

AMENDED IN SENATE MAY 6, 1998
AMENDED IN SENATE APRIL 16, 1998
AMENDED IN SENATE APRIL 2, 1998

SENATE BILL

No. 1976

Introduced by Senator Mountjoy

February 19, 1998

An act to add Section 4536.5 to the Penal Code, and to amend Sections 6600.05, 6601, 6602, 6602.5, 6603, 6604.1, 6609.1, 6609.2, and 6609.3 of the Welfare and Institutions Code, relating to sex offenses.

LEGISLATIVE COUNSEL'S DIGEST

SB 1976, as amended, Mountjoy. Sexually violent predators.

(1) Existing law provides that every person committed to a public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes while being conveyed to or from that mental health facility, is punishable by imprisonment in the state prison or in a county jail not to exceed one year.

This bill would create an alternate provision applicable to persons committed to a mental health facility as a sexually violent predator and would require the medical director or person in charge of the facility to promptly notify either the Department of Corrections Sexually Violent Predator Parole Coordinator or local law enforcement officials upon the escape. This bill would punish escapes by sexually violent predators by imprisonment in a county jail not exceeding one

year. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides that Atascadero State Hospital shall be used whenever a person is committed to a secure facility for mental health treatment as a sex offender and is placed in a state hospital under the direction of the State Department of Mental Health.

This bill would provide that Atascadero State Hospital shall be used for this purpose only until a permanent housing and treatment facility is available, and would ~~require~~ *provide that a permanent facility for the housing and treatment of persons committed for mental health treatment shall be located on a site or sites determined by the Director of the State Department of Mental Health, in conjunction with and the Director of Corrections, and upon with* subsequent approval by the Legislature ~~a site for a permanent facility~~. The bill would direct the State Department of Mental Health to operate this facility, and would provide that, absent direct authorization by the Legislature, only mentally disordered sex offenders shall be treated therein.

(3) Under existing law, whenever the Director of Corrections determines that an individual who is in custody, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the director is required to refer the person for evaluation by the State Department of Mental Health, as specified. If the State Department of Mental Health determines that the person is a sexually violent predator, the Director of Mental Health is required to forward a request for a petition to be filed for commitment to the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections. Copies of the evaluation reports are required to be made available to the county-designated attorney who may file a petition for commitment.

This bill would provide that the county-designated attorney shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.



(4) Existing law provides that a judge of the superior court shall review the petition for commitment and determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release.

This bill would require the court to notify the State Department of Mental Health of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

(5) Existing law requires a judge of the superior court to review any petition submitted by an agency requesting an urgency review in cases where an inmate's parole or temporary parole hold will expire before a probable cause hearing is conducted and to determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release.

This bill would provide that in no event shall more than 10 referrals be made to a superior court in any 30-day period for this purpose except upon agreement of the presiding judge of the court, the district attorney, the public defender, the sheriff, and the Director of Mental Health.

By requiring increased duties and responsibilities of local officials, this bill would impose a state-mandated local program.

(6) Existing law provides that a person subject to commitment as a sexually violent predator is entitled to specified rights, including a trial by jury.

This bill would provide that the court shall notify the State Department of Mental Health of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

(7) Existing law requires a person who is determined to be a sexually violent predator to be committed for 2 years to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility, as specified. Existing law also provides that, until January 1, 1999, this 2-year term of commitment commences on the date upon which the court issues the initial order of commitment and is



not reduced by any time spent in a secure facility prior to the order of commitment.

This bill would delete the automatic repeal of these provisions relating to the date of commencement and term of the 2-year commitment period.

(8) Existing law provides that if the court orders the immediate release of a sexually violent predator, the State Department of Mental Health shall notify the sheriff or chief of police, or both, and the district attorney, who has jurisdiction over the community in which the person is scheduled to be released at the time of release.

This bill would instead provide that when the department makes any recommendation to the court concerning either the release or commitment of a sexually violent predator, it shall, at least 15 days in advance of making its recommendation, notify specified local law enforcement officials (1) where the person may be released, (2) where the person last resided or, (3) in the county which filed for the person's civil commitment. The bill would also require notification of the Department of Corrections Sexually Violent Predator Parole Coordinator, as specified.

(9) Existing law authorizes a sheriff or chief of police to notify appropriate persons upon the impending release of a sexually violent predator.

This bill would expand this authorization to allow for notification to appropriate persons of the disposition of a sexually violent predator upon notice from the State Department of Mental Health of its recommendation to the court in connection with a commitment hearing.

(10) Existing law ~~authorizes~~ *requires* a sheriff or chief of police to notify requesting parties of the impending release of a sexually violent predator, but allows disclosure of the community in which the person will be placed only if it is (1) in the county of a requesting witness, victim, or family member, or (2) within 25 miles of the actual residence of a requesting witness, victim, or family member.

This bill would provide that any person requesting notice shall be informed of the identity of the court considering the conditional release, recommitment hearing, or review of commitment status. The bill would also allow victims,



witnesses, and family members who request notification to be informed of the community where the person is scheduled to be placed if their actual residence is within 100 miles of that community.

(11) 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, with regard to an identified mandate, no reimbursement is required by this act for a specified reason.

With regard to other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 4536.5 is added to the Penal
2 Code, to read:
3 4536.5. (a) Every person committed to a state
4 hospital or other public or private mental health facility
5 under the provisions of Article 4 (commencing with
6 Section 6600) of Chapter 2 of Part 2 of the Welfare and
7 Institutions Code, who escapes from, or escapes while
8 being conveyed to or from, a state hospital or other public
9 or private mental health facility, is punishable by
10 imprisonment in a county jail not to exceed one year. The
11 term imposed pursuant to this section shall be served
12 consecutively to any other sentence or commitment.
13 (b) The medical director or person in charge of a state
14 hospital or other public or private mental health facility
15 to which a person has been committed under the



1 provisions of Article 4 (commencing with Section 6600)
2 of Chapter 2 of Part 2 of the Welfare and Institutions
3 Code, shall promptly notify the Department of
4 Corrections Sexually Violent Predator ~~parole coordinator~~
5 *Parole Coordinator*, the chief of police of the city in which
6 the hospital or facility is located, or the sheriff of the
7 county if the hospital or facility is located in an
8 unincorporated area, of the escape of the person, and
9 shall request the assistance of the chief of police or sheriff
10 in apprehending the person, and shall, within 48 hours of
11 the escape of the person, orally notify the court that made
12 the commitment, the prosecutor in the case, and the
13 Department of Justice of the escape.

14 SEC. 2. Section 6600.05 of the Welfare and Institutions
15 Code is amended to read:

16 6600.05. (a) Until a permanent housing and
17 treatment facility is available, Atascadero State Hospital
18 shall be used whenever a person is committed to a secure
19 facility for mental health treatment pursuant to this
20 article and is placed in a state hospital under the direction
21 of the State Department of Mental Health unless there
22 are unique circumstances that would preclude the
23 placement of a person at that facility. If a state hospital is
24 not used, the facility to be used shall be located on a site
25 or sites determined by the Director of Corrections and
26 the Director of Mental Health. In no case shall a person
27 committed to a secure facility for mental health
28 treatment pursuant to this article be placed at
29 Metropolitan State Hospital or Napa State Hospital.

30 (b) A permanent facility for the housing and
31 treatment of persons committed pursuant to this article
32 shall be located on a site or sites determined by the
33 Director of Corrections and the Director of Mental
34 Health, with approval by the Legislature through a trailer
35 bill or other legislation. The State Department of Mental
36 Health shall be responsible for operation of the facility,
37 including the provision of treatment. In no event shall
38 any persons other than those placed pursuant to this
39 article be housed or treated at a facility established



1 pursuant to this subdivision unless expressly authorized
2 by the Legislature.

3 SEC. 3. Section 6601 of the Welfare and Institutions
4 Code is amended to read:

5 6601. (a) Whenever the Director of Corrections
6 determines that an individual who is in custody under the
7 jurisdiction of the Department of Corrections, and who
8 is either serving a determinate prison sentence or whose
9 parole has been revoked, may be a sexually violent
10 predator, the director shall, at least six months prior to
11 that individual's scheduled date for release from prison,
12 refer the person for evaluation in accordance with this
13 section. However, if the inmate was received by the
14 department with less than nine months of his or her
15 sentence to serve, or if the inmate's release date is
16 modified by judicial or administrative action, the director
17 may refer the person for evaluation in accordance with
18 this section at a date that is less than six months prior to
19 the inmate's scheduled release date.

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

34 (c) The State Department of Mental Health shall
35 evaluate the person in accordance with a standardized
36 assessment protocol, developed and updated by the State
37 Department of Mental Health, to determine whether the
38 person is a sexually violent predator as defined in this
39 article. The standardized assessment protocol shall
40 require assessment of diagnosable mental disorders, as



1 well as various factors known to be associated with the
2 risk of reoffense among sex offenders. Risk factors to be
3 considered shall include criminal and psychosexual
4 history, type, degree, and duration of sexual deviance,
5 and severity of mental disorder.

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

20 (e) If one of the professionals performing the
21 evaluation pursuant to subdivision (d) does not concur
22 that the person meets the criteria specified in subdivision
23 (d), but the other professional concludes that the person
24 meets those criteria, the Director of Mental Health shall
25 arrange for further examination of the person by two
26 independent professionals selected in accordance with
27 subdivision (g).

28 (f) If an examination by independent professionals
29 pursuant to subdivision (e) is conducted, a petition to
30 request commitment under this article shall only be filed
31 if both independent professionals who evaluate the
32 person pursuant to subdivision (e) concur that the person
33 meets the criteria for commitment specified in
34 subdivision (d). The professionals selected to evaluate
35 the person pursuant to subdivision (g) shall inform the
36 person that the purpose of their examination is not
37 treatment but to determine if the person meets certain
38 criteria to be involuntarily committed pursuant to this
39 article. It is not required that the person appreciate or
40 understand that information.



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

12 (h) If the State Department of Mental Health
13 determines that the person is a sexually violent predator
14 as defined in this article, the Director of Mental Health
15 shall forward a request for a petition to be filed for
16 commitment under this article to the county designated
17 in subdivision (i). Copies of the evaluation reports and
18 any other supporting documents shall be made available
19 to the attorney designated by the county pursuant to
20 subdivision (i) who may file a petition for commitment
21 in the superior court.

22 (i) If the county's designated counsel concurs with the
23 recommendation, a petition for commitment shall be
24 filed in the superior court of the county in which the
25 person was convicted of the offense for which he or she
26 was committed to the jurisdiction of the Department of
27 Corrections. The petition shall be filed, and the
28 proceedings shall be handled, by either the district
29 attorney or the county counsel of that county. The county
30 board of supervisors shall designate either the district
31 attorney or the county counsel to assume responsibility
32 for proceedings under this article.

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

35 (k) If the person is otherwise subject to parole, a
36 finding or placement made pursuant to this article shall
37 not toll, discharge, or otherwise affect the term of parole
38 pursuant to Article 1 (commencing with Section 3000) of
39 Chapter 8 of Title 1 of Part 3 of the Penal Code.



1 (l) Pursuant to subdivision (d), the attorney
2 designated by the county pursuant to subdivision (i) shall
3 notify the State Department of Mental Health of its
4 decision regarding the filing of a petition for commitment
5 within 15 days of making that decision.

6 ~~SEC. 4. Section 6602 of the Welfare and Institutions~~
7 ~~Code is amended to read:~~

8 ~~6602. (a) A judge of the superior court shall review~~
9 ~~the petition and shall determine whether there is~~
10 ~~probable cause to believe that the individual named in~~
11 ~~the petition is likely to engage in sexually violent~~
12 ~~predatory criminal behavior upon his or her release. The~~
13 ~~person named in the petition shall be entitled to~~
14 ~~assistance of counsel at the probable cause hearing. If the~~
15 ~~judge determines there is not probable cause, he or she~~
16 ~~shall dismiss the petition and any person subject to parole~~
17 ~~shall report to parole. If the judge determines that there~~
18 ~~is probable cause, the judge shall order that the person~~
19 ~~remain in custody in a secure facility until a trial is~~
20 ~~completed and shall order that a trial be conducted to~~
21 ~~determine whether the person is, by reason of a~~
22 ~~diagnosed mental disorder, a danger to the health and~~
23 ~~safety of others in that the person is likely to engage in acts~~
24 ~~of sexual violence upon his or her release from the~~
25 ~~jurisdiction of the Department of Corrections or other~~
26 ~~secure facility.~~

27 ~~(b) The court shall notify the State Department of~~
28 ~~Mental Health of the outcome of the probable cause~~
29 ~~hearing by forwarding to the department a copy of the~~
30 ~~minute order of the court within 15 days of the decision.~~

31
32 *SEC. 4. Section 6602 of the Welfare and Institutions*
33 *Code is amended to read:*

34 6602. (a) A judge of the superior court shall review
35 the petition and shall determine whether there is
36 probable cause to believe that the individual named in
37 the petition is likely to engage in sexually violent
38 predatory criminal behavior upon his or her release. The
39 person named in the petition shall be entitled to
40 assistance of counsel at the probable cause hearing. If the



1 judge determines ~~that~~ there is not probable cause, he or
2 she shall dismiss the petition and any person subject to
3 parole shall report to parole. If the judge determines that
4 there is probable cause, the judge shall order that the
5 person remain in custody in a secure facility until a trial
6 is completed and shall order that a trial be conducted to
7 determine whether the person is, by reason of a
8 diagnosed mental disorder, a danger to the health and
9 safety of others in that the person is likely to engage in acts
10 of sexual violence upon his or her release from the
11 jurisdiction of the Department of Corrections or other
12 secure facility.

13 *(b) The court shall notify the State Department of*
14 *Mental Health of the outcome of the probable cause*
15 *hearing by forwarding to the department a copy of the*
16 *minute order of the court within 15 days of the decision.*

17 SEC. 5. Section 6602.5 of the Welfare and Institutions
18 Code, as added by Section 4 of Chapter 19 of the Statutes
19 of 1998, is amended to read:

20 6602.5. (a) No person may be placed in a state
21 hospital pursuant to the provisions of this article until
22 there has been a determination pursuant to Section 6601.3
23 or 6602 that there is probable cause to believe that the
24 individual named in the petition is likely to engage in
25 sexually violent predatory criminal behavior.

26 (b) The State Department of Mental Health shall
27 identify each person for whom a petition pursuant to this
28 article has been filed who is in a state hospital on or after
29 January 1, 1998, and who has not had a probable cause
30 hearing pursuant to Section 6602. The State Department
31 of Mental Health shall notify the court in which the
32 petition was filed that the person has not had a probable
33 cause hearing. Copies of the notice shall be provided by
34 the court to the attorneys of record in the case. Within 30
35 days of notice by the State Department of Mental Health,
36 the court shall either order the person removed from the
37 state hospital and returned to local custody or hold a
38 probable cause hearing pursuant to Section 6602.

39 (c) In no event shall the number of persons referred
40 pursuant to subdivision (b) to the superior court of any



1 county exceed 10 in any 30-day period, except upon
2 agreement of the presiding judge of the superior court,
3 the district attorney, the public defender, the sheriff, and
4 the Director of Mental Health.

5 SEC. 6. Section 6603 of the Welfare and Institutions
6 Code is amended to read:

7 6603. (a) A person subject to this article shall be
8 entitled to a trial by jury, the assistance of counsel, the
9 right to retain experts or professional persons to perform
10 an examination on his or her behalf, and have access to all
11 relevant medical and psychological records and reports.
12 In the case of a person who is indigent, the court shall
13 appoint counsel to assist him or her, and, upon the
14 person's request, assist the person in obtaining an expert
15 or professional person to perform an examination or
16 participate in the trial on the person's behalf.

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

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

23 (d) A unanimous verdict shall be required in any jury
24 trial.

25 (e) The court shall notify the State Department of
26 Mental Health of the outcome of the trial by forwarding
27 to the department a copy of the minute order of the court
28 within 72 hours of the decision.

29 SEC. 7. Section 6604.1 of the Welfare and Institutions
30 Code, as added by Section 5 of Chapter 19 of the Statutes
31 of 1998, is amended to read:

32 6604.1. The two-year term of commitment provided
33 for in Section 6604 shall commence on the date upon
34 which the court issues the initial order of commitment
35 pursuant to that section. The two-year term shall not be
36 reduced by any time spent in a secure facility prior to the
37 order of commitment. For subsequent extended
38 commitments, the term of commitment shall be from the
39 date of the termination of the previous commitment.



1 ~~SEC. 8. Section 6609.1 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~

3 ~~6609.1. (a) When the State Department of Mental~~
4 ~~Health makes a recommendation to the court for~~
5 ~~community outpatient treatment for any person~~
6 ~~committed as a sexually violent predator, it shall notify~~
7 ~~the sheriff or chief of police, or both, the district attorney,~~
8 ~~or the county's designated counsel, that have jurisdiction~~
9 ~~over the following locations:~~

10 ~~(1) The community in which the person may be~~
11 ~~released for community outpatient treatment.~~

12 ~~(2) The community in which the person maintained~~
13 ~~their last legal residence as defined by Section 3003 of the~~
14 ~~Penal Code.~~

15 ~~(3) The county which filed for the person's civil~~
16 ~~commitment pursuant to this article.~~

17 ~~The department shall also notify the Department of~~
18 ~~Corrections' Sexually Violent Predator Parole~~
19 ~~Coordinator, if the person is otherwise subject to parole~~
20 ~~pursuant to Article 1 (commencing with Section 3000) of~~
21 ~~Chapter 8 of Title 1 of Part 3 of the Penal Code.~~

22 ~~The notice shall be given at least 15 days prior to the~~
23 ~~department's submission of its recommendation to the~~
24 ~~court.~~

25 ~~(b) When the State Department of Mental Health~~
26 ~~makes a recommendation to pursue recommitment, a~~
27 ~~recommendation not to pursue recommitment, or seeks~~
28 ~~a judicial review of commitment status pursuant to~~
29 ~~subdivision (f) of Section 6605, of any person committed~~
30 ~~as a sexually violent predator, it shall provide written~~
31 ~~notice of that action to the sheriff or chief of police, or~~
32 ~~both, and to the district attorney, that have jurisdiction~~
33 ~~over the following locations:~~

34 ~~(1) The community in which the person maintained~~
35 ~~their last legal residence as defined by Section 3003 of the~~
36 ~~Penal Code.~~

37 ~~(2) The probable community in which the person will~~
38 ~~be released, if recommending not to pursue~~
39 ~~recommitment.~~



1 ~~(3) The county which filed for the person's civil~~
2 ~~commitment pursuant to this article.~~

3 ~~The State Department of Mental Health shall also~~
4 ~~notify the Department of Corrections' Sexually Violent~~
5 ~~Predator Parole Coordinator, if the person is otherwise~~
6 ~~subject to parole pursuant to Article 1 (commencing with~~
7 ~~Section 3000) of Chapter 8 of Title 1 of the Penal Code.~~
8 ~~The notice shall be made at least 15 days prior to the~~
9 ~~department's submission of its recommendation to the~~
10 ~~court.~~

11 ~~Those agencies receiving the notice referred to in this~~
12 ~~subdivision shall have 15 days from receipt of the notice~~
13 ~~to provide written comment to the department~~
14 ~~regarding the impending release. Those comments shall~~
15 ~~be considered by the department, which may modify its~~
16 ~~decision regarding the community in which the person is~~
17 ~~scheduled to be released, based on those comments.~~

18 ~~(e) If the court orders the release of a sexually violent~~
19 ~~predator, the county's designated counsel who filed the~~
20 ~~commitment petition shall notify the State Department~~
21 ~~of Mental Health, and shall notify the sheriff or chief of~~
22 ~~police, or both, and the district attorney, that have~~
23 ~~jurisdiction over the following locations:~~

24 ~~(1) The community in which the person is to be~~
25 ~~released.~~

26 ~~(2) The community in which the person maintained~~
27 ~~their last legal residence as defined in Section 3003 of the~~
28 ~~Penal Code.~~

29 ~~The county's designated counsel shall also notify the~~
30 ~~Department of Corrections' Sexually Violent Predator~~
31 ~~Parole Coordinator, if the person is otherwise subject to~~
32 ~~parole pursuant to Article 1 (commencing with Section~~
33 ~~3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.~~

34 ~~(d) At least 72 hours prior to any action to otherwise~~
35 ~~release from custody any person referred for civil~~
36 ~~commitment pursuant to this article, or any person~~
37 ~~committed as a sexually violent predator pursuant to this~~
38 ~~article, notice of this release shall be provided to the~~
39 ~~Department of Corrections' Sexually Violent Predator~~
40 ~~Parole Coordinator, if the person is otherwise subject to~~



1 parole pursuant to Article 1 (commencing with Section
2 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.
3 The notice shall be provided by the county's designated
4 counsel.

5 (e) The notice required by this section shall be made
6 whether or not a request has been made pursuant to
7 Section 6609.

8 (f) The time limits imposed by this section are not
9 applicable where the release date of a sexually violent
10 predator has been advanced by a judicial or
11 administrative process or procedure that could not have
12 reasonably been anticipated by the State Department of
13 Mental Health and where, as the result of the time
14 adjustments, there is less than 30 days remaining on the
15 commitment before the inmate's release, but notice shall
16 be given as soon as practicable. In no case shall notice
17 required by this section to the appropriate agency be
18 later than the day of release.

19 SEC. 9. Section 6609.2 of the Welfare and Institutions
20 Code is amended to read:

21 6609.2. (a) When any sheriff or chief of police is
22 notified by the State Department of Mental Health of its
23 recommendation to the court concerning the disposition
24 of a sexually violent predator pursuant to subdivision (a)
25 or (b) of Section 6609.1, that sheriff or chief of police may
26 notify any person designated by the sheriff or chief of
27 police as an appropriate recipient of the notice.

28 (b) A law enforcement official authorized to provide
29 notice pursuant to this section, and the public agency or
30 entity employing the law enforcement official, shall not
31 be liable for providing or failing to provide notice
32 pursuant to this section.

33 SEC. 10. Section 6609.3 of the Welfare and Institutions
34 Code is amended to read:

35 6609.3. (a) At the time a notice is sent pursuant to
36 subdivisions (a) and (b) of Section 6609.1, the sheriff,
37 chief of police, or district attorney notified of the release
38 shall also send a notice to persons described in Section
39 679.03 of the Penal Code who have requested a notice,
40 informing those persons of the fact that the person who



1 committed the sexually violent offense may be released
2 together with information identifying the court that will
3 consider the conditional release, recommendation
4 regarding recommitment, or review of commitment
5 status pursuant to subdivision (f) of Section 6605. When
6 a person is approved by the court to be conditionally
7 released, notice of the community in which the person is
8 scheduled to reside shall also be given only if it is (1) in
9 the county of residence of a witness, victim, or family
10 member of a victim who has requested notice, or (2)
11 within 100 miles of the actual residence of a witness,
12 victim, or family member of a victim who has requested
13 notice. If, after providing the witness, victim, or next of
14 kin with the notice, there is any change in the release date
15 or the community in which the person is to reside, the
16 sheriff, chief of police, or the district attorney shall
17 provide the witness, victim, or next of kin with the revised
18 information.

19 (b) At the time a notice is sent pursuant to subdivision
20 (c) of Section 6609.1 the district attorney so notified shall
21 also send a notice to persons described in Section 679.03
22 of the Penal Code who have requested a notice informing
23 those persons of the fact the person who committed the
24 sexually violent offense has been released.

25 (c) In order to be entitled to receive the notice set
26 forth in this section, the requesting party shall keep the
27 sheriff, chief of police, and district attorney who were
28 notified under Section 679.03 of the Penal Code, informed
29 of his or her current mailing address.

30 *SEC. 8. Section 6609.1 of the Welfare and Institutions*
31 *Code is amended to read:*

32 6609.1. (a) When the State Department of Mental
33 Health is considering makes a recommendation to the
34 court for community outpatient treatment for any person
35 committed as a sexually violent predator, it shall notify
36 the sheriff or chief of police, or both, and the district
37 attorney, who has or the county's designated counsel, that
38 have jurisdiction over the following locations:

39 (1) The community in which the person may be
40 released. The notice shall be given at least 15 days prior



1 ~~to the department's submission of that recommendation~~
2 ~~to the court and shall include the name of the person who~~
3 ~~is scheduled to be released and the for community~~
4 ~~outpatient treatment.~~

5 (2) *The community in which the person maintained*
6 *his or her last legal residence as defined by Section 3003*
7 *of the Penal Code.*

8 (3) *The county which filed for the person's civil*
9 *commitment was established pursuant to this article.*

10 *The department shall also notify the Department of*
11 *Corrections' Sexually Violent Predator Parole*
12 *Coordinator, if the person is otherwise subject to parole*
13 *pursuant to Article 1 (commencing with Section 3000) of*
14 *Chapter 8 of Title 1 of Part 3 of the Penal Code.*

15 *The notice shall be given at least 15 days prior to the*
16 *department's submission of its recommendation to the*
17 *court.*

18 (b) *When the State Department of Mental Health is*
19 ~~*considering*~~ *makes a recommendation to pursue*
20 *recommitment, a recommendation not to pursue*
21 *recommitment, or seeks a judicial review of commitment*
22 *status pursuant to subdivision (f) of Section 6605, of any*
23 *person committed as a sexually violent predator, it shall*
24 *provide written notice of that ~~release~~ action to the sheriff*
25 *or ~~police~~ chief of police, or both, and to the district*
26 *attorney, ~~who has~~ that have jurisdiction over the*
27 *following locations:*

28 (1) *The community in which the person maintained*
29 *his or her last legal residence as defined by Section 3003*
30 *of the Penal Code.*

31 (2) *The probable community in which the person will*
32 *be released, if recommending not to pursue*
33 *recommitment.*

34 (3) *The county which filed for the person's civil*
35 *commitment was established pursuant to this article.*

36 *The State Department of Mental Health shall also*
37 *notify the Department of Corrections' Sexually Violent*
38 *Predator Parole Coordinator, if the person is otherwise*
39 *subject to parole pursuant to Article 1 (commencing with*
40 *Section 3000) of Chapter 8 of Title 1 of the Penal Code.*



1 The notice shall be made at least 15 days prior to ~~the date~~
2 ~~on which the notification is to be forwarded from the~~
3 ~~department to the court that will consider the~~
4 department's *submission of its* recommendation ~~not to~~
5 ~~pursue the extension of the civil commitment to the~~
6 *court.*

7 Those agencies receiving the notice referred to in this
8 subdivision shall have 15 days from receipt of the notice
9 to provide written comment to the department
10 regarding the impending release. Those comments shall
11 be considered by the department, which may modify its
12 decision regarding the community in which the person is
13 scheduled to be released, based on those comments.

14 (c) If the court orders the ~~immediate~~ release of a
15 sexually violent predator, the ~~department shall notify the~~
16 *county's designated counsel who filed the commitment*
17 *petition shall notify the State Department of Mental*
18 *Health, and shall notify the sheriff or chief of police, or*
19 *both, and the district attorney, who has that have*
20 *jurisdiction over the following locations:*

21 (1) *The community in which the person is scheduled*
22 *to be released at the time of release to be released.*

23 ~~(d)~~

24 (2) *The community in which the person maintained*
25 *his or her last legal residence as defined in Section 3003*
26 *of the Penal Code.*

27 *The county's designated counsel shall also notify the*
28 *Department of Corrections' Sexually Violent Predator*
29 *Parole Coordinator, if the person is otherwise subject to*
30 *parole pursuant to Article 1 (commencing with Section*
31 *3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.*

32 (d) *At least 72 hours prior to any action to otherwise*
33 *release from custody any person referred for civil*
34 *commitment pursuant to this article, or any person*
35 *committed as a sexually violent predator pursuant to this*
36 *article, notice of this release shall be provided to the*
37 *Department of Corrections' Sexually Violent Predator*
38 *Parole Coordinator, if the person is otherwise subject to*
39 *parole pursuant to Article 1 (commencing with Section*
40 *3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.*



1 *The notice shall be provided by the county's designated*
2 *counsel.*

3 (e) The notice required by this section shall be made
4 whether or not a request has been made pursuant to
5 Section 6609.

6 ~~(e)~~

7 (f) The time limits imposed by this section are not
8 applicable where the release date of a sexually violent
9 predator has been advanced by a judicial or
10 administrative process or procedure that could not have
11 reasonably been anticipated by the State Department of
12 Mental Health and where, as the result of the time
13 adjustments, there is less than 30 days remaining on the
14 commitment before the inmate's release, but notice shall
15 be given as soon as practicable. In no case shall notice
16 required by this section to the appropriate agency be
17 later than the day of release. ~~If, after the 45-day notice is~~
18 ~~given to law enforcement and to the district attorney~~
19 ~~relating to an out-of-county placement, there is change of~~
20 ~~county placement, notice to the ultimate county of~~
21 ~~placement shall be made upon the determination of the~~
22 ~~county of placement.~~

23 *SEC. 9. Section 6609.2 of the Welfare and Institutions*
24 *Code is amended to read:*

25 6609.2. (a) When any sheriff or chief of police is
26 notified by the State Department of Mental Health of its
27 ~~intention to make a~~ recommendation to the court
28 concerning the disposition of a sexually violent predator
29 pursuant to subdivision (a) or (b) of Section 6609.1, that
30 sheriff or chief of police may notify any person designated
31 by the sheriff or chief of police as an appropriate recipient
32 of the notice.

33 (b) A law enforcement official authorized to provide
34 notice pursuant to this section, and the public agency or
35 entity employing the law enforcement official, shall not
36 be liable for providing or failing to provide notice
37 pursuant to this section.

38 *SEC. 10. Section 6609.3 of the Welfare and Institutions*
39 *Code is amended to read:*



1 6609.3. (a) At the time a notice is sent pursuant to
2 ~~subdivision~~ *subdivisions* (a) ~~or~~ and (b) of Section 6609.1,
3 the sheriff, chief of police, or district attorney ~~so~~ notified
4 *of the release* shall also send a notice to persons described
5 in Section 679.03 of the Penal Code who have requested
6 a notice, informing those persons of the fact that the
7 person who committed the sexually violent offense may
8 be released; together with information identifying the
9 court that will consider the conditional ~~or unconditional~~
10 release, *recommendation regarding recommitment, or*
11 *review of commitment status pursuant to subdivision (f)*
12 *of Section 6605.* When a person is approved by the court
13 to be conditionally released, notice of the community in
14 which the person is scheduled to reside shall also be given
15 only if it is (1) in the county of residence of a witness,
16 victim, or family member of a victim who has requested
17 notice, or (2) within ~~25~~ 100 miles of the actual residence
18 of a witness, victim, or family member of a victim who has
19 requested notice. If, after providing the witness, victim,
20 or next of kin with the notice, there is any change in the
21 release ~~status~~ *date* or the community in which the person
22 is to reside, the sheriff, chief of police, or *the* district
23 attorney shall provide the witness, victim, or next of kin
24 with the revised information.

25 (b) *At the time a notice is sent pursuant to subdivision*
26 *(c) of Section 6609.1 the district attorney so notified shall*
27 *also send a notice to persons described in Section 679.03*
28 *of the Penal Code who have requested a notice informing*
29 *those persons of the fact that the person who committed*
30 *the sexually violent offense has been released.*

31 (c) In order to be entitled to receive the notice set
32 forth in this section, the requesting party shall keep the
33 sheriff, chief of police, and district attorney who were
34 notified under Section 679.03 of the Penal Code, informed
35 of his or her current mailing address.

36 SEC. 11. No reimbursement is required by Section 1
37 of this act pursuant to Section 6 of Article XIII B of the
38 California Constitution for certain costs that may be
39 incurred by a local agency or school district because in
40 that regard this act creates a new crime or infraction,



1 eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition
4 of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

6 However, notwithstanding Section 17610 of the
7 Government Code, if the Commission on State Mandates
8 determines that this act contains other costs mandated by
9 the state, reimbursement to local agencies and school
10 districts for those costs shall be made pursuant to Part 7
11 (commencing with Section 17500) of Division 4 of Title
12 2 of the Government Code. If the statewide cost of the
13 claim for reimbursement does not exceed one million
14 dollars (\$1,000,000), reimbursement shall be made from
15 the State Mandates Claims Fund.

16 Notwithstanding Section 17580 of the Government
17 Code, unless otherwise specified, the provisions of this act
18 shall become operative on the same date that the act
19 takes effect pursuant to the California Constitution.

