicile shall be*
21 *final and shall apply to future proceedings under this article.*

22 *(7) For the purpose of this subdivision, the term "county of*
23 *domicile" shall have the same meaning as defined in Section*
24 *6608.5.*

25 *(8) For purposes of this section, the term "designated attorney"*
26 *means the attorney designated in subdivision (i) of Section 6601.*

27 *(c) The proceedings for a conditional release hearing in a case*
28 *where the court has previously determined the county of domicile*
29 *shall be as follows:*

30 *(1) If the court determines, pursuant to subdivision (a), that the*
31 *petition is not frivolous, the court shall give notice of the hearing*
32 *date at least 30 days prior to the hearing to the designated*
33 *attorneys for the county of domicile and the county of commitment,*
34 *the retained or appointed attorney for the petitioner, and the*
35 *Director of State Hospitals.*

36 *(2) Representation of the state at the conditional release hearing*
37 *shall be pursuant to paragraph (5) of subdivision (b).*

38 *(d) (1) If a committed person has been conditionally released*
39 *by a court to a county other than the county of domicile, and the*
40 *jurisdiction of the person has been transferred to that county,*

1 pursuant to subdivision (g) of Section 6608.5, the notice specified
2 in paragraph (1) of subdivision (c) shall be given to the designated
3 attorney of the county of placement who shall represent the state
4 in any further proceedings.

5 (2) The term “county of placement” means the county where
6 the court has placed a person who is granted conditional release.

7 ~~(e)~~

8 (e) If the petition for conditional release is made without the
9 consent of the director of the treatment facility, no action shall be
10 taken on the petition by the court without first obtaining the written
11 recommendation of the director of the treatment facility.

12 ~~(f)~~

13 (f) ~~No~~ A hearing upon the petition shall *not* be held until the
14 person who is committed has been under commitment for
15 confinement and care in a facility designated by the Director of
16 State Hospitals for not less than one year from the date of the order
17 of commitment. ~~No~~ A hearing upon the petition shall *not* be held
18 until the community program director designated by the State
19 Department of State Hospitals submits a report to the court that
20 makes a recommendation as to the appropriateness of placing the
21 person in a state-operated forensic conditional release program.

22 ~~(e)~~

23 (g) The court shall hold a hearing to determine whether the
24 person committed would be a danger to the health and safety of
25 others in that it is likely that he or she will engage in sexually
26 violent criminal behavior due to his or her diagnosed mental
27 disorder if under supervision and treatment in the community. The
28 attorney designated pursuant to ~~subdivision (i) of Section 6601~~
29 *paragraph (5) of subdivision (b)* shall represent the state and shall
30 have the committed person evaluated by experts chosen by the
31 state. The committed person shall have the right to the appointment
32 of experts, if he or she so requests. If the court at the hearing
33 determines that the committed person would not be a danger to
34 others due to his or her diagnosed mental disorder while under
35 supervision and treatment in the community, the court shall order
36 the committed person placed with an appropriate forensic
37 conditional release program operated by the state for one year. A
38 substantial portion of the state-operated forensic conditional release
39 program shall include outpatient supervision and treatment. The
40 court shall retain jurisdiction of the person throughout the course

1 of the program, *except as provided in subdivision (g) of Section*
2 *6608.5.*

3 ~~(f)~~

4 (h) Before placing a committed person in a state-operated
5 forensic conditional release program, the community program
6 director designated by the State Department of State Hospitals
7 shall submit a written recommendation to the court stating which
8 forensic conditional release program is most appropriate for
9 supervising and treating the committed person. If the court does
10 not accept the community program director's recommendation,
11 the court shall specify the reason or reasons for its order on the
12 record. The procedures described in Sections 1605 to 1610,
13 inclusive, of the Penal Code shall apply to the person placed in
14 the forensic conditional release program.

15 ~~(g)~~

16 (i) If the court determines that the person should be transferred
17 to a state-operated forensic conditional release program, the
18 community program director, or his or her designee, shall make
19 the necessary placement arrangements and, within 30 days after
20 receiving notice of the court's finding, the person shall be placed
21 in the community in accordance with the treatment and supervision
22 plan unless good cause for not doing so is presented to the court.

23 ~~(h)~~

24 (j) If the court denies the petition to place the person in an
25 appropriate forensic conditional release program, the person may
26 not file a new application until one year has elapsed from the date
27 of the denial.

28 ~~(i)~~

29 (k) In a hearing authorized by this section, the committed person
30 shall have the burden of proof by a preponderance of the evidence,
31 unless the report required by Section 6604.9 determines that
32 conditional release to a less restrictive alternative is in the best
33 interest of the person and that conditions can be imposed that would
34 adequately protect the community, in which case the burden of
35 proof shall be on the state to show, by a preponderance of the
36 evidence, that conditional release is not appropriate.

37 ~~(j)~~

38 (l) Time spent in a conditional release program pursuant to this
39 section shall not count toward the term of commitment under this
40 article unless the person is confined in a locked facility by the

1 conditional release program, in which case the time spent in a
2 locked facility shall count toward the term of commitment.

3 ~~(k)~~

4 (m) After a minimum of one year on conditional release, the
5 committed person, with or without the recommendation or
6 concurrence of the Director of State Hospitals, may petition the
7 court for unconditional discharge. The court shall use the
8 procedures described in subdivisions (a) and (b) of Section 6605
9 to determine if the person should be unconditionally discharged
10 from commitment on the basis that, by reason of a diagnosed
11 mental disorder, he or she is no longer a danger to the health and
12 safety of others in that it is not likely that he or she will engage in
13 sexually violent criminal behavior.

14 *SEC. 2. Section 6608.5 of the Welfare and Institutions Code*
15 *is amended to read:*

16 6608.5. (a) A person who is conditionally released pursuant
17 to this article shall be placed in the county of the domicile of the
18 person prior to the person's incarceration, unless the court finds
19 that extraordinary circumstances require placement outside the
20 county of domicile.

21 (b) (1) For the purposes of this section, "county of domicile"
22 means the county where the person has his or her true, fixed, and
23 permanent home and principal residence and to which he or she
24 has manifested the intention of returning whenever he or she is
25 absent. For the purposes of determining the county of domicile,
26 the court may consider information found on a California driver's
27 license, California identification card, recent rent or utility receipt,
28 printed personalized checks or other recent banking documents
29 showing that person's name and address, or information contained
30 in an arrest record, probation officer's report, trial transcript, or
31 other court document. If no information can be identified or
32 verified, the county of domicile of the individual shall be
33 considered to be the county in which the person was arrested for
34 the crime for which he or she was last incarcerated in the state
35 prison or from which he or she was last returned from parole.

36 (2) In a case where the person committed a crime while being
37 held for treatment in a state hospital, or while being confined in a
38 state prison or local jail facility, the county wherein that facility
39 was located shall not be considered the county of domicile unless

1 the person resided in that county prior to being housed in the
2 hospital, prison, or jail.

3 (c) For the purposes of this section, “extraordinary
4 circumstances” means circumstances that would inordinately limit
5 the department’s ability to effect conditional release of the person
6 in the county of domicile in accordance with Section 6608 or any
7 other provision of this article, and the procedures described in
8 Sections 1605 to 1610, inclusive, of the Penal Code.

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

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

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

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

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

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

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

38 (g) *If the committed person has been conditionally released in*
39 *a county other than the county of commitment, the jurisdiction of*
40 *the person shall, upon request of the designated counsel of the*

1 county of placement, be transferred to the court of the county of
2 placement.

3 *SEC. 3. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 **SECTION 1.**—Section 6608 of the Welfare and Institutions Code
9 is amended to read:

10 6608. (a) A person who has been committed as a sexually
11 violent predator may petition the court for conditional release with
12 or without the recommendation or concurrence of the Director of
13 State Hospitals. If a person has previously filed a petition for
14 conditional release without the concurrence of the director and the
15 court determined, either upon review of the petition or following
16 a hearing, that the petition was frivolous or that the committed
17 person's condition had not so changed that he or she would not be
18 a danger to others in that it is not likely that he or she will engage
19 in sexually violent criminal behavior if placed under supervision
20 and treatment in the community, the court shall deny the
21 subsequent petition unless it contains facts upon which a court
22 could find that the condition of the committed person had so
23 changed that a hearing was warranted. Upon receipt of a first or
24 subsequent petition from a committed person without the
25 concurrence of the director, the court shall endeavor whenever
26 possible to review the petition and determine if it is based upon
27 frivolous grounds and, if so, shall deny the petition without a
28 hearing. The person petitioning for conditional release under this
29 subdivision shall be entitled to assistance of counsel. The person
30 petitioning for conditional release shall be required to list the
31 county or counties of potential domicile to which the petitioner
32 wishes to be conditionally released, and the reasons why each
33 county is chosen for that purpose by the petitioner. The person
34 petitioning for conditional release shall serve a copy of the petition
35 on the State Department of State Hospitals at the time the petition
36 is filed with the court.

37 (b) If the court deems the petition not frivolous pursuant to
38 subdivision (a), the court shall give notice of the hearing date to
39 the attorney designated in subdivision (i) of Section 6601 from the
40 committing county and to the designated attorney from each county

1 of potential domicile, the retained or appointed attorney for the
2 committed person, and the Director of State Hospitals at least 30
3 court days before the hearing date. Each designated attorney shall
4 have the right to be present, conduct an examination of witnesses,
5 and present evidence at the conditional release hearing. The
6 designated attorney from the committing county shall make the
7 committing county's case file on the petitioner available to the
8 designated attorney from each county of potential domicile at least
9 30 court days before the date of the hearing.

10 (e) If the petition for conditional release is made without the
11 consent of the director of the treatment facility, no action shall be
12 taken on the petition by the court without first obtaining the written
13 recommendation of the director of the treatment facility.

14 (d) A hearing upon the petition shall not be held until the person
15 who is committed has been under commitment for confinement
16 and care in a facility designated by the Director of State Hospitals
17 for not less than one year from the date of the order of commitment.
18 A hearing upon the petition shall not be held until the community
19 program director designated by the State Department of State
20 Hospitals submits a report to the court that makes a
21 recommendation as to the appropriateness of placing the person
22 in a state-operated forensic conditional release program.

23 (e) The court shall hold a hearing to determine whether the
24 person committed would be a danger to the health and safety of
25 others in that it is likely that he or she will engage in sexually
26 violent criminal behavior due to his or her diagnosed mental
27 disorder if under supervision and treatment in the community. The
28 attorney designated pursuant to subdivision (i) of Section 6601
29 shall represent the state and shall have the committed person
30 evaluated by experts chosen by the state. The committed person
31 shall have the right to the appointment of experts, if he or she so
32 requests. If the court at the hearing determines that the committed
33 person would not be a danger to others due to his or her diagnosed
34 mental disorder while under supervision and treatment in the
35 community, the court shall order the committed person placed with
36 an appropriate forensic conditional release program operated by
37 the state for one year. A substantial portion of the state-operated
38 forensic conditional release program shall include outpatient
39 supervision and treatment. The court shall retain jurisdiction of
40 the person throughout the course of the program.

1 (f) ~~Before placing a committed person in a state-operated~~
2 ~~forensic conditional release program, the community program~~
3 ~~director designated by the State Department of State Hospitals~~
4 ~~shall submit a written recommendation to the court stating which~~
5 ~~forensic conditional release program is most appropriate for~~
6 ~~supervising and treating the committed person. If the court does~~
7 ~~not accept the community program director's recommendation,~~
8 ~~the court shall specify the reason or reasons for its order on the~~
9 ~~record. The procedures described in Sections 1605 to 1610,~~
10 ~~inclusive, of the Penal Code shall apply to the person placed in~~
11 ~~the forensic conditional release program.~~

12 (g) ~~If the court determines that the person should be transferred~~
13 ~~to a state-operated forensic conditional release program, the~~
14 ~~community program director, or his or her designee, shall make~~
15 ~~the necessary placement arrangements and, within 30 days after~~
16 ~~receiving notice of the court's finding, the person shall be placed~~
17 ~~in the community in accordance with the treatment and supervision~~
18 ~~plan unless good cause for not doing so is presented to the court.~~

19 (h) ~~If the court denies the petition to place the person in an~~
20 ~~appropriate forensic conditional release program, the person may~~
21 ~~not file a new application until one year has elapsed from the date~~
22 ~~of the denial.~~

23 (i) ~~In a hearing authorized by this section, the committed person~~
24 ~~shall have the burden of proof by a preponderance of the evidence,~~
25 ~~unless the report required by Section 6604.9 determines that~~
26 ~~conditional release to a less restrictive alternative is in the best~~
27 ~~interest of the person and that conditions can be imposed that would~~
28 ~~adequately protect the community, in which case the burden of~~
29 ~~proof shall be on the state to show, by a preponderance of the~~
30 ~~evidence, that conditional release is not appropriate.~~

31 (j) ~~Time spent in a forensic conditional release program pursuant~~
32 ~~to this section does not count toward the term of commitment under~~
33 ~~this article unless the person is confined in a locked facility by the~~
34 ~~forensic conditional release program, in which case the time spent~~
35 ~~in a locked facility shall count toward the term of commitment.~~

36 (k) ~~After a minimum of one year on conditional release, the~~
37 ~~committed person, with or without the recommendation or~~
38 ~~concurrence of the Director of State Hospitals, may petition the~~
39 ~~court for unconditional discharge. The court shall use the~~
40 ~~procedures described in subdivisions (a) and (b) of Section 6605~~

1 to determine if the person should be unconditionally discharged
2 from commitment on the basis that, by reason of a diagnosed
3 mental disorder, he or she is no longer a danger to the health and
4 safety of others in that it is not likely that he or she will engage in
5 sexually violent criminal behavior.

6 ~~SEC. 2. Section 6608.5 of the Welfare and Institutions Code~~
7 ~~is amended to read:~~

8 ~~6608.5. (a) A person who is conditionally released pursuant~~
9 ~~to this article shall be placed in the county of the domicile of the~~
10 ~~person prior to the person's incarceration for the commitment~~
11 ~~offense, unless the court finds that extraordinary circumstances~~
12 ~~require placement outside the county of domicile. The court shall,~~
13 ~~upon determining that the person shall be placed in a forensic~~
14 ~~conditional release program, set a hearing for the determination~~
15 ~~of the county of domicile. The court shall notify the attorney~~
16 ~~designated in subdivision (i) of Section 6601 from the committing~~
17 ~~county and the designated attorney from each county of potential~~
18 ~~domicile, of the date of the hearing at least 15 calendar days before~~
19 ~~the date of the hearing. Each of these attorneys shall be allowed~~
20 ~~to conduct an examination of witnesses, regarding the~~
21 ~~appropriateness of domicile in the attorney's county. The court~~
22 ~~shall determine the county of domicile after the presentation of~~
23 ~~evidence, if any, by the designated attorneys. The court's~~
24 ~~determination shall be based on the factors set forth in subdivisions~~
25 ~~(b) and (c). If the county of domicile is different than the county~~
26 ~~of commitment, jurisdiction of the person shall be transferred to~~
27 ~~the county of conditional release placement.~~

28 ~~(b) (1) For the purposes of this section, "county of domicile"~~
29 ~~means the county where the person has his or her true, fixed, and~~
30 ~~permanent home and principal residence and to which he or she,~~
31 ~~prior to the most recent commitment offense, has manifested the~~
32 ~~intention of returning whenever he or she is absent. For the~~
33 ~~purposes of determining the county of domicile, the court may~~
34 ~~consider information found on a California driver's license,~~
35 ~~California identification card, recent rent or utility receipt, printed~~
36 ~~personalized checks or other recent banking documents showing~~
37 ~~that person's name and address, or information contained in an~~
38 ~~arrest record, probation officer's report, trial transcript, or other~~
39 ~~court document. If no information can be identified or verified,~~
40 ~~the county of domicile of the individual shall be considered to be~~

1 the county in which the person was arrested for the crime for which
2 he or she was last incarcerated in the state prison.

3 (2) In a case where the person committed a crime while being
4 held for treatment in a state hospital, or while being confined in a
5 state prison or local jail facility, the county wherein that facility
6 was located shall not be considered the county of domicile unless
7 the person resided in that county prior to being housed in the
8 hospital, prison, or jail.

9 (e) For the purposes of this section, “extraordinary
10 circumstances” means circumstances that would inordinately limit
11 the department’s ability to effect conditional release of the person
12 in the county of domicile in accordance with Section 6608 or any
13 other provision of this article, and the procedures described in
14 Sections 1605 to 1610, inclusive, of the Penal Code.

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

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

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

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

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

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

4 ~~(2) The court finds that the person has a history of improper~~
5 ~~sexual conduct with children.~~

6 ~~SEC. 3. Section 6608.8 of the Welfare and Institutions Code~~
7 ~~is amended to read:~~

8 ~~6608.8. (a) For any person who is proposed for community~~
9 ~~outpatient treatment under the forensic conditional release program,~~
10 ~~the department shall provide to the court a copy of the written~~
11 ~~contract entered into with any public or private person or entity~~
12 ~~responsible for monitoring and supervising the patient's outpatient~~
13 ~~placement and treatment program. This subdivision does not apply~~
14 ~~to subcontracts between the contractor and clinicians providing~~
15 ~~treatment and related services to the person.~~

16 ~~(b) The terms and conditions of conditional release shall be~~
17 ~~drafted to include reasonable flexibility to achieve the aims of~~
18 ~~conditional release, and to protect the public and the conditionally~~
19 ~~released person. In order to protect the public and the conditionally~~
20 ~~released person, the person shall, during the term of the conditional~~
21 ~~release, submit his or her person and property to search and seizure~~
22 ~~at any time, day or night, by any law enforcement officer or peace~~
23 ~~officer, with or without probable cause or reasonable suspicion.~~

24 ~~(c) The court in its discretion may order the department to,~~
25 ~~notwithstanding Section 4514 or 5328, provide a copy of the~~
26 ~~written terms and conditions of conditional release to the sheriff~~
27 ~~or chief of police, or both, that have jurisdiction over the proposed~~
28 ~~or actual placement community.~~

29 ~~(d) (1) Except in an emergency, the department or its designee~~
30 ~~shall not alter the terms and conditions of conditional release~~
31 ~~without the prior approval of the court.~~

32 ~~(2) The department shall provide notice to the person committed~~
33 ~~under this article and the district attorney or designated county~~
34 ~~counsel of any proposed change in the terms and conditions of~~
35 ~~conditional release.~~

36 ~~(3) The court on its own motion, or upon the motion of either~~
37 ~~party to the action, may set a hearing on the proposed change. The~~
38 ~~hearing shall be held as soon as is practicable.~~

39 ~~(4) If a hearing on the proposed change is held, the court shall~~
40 ~~state its findings on the record. If the court approves a change in~~

1 the terms and conditions of conditional release without a hearing,
2 the court shall issue a written order.

3 ~~(5) In the case of an emergency, the department or its designee~~
4 ~~may deviate from the terms and conditions of the conditional~~
5 ~~release if necessary to protect public safety or the safety of the~~
6 ~~person. If a hearing on the emergency is set by the court or~~
7 ~~requested by either party, the hearing shall be held as soon as~~
8 ~~practicable. The department, its designee, and the parties shall~~
9 ~~endeavor to resolve routine matters in a cooperative fashion without~~
10 ~~the need for a formal hearing.~~

11 ~~(e) Notwithstanding any provision of this section, including,~~
12 ~~but not limited to, subdivision (d), matters concerning the~~
13 ~~residential placement, including any changes or proposed changes~~
14 ~~in the residence of the person, shall be considered and determined~~
15 ~~pursuant to Section 6609.1.~~

16

17

18 CORRECTIONS:

19 Text—Page 4.

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