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AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Members Rogan and Hoge
(Coauthors: Assembly Members Aguiar, Boland, Bowler,
***Margett, and Rainey*)**

(Principal coauthor: ~~Senator~~ *coauthors: Senators Mountjoy*
***and Peace*)**
(Coauthor: Senator Johnston)

February 22, 1995

An act to amend Section 6250 of, and to add Article 4 (commencing with Section 6600) to Chapter 2 of Part 2 of Division 6 of, the Welfare and Institutions Code, relating to sexual predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, Rogan. Sexually violent predators.

Existing law sets forth specified punishments for sex crimes, including, among others, rape, sodomy, oral copulation, penetration with a foreign object, and lewd and lascivious conduct.

This bill would provide that whenever the Director of Corrections determines that an individual who is in custody under the jurisdiction of the Department of Corrections, and who is either serving a determinate sentence or whose parole has been revoked, may be a sexually violent predator, he or she shall, at least 6 months prior to that individual's scheduled date for release from prison, refer the person for evaluation and, under specified circumstances, request that a petition for commitment be filed, and the proceedings be handled, by either the district attorney or the county counsel of the county in which the person was convicted of the offense for which he or she is under the jurisdiction of the Department of Corrections. The bill would require the Department of Corrections and the Board of Prison Terms to screen the person based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history before referring the person to the State Department of Mental Health for a full evaluation.

~~This bill would impose a state-mandated local program by requiring the district attorney or county counsel to file, and handle all proceedings relating to, petitions for commitment.~~

This bill would set forth procedures and standards for the review of the petition for commitment and would provide that a person who is the subject of the petition is entitled to a trial by jury, the assistance of counsel, the right to retain experts or professional persons to perform an examination on his or her behalf, and access to all relevant medical and psychological records and reports.

This bill would require a court or jury to determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court would be required to direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole. If the court or jury determines that the person is a sexually violent predator, the person would be committed for 2 years to the custody of the State Department of Mental Health for appropriate



treatment and confinement in a secure facility designated by the Director of Mental Health that is located on the grounds of an institution under the jurisdiction of the Department of Corrections until his or her diagnosed mental disorder has so changed that he or she is not likely to commit an act of sexual violence.

This bill would require annual evaluations of those individuals committed as sexually violent predators.

The bill also would set forth procedures and standards for requesting and hearing petitions for conditional and unconditional release.

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~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.~~

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

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

1 SECTION 1. The Legislature finds and declares that
2 a small but extremely dangerous group of sexually violent
3 predators that have diagnosable mental disorders can be
4 identified while they are incarcerated. These persons are
5 not safe to be at large and if released represent a danger
6 to the health and safety of others in that they are likely to
7 engage in acts of sexual violence. The Legislature further
8 finds and declares that it is in the interest of society to
9 identify these individuals prior to the expiration of their
10 terms of imprisonment. It is the intent of the Legislature
11 that once identified, these individuals, if found to be likely
12 to commit acts of sexually violent criminal behavior
13 beyond a reasonable doubt, be confined and treated until



1 such time that it can be determined that they no longer
2 present a threat to society.

3 ~~The Legislature further finds and declares that the~~
4 ~~treatment needs of this population are very long term and~~
5 ~~the treatment modalities that are appropriate for this~~
6 ~~population are substantially different from those persons~~
7 ~~currently receiving mental health treatment under the~~
8 ~~Lanterman-Petris-Short Act (Part 1 (commencing with~~
9 ~~Section 5000) of Division 5 of the Welfare and Institutions~~
10 ~~Code) and, accordingly, a new civil commitment needs~~
11 ~~to be established to address the treatment needs of this~~
12 ~~population.~~

13 *The Legislature further finds and declares that while*
14 *these individuals have been duly punished for their*
15 *criminal acts, they are, if adjudicated sexually violent*
16 *predators, a continuing threat to society. The continuing*
17 *danger posed by these individuals and the continuing*
18 *basis for their judicial commitment is a currently*
19 *diagnosed mental disorder which predisposes them to*
20 *engage in sexually violent criminal behavior. It is the*
21 *intent of the Legislature that these individuals be*
22 *committed and treated for their disorders only as long as*
23 *the disorders persist and not for any punitive purposes.*

24 SEC. 2. Section 6250 of the Welfare and Institutions
25 Code is amended to read:

26 6250. As used in this part, “persons subject to judicial
27 commitment” means persons who may be judicially
28 committed under this part as mentally disordered sex
29 offenders pursuant to Article 1 (commencing with
30 Section 6300), sexually violent predators pursuant to
31 Article 4 (commencing with Section 6600), or mentally
32 retarded persons pursuant to Article 2 (commencing
33 with Section 6500) of Chapter 2 of this part.

34 Nothing in this part shall be held to change or interfere
35 with the provisions of the Penal Code and other laws
36 relating to mentally disordered persons charged with
37 crime or to the criminally insane.

38 This part shall be liberally construed so that, as far as
39 possible and consistent with the rights of persons subject



1 to commitment, those persons shall be treated, not as
2 criminals, but as sick persons.

3 SEC. 3. Article 4 (commencing with Section 6600) is
4 added to Chapter 2 of Part 2 of Division 6 of the Welfare
5 and Institutions Code, to read:

6

7

Article 4. Sexually Violent Predators

8

9 6600. As used in this article, the following terms have
10 the following meanings:

11 (a) “Sexually violent predator” means a person who
12 has been convicted of a sexually violent offense against
13 two or more victims for which he or she received a
14 determinate sentence and who has a diagnosed mental
15 disorder that makes the person a danger to the health and
16 safety of others in that it is likely that he or she will engage
17 in sexually violent criminal behavior.

18 Conviction of one or more of the crimes enumerated in
19 this section shall constitute evidence that may support a
20 court or jury determination that a person is a sexually
21 violent predator, but shall not be the sole basis for the
22 determination. *Jurors shall be admonished that they may
23 not find a person a sexually violent predator based on
24 prior offenses absent relevant evidence of a currently
25 diagnosed mental disorder that makes the person a
26 danger to the health and safety of others in that it is likely
27 that he or she will engage in sexually violent criminal
28 behavior.*

29 (b) “Sexually violent offense” means the following
30 acts when committed by force, violence, duress, menace,
31 or fear of immediate and unlawful bodily injury on the
32 victim or another person, and that are committed on,
33 before, or after the effective date of this article and result
34 in a conviction and a determinate sentence: a felony
35 violation of paragraph (2) of subdivision (a) of Section
36 261, paragraph (1) of subdivision (a) of Section 262,
37 Section 264.1, subdivision (a) or (b) of Section 288, or
38 subdivision (a) of Section 289 of the Penal Code, or
39 sodomy or oral copulation in violation of Section 286 or
40 288a of the Penal Code.



1 (c) “Diagnosed mental disorder” ~~means a diagnosed~~
2 ~~mental disorder that~~ includes a congenital or acquired
3 condition affecting the emotional or volitional capacity
4 that predisposes the person to the commission of criminal
5 sexual acts in a degree constituting the person a menace
6 to the health and safety of others.

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

10 (e) “Predatory” means an act is directed toward a
11 stranger or individual with whom a relationship has been
12 established or promoted for the primary purpose of
13 victimization.

14 (f) “Recent overt act” means any criminal act that
15 manifests a likelihood that the actor may engage in
16 sexually violent predatory criminal behavior.

17 6601. (a) Whenever the Director of Corrections
18 determines that an individual who is in custody under the
19 jurisdiction of the Department of Corrections, and who
20 is either serving a determinate prison sentence or whose
21 parole has been revoked, may be a sexually violent
22 predator, the director shall, at least six months prior to
23 that individual’s scheduled date for release from prison,
24 refer the person for evaluation in accordance with this
25 section.

26 (b) The person shall be screened by the Department
27 of Corrections and the Board of Prison Terms based on
28 whether the person has committed a sexually violent
29 predatory offense and on a review of the person’s social,
30 criminal, and institutional history. This screening shall be
31 conducted in accordance with a structured screening
32 instrument developed and updated by the State
33 Department of Mental Health in consultation with the
34 Department of Corrections. If as a result of this screening
35 it is determined that the person is likely to be a sexually
36 violent predator, the Department of Corrections shall
37 refer the person to the State Department of Mental
38 Health for a full evaluation of whether the person meets
39 the criteria in Section 6600.



1 (c) The State Department of Mental Health shall
2 evaluate the person in accordance with a standardized
3 assessment protocol, developed and updated by the State
4 Department of Mental Health, to determine whether the
5 person is a sexually violent predator as defined in this
6 article. The standardized assessment protocol shall
7 require assessment of ~~diagnosed~~ *diagnosable* mental
8 disorders, as well as various factors known to be associated
9 with the risk of reoffense among sex offenders. Risk
10 factors to be considered shall include criminal and
11 psychosexual history, type, degree, and duration of sexual
12 deviance, and severity of mental disorder.

13 (d) Pursuant to subdivision (c), the person shall be
14 evaluated by two practicing psychiatrists or
15 psychologists, or one practicing psychiatrist and one
16 practicing psychologist, designated by the Director of
17 Mental Health. If both evaluators concur that the person
18 has a diagnosed mental disorder such that he or she is
19 likely to engage in acts of sexual violence without
20 appropriate treatment and custody, the Director of
21 Mental Health shall forward a request for a petition for
22 commitment under Section 6602 to the county
23 designated in subdivision (i). Copies of the evaluation
24 reports and any other supporting documents shall be
25 made available to the attorney designated by the county
26 pursuant to subdivision (i) who may file a petition for
27 commitment.

28 (e) If one of the professionals performing the
29 evaluation pursuant to subdivision (d) does not concur
30 that the person meets the criteria specified in subdivision
31 (d), but the other professional concludes that the person
32 meets those criteria, the Director of Mental Health shall
33 arrange for further examination of the person by two
34 independent professionals selected in accordance with
35 subdivision (g).

36 (f) If an examination by independent professionals
37 pursuant to subdivision (e) is conducted, a petition to
38 request commitment under this article shall only be filed
39 if both independent professionals who evaluate the
40 person pursuant to subdivision (e) concur that the person



1 meets the criteria for commitment specified in
2 subdivision (d). The professionals selected to evaluate
3 the person pursuant to subdivision (g) shall inform the
4 person that the purpose of their examination is not
5 treatment but to determine if the person meets certain
6 criteria to be involuntarily committed pursuant to this
7 article. It is not required that the person appreciate or
8 understand that information.

9 (g) Any independent professional who is designated
10 by the Director of Corrections or the Director of Mental
11 Health for purposes of this section shall not be a state
12 government employee, shall have at least five years of
13 experience in the diagnosis and treatment of mental
14 disorders, and shall include psychiatrists and licensed
15 psychologists who have a doctoral degree in psychology.
16 The requirements set forth in this section also shall apply
17 to any professionals appointed by the court to evaluate
18 the person for purposes of any other proceedings under
19 this article.

20 (h) If the State Department of Mental Health
21 determines that the person is a sexually violent predator
22 as defined in this article, the Director of Mental Health
23 shall forward a request for a petition to be filed for
24 commitment under this article to the county designated
25 in subdivision (i). Copies of the evaluation reports and
26 any other supporting documents shall be made available
27 to the attorney designated by the county pursuant to
28 subdivision (i) who may file a petition for commitment.

29 (i) ~~A~~ *If the county's designated counsel concurs with*
30 *the recommendation, a* petition for commitment shall be
31 filed in the superior court of the county in which the
32 person was convicted of the offense for which he or she
33 is under the jurisdiction of the Department of
34 Corrections. The petition shall be filed, and the
35 proceedings shall be handled, by either the district
36 attorney or the county counsel of that county. The county
37 board of supervisors shall designate either the district
38 attorney or the county counsel to assume responsibility
39 for proceedings under this article.



1 (j) The time limits set forth in this section shall not
2 apply during the first year that this article is operative.

3 6602. A judge of the superior court shall review the
4 petition and shall determine whether there is probable
5 cause to believe that the individual named in the petition
6 is likely to engage in sexually violent predatory criminal
7 behavior upon his or her release. The person named in
8 the petition shall be entitled to assistance of counsel at the
9 probable cause hearing. If the judge determines there is
10 not probable cause, he or she shall dismiss the petition. If
11 the judge determines that there is probable cause, the
12 judge shall order that a trial be conducted to determine
13 whether the person is, by reason of diagnosed mental
14 disorder, a danger to the health and safety of others in that
15 the person is likely to engage in acts of sexual violence
16 upon his or her release from the jurisdiction of the
17 Department of Corrections.

18 6603. (a) A person subject to this article shall be
19 entitled to a trial by jury, the assistance of counsel, the
20 right to retain experts or professional persons to perform
21 an examination on his or her behalf, and have access to all
22 relevant medical and psychological records and reports.
23 In the case of a person who is indigent, the court shall
24 appoint counsel to assist him or her, and, upon the
25 person's request, assist the person in obtaining an expert
26 or professional person to perform an examination or
27 participate in the trial on the person's behalf.

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

31 (c) If no demand is made by the person subject to this
32 article or the petitioning attorney, the trial shall be before
33 the court without jury.

34 (d) A unanimous verdict shall be required in any jury
35 trial.

36 6604. The court or jury shall determine whether,
37 beyond a reasonable doubt, the person is a sexually
38 violent predator. If the court or jury is not satisfied
39 beyond a reasonable doubt that the person is a sexually
40 violent predator, the court shall direct that the person be



1 released at the conclusion of the term for which he or she
2 was initially sentenced, or that the person be
3 unconditionally released at the end of parole, whichever
4 is applicable. If the court or jury determines that the
5 person is a sexually violent predator, the person shall be
6 committed for two years to the custody of the State
7 Department of Mental Health for appropriate treatment
8 and confinement in a secure facility designated by the
9 Director of Mental Health, and the person shall not be
10 kept in actual custody longer than two years unless a
11 subsequent extended commitment is obtained from the
12 court incident to the filing of a new petition for
13 commitment under this article or unless the term of
14 commitment changes pursuant to subdivision (e) of
15 Section 6605. Time spent on conditional release shall not
16 count toward the two-year term of commitment, unless
17 the person is placed in a locked facility by the conditional
18 release program, in which case the time in a locked
19 facility shall count toward the two-year term of
20 commitment. The facility shall be located on the grounds
21 of an institution under the jurisdiction of the Department
22 of Corrections.

23 6605. (a) A person found to be a sexually violent
24 predator and committed to the custody of the State
25 Department of Mental Health shall have a current
26 examination of his or her mental condition made at least
27 once every year. The person may retain, or if he or she is
28 indigent and so requests, the court may appoint, a
29 qualified expert or professional person to examine him or
30 her, and the expert or professional person shall have
31 access to all records concerning the person.

32 (b) The director shall provide the committed person
33 with an annual written notice of his or her right to
34 petition the court for conditional release under Section
35 6608. The notice shall contain a waiver of rights. The
36 director shall forward the notice and waiver form to the
37 court with the annual report. If the person does not
38 affirmatively waive his or her right to petition the court
39 for conditional release, the court shall set a show cause
40 hearing to determine whether facts exist that warrant a



1 hearing on whether the person's condition has so changed
2 that he or she would not be a danger to the health and
3 safety of others if discharged. The committed person shall
4 have the right to be present and to have an attorney
5 represent him or her at the show cause hearing.

6 (c) If the court at the show cause hearing determines
7 that probable cause exists to believe that the committed
8 person's diagnosed mental disorder has so changed that
9 he or she is not a danger to the health and safety of others
10 and is not likely to engage in sexually violent criminal
11 behavior if discharged, then the court shall set a hearing
12 on the issue.

13 (d) At the hearing, the committed person shall have
14 the right to be present and shall be entitled to the benefit
15 of all constitutional protections that were afforded to him
16 or her at the initial commitment proceeding. The
17 attorney designated by the county pursuant to
18 subdivision (i) of Section 6601 shall represent the state
19 and shall have the right to demand a jury trial and to have
20 the committed person evaluated by experts chosen by the
21 state. The committed person also shall have the right to
22 demand a jury trial and to have experts evaluate him or
23 her on his or her behalf. The court shall appoint an expert
24 if the person is indigent and requests an appointment.
25 The burden of proof at the hearing shall be on the state
26 to prove beyond a reasonable doubt that the committed
27 person's diagnosed mental disorder remains such that he
28 or she is a danger to the health and safety of others and
29 is likely to engage in sexually violent criminal behavior if
30 discharged.

31 (e) If the court or jury rules against the committed
32 person at the hearing conducted pursuant to subdivision
33 (d), the term of commitment of the person shall run for
34 a period of two years from the date of this ruling. If the
35 court or jury rules for the committed person, he or she
36 shall be unconditionally released and unconditionally
37 discharged.

38 (f) *In the event that the State Department of Mental*
39 *Health has reason to believe that a person committed to*
40 *it as a sexually violent predator is no longer a sexually*



1 *violent predator, it shall seek judicial review of the*
2 *person's commitment pursuant to the procedures set*
3 *forth in Section 7250 in the superior court from which the*
4 *commitment was made. If the superior court determines*
5 *that the person is no longer a sexually violent predator, he*
6 *or she shall be unconditionally released and*
7 *unconditionally discharged.*

8 6606. (a) A person who is committed under this
9 article shall be provided with programming by the State
10 Department of Mental Health which shall afford the
11 person with treatment for his or her diagnosed mental
12 disorder.

13 (b) Amenability to treatment is not required for a
14 finding that any person is a person described in Section
15 6600, nor is it required for treatment of that person.
16 Treatment does not mean that the treatment be
17 successful or potentially successful, nor does it mean that
18 the person must recognize his or her problem and
19 willingly participate in the treatment program.

20 (c) The programming provided by the State
21 Department of Mental Health in facilities shall be
22 consistent with current institutional standards for the
23 treatment of sex offenders, and shall be based on a
24 structured treatment protocol developed by the State
25 Department of Mental Health. The protocol shall
26 describe the number and types of treatment components
27 that are provided in the program, and shall specify how
28 assessment data will be used to determine the course of
29 treatment for each individual offender. The protocol shall
30 also specify measures that will be used to assess treatment
31 progress and changes with respect to the individual's risk
32 of reoffense.

33 6607. (a) If the Director of Mental Health
34 determines that the person's diagnosed mental disorder
35 has so changed that the person is not likely to commit acts
36 of predatory sexual violence while under supervision and
37 treatment in the community, the director shall forward
38 a report and recommendation for conditional release in
39 accordance with Section 6608 to the county attorney



1 designated in subdivision (i) of Section 6601, the attorney
2 of record for the person, and the committing court.

3 (b) When a report and recommendation for
4 conditional release is filed by the Director of Mental
5 Health pursuant to subdivision (a), the court shall set a
6 hearing in accordance with the procedures set forth in
7 Section 6608.

8 6608. (a) Nothing in this article shall prohibit the
9 person who has been committed as a sexually violent
10 predator from petitioning the court for conditional
11 release and subsequent unconditional discharge without
12 the recommendation or concurrence of the Director of
13 Mental Health. If a person has previously filed a petition
14 for conditional release without the concurrence of the
15 director and the court determined, either upon review of
16 the petition or following a hearing, that the petition was
17 frivolous or that the committed person's condition had
18 not so changed that he or she would not be a danger to
19 others in that it is not likely that he or she will engage in
20 sexually violent criminal behavior if placed under
21 supervision and treatment in the community, then the
22 court shall deny the subsequent petition unless it contains
23 facts upon which a court could find that the condition of
24 the committed person had so changed that a hearing was
25 warranted. Upon receipt of a first or subsequent petition
26 from a committed person without the concurrence of the
27 director, the court shall endeavor whenever possible to
28 review the petition and determine if it is based upon
29 frivolous grounds and, if so, shall deny the petition
30 without a hearing. The person petitioning for conditional
31 release and unconditional discharge under this
32 subdivision shall be entitled to assistance of counsel.

33 ~~(b) In no event shall a person who is committed~~
34 ~~pursuant to this article be unconditionally released from~~
35 ~~commitment until he or she has been placed in the~~
36 ~~community under supervision and observation pursuant~~
37 ~~to this section for at least one year, unless the community~~
38 ~~program director sooner makes a recommendation for~~
39 ~~unconditional release as described in subdivision (g).~~

40 ~~(e)~~



1 (b) The court shall give notice of the hearing date to
2 the attorney designated in subdivision (i) of Section 6601,
3 the retained or appointed attorney for the committed
4 person, and the Director of Mental Health at least 15
5 court days before the hearing date.

6 ~~(d)~~

7 (c) No hearing upon the petition shall be held until the
8 person who is committed has been under commitment
9 for confinement and care in a facility designated by the
10 Director of Mental Health for not less than one year from
11 the date of the order of commitment.

12 ~~(e)~~

13 (d) The court shall hold a hearing to determine
14 whether the person committed would be a danger to the
15 health and safety of others in that it is likely that he or she
16 will engage in sexually violent criminal behavior due to
17 his or her diagnosed mental disorder if under supervision
18 and treatment in the community. If the court at the
19 hearing determines that the committed person would not
20 be a danger to others due to his or her diagnosed mental
21 disorder while under supervision and treatment in the
22 community, the court shall order the committed person
23 placed with an appropriate forensic conditional release
24 program operated by the state for one year. A substantial
25 portion of the state-operated forensic conditional release
26 program shall include outpatient supervision and
27 treatment. The court shall retain jurisdiction of the
28 person throughout the course of the program. At the end
29 of one year, the court shall hold a hearing to determine
30 if the person should be unconditionally released from
31 commitment on the basis that, by reason of a diagnosed
32 mental disorder, he or she is not a danger to the health
33 and safety of others in that it is not likely that he or she
34 will engage in sexually violent criminal behavior. The
35 court shall not make this determination until the person
36 has completed at least one year in the state-operated
37 forensic conditional release program. The court shall
38 notify the Director of Mental Health of the hearing date.

39 ~~(f)~~



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

14 ~~(g)~~

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

24 ~~(h)~~

25 (g) If the court rules against the committed person at
26 the trial for unconditional release from commitment, the
27 court may place the committed person on outpatient
28 status in accordance with the procedures described in
29 Title 15 (commencing with Section 1600) of Part 2 of the
30 Penal Code.

31 ~~(i)~~

32 (h) If the court denies the petition to place the person
33 in an appropriate forensic conditional release program or
34 if the petition for unconditional discharge is denied, the
35 person may not file a new application until one year has
36 elapsed from the date of the denial.

37 ~~(j)~~

38 (i) In any hearing authorized by this section, the
39 petitioner shall have the burden of proof by a
40 preponderance of the evidence.



1 ~~(k)~~—
 2 (j) If the petition for conditional release is not made by
 3 the director of the treatment facility to which the person
 4 is committed, no action on the petition shall be taken by
 5 the court without first obtaining the written
 6 recommendation of the director of the treatment facility.

7 ~~(l)~~—
 8 (k) Time spent in a conditional release program
 9 pursuant to this section shall not count toward the term
 10 of commitment under this article unless the person is
 11 confined in a locked facility by the conditional release
 12 program, in which case the time spent in a locked facility
 13 shall count toward the term of commitment.

14 ~~SEC. 4. Notwithstanding Section 17610 of the~~
 15 ~~Government Code, if the Commission on State Mandates~~
 16 ~~determines that this act contains costs mandated by the~~
 17 ~~state, reimbursement to local agencies and school~~
 18 ~~districts for those costs shall be made pursuant to Part 7~~
 19 ~~(commencing with Section 17500) of Division 4 of Title~~
 20 ~~2 of the Government Code. If the statewide cost of the~~
 21 ~~claim for reimbursement does not exceed one million~~
 22 ~~dollars (\$1,000,000), reimbursement shall be made from~~
 23 ~~the State Mandates Claims Fund.~~

24 ~~Notwithstanding Section 17580 of the Government~~
 25 ~~Code, unless otherwise specified, the provisions of this act~~
 26 ~~shall become operative on the same date that the act~~
 27 ~~takes effect pursuant to the California Constitution.~~

