

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1003

Introduced by Assembly Member Nazarian

February 26, 2015

An act to amend Section 6604.9 of the Welfare and Institutions Code, relating to ~~public social services~~; mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1003, as amended, Nazarian. Mental health: ~~State Department of State Hospitals~~. 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 requires an annual examination of the mental condition of a sexually violent predator to determine whether conditional release to a less restrictive alternative or unconditional release is in the best interest of the person and the conditions imposed would adequately protect the community. Existing law requires that the report be in the form of a declaration and prepared by a professionally qualified person. Proposition 83, enacted by the voters at 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 a 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 require the report described above to be signed by the Director of the State Department of State Hospitals. By amending the requirements for the report, this bill would amend Proposition 83.

~~Existing law creates in state government the California State Auditor's Office under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy. Existing law provides that the office is headed by the California State Auditor and is independent of the executive branch and legislative control. Existing law requires the California State Auditor to conduct financial and performance audits as directed by statute, and to conduct audits of a state or local governmental agencies or other publicly created entities as requested by the Joint Legislative Audit Committee.~~

~~Existing law also creates the State Department of State Hospitals in the California Health and Human Services Agency. Existing law requires that state hospitals provide care, treatment, and education of mentally disordered persons who are under the jurisdiction of the State Department of State Hospitals.~~

~~This bill would express the intent of the Legislature to enact legislation that would implement the recommendations of a forthcoming California State Auditor's report on the practices of doctors contracting with the State Department of State Hospitals.~~

Vote: ~~majority~~ $\frac{2}{3}$. 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 6604.9 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 6604.9. (a) A person found to be a sexually violent predator
- 4 and committed to the custody of the State Department of State
- 5 Hospitals shall have a current examination of his or her mental
- 6 condition made at least once every year. The report shall be in the
- 7 form of a declaration and shall be prepared by a professionally
- 8 qualified person. *The report shall also be signed by the Director*

1 *of the State Department of State Hospitals.* The person may retain
2 or, if he or she is indigent and so requests, the court may appoint,
3 a qualified expert or professional person to examine him or her,
4 and the expert or professional person shall have access to all
5 records concerning the person.

6 (b) The annual report shall include consideration of whether the
7 committed person currently meets the definition of a sexually
8 violent predator and whether conditional release to a less restrictive
9 alternative, pursuant to Section 6608, or an unconditional
10 discharge, pursuant to Section 6605, is in the best interest of the
11 person and conditions can be imposed that would adequately
12 protect the community.

13 (c) The State Department of State Hospitals shall file this
14 periodic report with the court that committed the person under this
15 article. A copy of the report shall be served on the prosecuting
16 agency involved in the initial commitment and upon the committed
17 person.

18 (d) If the State Department of State Hospitals determines that
19 either: (1) the person's condition has so changed that the person
20 no longer meets the definition of a sexually violent predator and
21 should, therefore, be considered for unconditional discharge, or
22 (2) conditional release to a less restrictive alternative is in the best
23 interest of the person and conditions can be imposed that
24 adequately protect the community, the director shall authorize the
25 person to petition the court for conditional release to a less
26 restrictive alternative or for an unconditional discharge. The
27 petition shall be filed with the court and served upon the
28 prosecuting agency responsible for the initial commitment.

29 (e) The court, upon receipt of the petition for conditional release
30 to a less restrictive alternative, shall consider the petition using
31 procedures described in Section 6608.

32 (f) The court, upon receiving a petition for unconditional
33 discharge, shall order a show cause hearing, pursuant to the
34 provisions of Section 6605, at which the court may consider the
35 petition and any accompanying documentation provided by the
36 medical director, the prosecuting attorney, or the committed person.

37 ~~SECTION 1. It is the intent of the Legislature to enact~~
38 ~~legislation that would implement the recommendations of a~~
39 ~~forthcoming State Auditor's report on the practices of doctors~~
40 ~~contracting with the State Department of State Hospitals.~~

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