
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 380 **Hearing Date:** March 25, 2025
Author: Jones
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Urgency: Yes **Fiscal:** Yes
Consultant: SJ

Subject: *Sexually violent predators: transitional housing facilities: report*

HISTORY

Source: Author

Prior Legislation: SB 1074 (Jones), held in Assembly Appropriations in 2024
AB 1954 (Alanis), Ch. 816, Stats. of 2024
SB 832 (Jones), failed passage in Senate Public Safety in 2023
SB 841 (Jones), failed passage in Senate Public Safety in 2022
SB 1034 (Atkins), Ch. 880, Stats. of 2022
SB 248 (Bates), Ch. 383, Stats. of 2021
SB 1023 (Bates), not heard in Senate Public Safety in 2020
AB 303 (Cervantes), Ch. 606, Stats. of 2019
AB 2661 (Arambula), Ch. 821, Stats. of 2018
SB 507 (Pavley), Ch. 576, Stats. of 2015
AB 1607 (Fox), Ch. 877, Stats. of 2014
SB 295 (Emmerson), Ch. 182, Stats. of 2013
SB 760 (Alquist), Ch. 790, Stats. of 2012
Proposition 83, as approved by the voters on November 7, 2006
SB 1128 (Alquist), Ch. 337, Stats. of 2006
AB 893 (Horton), Ch. 162, Stats. of 2005
AB 2450 (Canciamilla), Ch. 425, Stats. of 2004
AB 493 (Salinas), Ch. 222, Stats. of 2004
SB 659 (Correa), Ch. 248, Stats. of 2001
AB 1142 (Runner), Ch. 323, Stats. of 2001
SB 2018 (Schiff), Ch. 420, Stats. of 2000
SB 451 (Schiff), Ch. 41, Stats. of 2000
AB 2849 (Havice), Ch. 643, Stats. of 2000
SB 746 (Schiff), Ch. 995, Stats. of 1999
SB 11 (Schiff), Ch. 136, Stats. of 1999
SB 1976 (Mountjoy), Ch. 961, Stats. of 1998
AB 888 (Rogan), Ch. 763, Stats. of 1995
SB 1143 (Mountjoy), Ch. 764, Stats. of 1995
AB 888 (Rogan), Ch. 763, Stats. of 1995
SB 1143 (Mountjoy), Ch. 762, Stats. of 1995

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to require the Department of State Hospitals (DSH) to conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the conditional release program on or before September 1, 2025, and to submit the findings of the analysis in a report to the Legislature.

Existing law provides for the civil commitment for psychiatric and psychological treatment of an individual incarcerated in state prison found to be a sexually violent predator (SVP) after the person has served his or her prison commitment. (Welf. & Inst. Code, § 6600, et seq.)

Existing law defines a “sexually violent predator” as “a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.” (Welf. & Inst. Code, § 6600, subd. (a)(1).)

Existing law permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)

Existing law requires that a person found to have been an SVP and committed to DSH have a current examination on their mental condition made at least yearly. Requires the report to include consideration of whether the committed person currently meets the definition of an SVP and whether conditional release to a less restrictive alternative or an unconditional discharge is in the best interest of the person and conditions can be imposed that would adequately protect the community. (Welf. & Inst. Code, § 6604.9, subds. (a) & (b).)

Existing law requires the director of DSH to authorize the person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge if the department determines that either the person’s condition has so changed that the person no longer meets the definition of an SVP and should, therefore, be considered for unconditional discharge, or if conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community. (Welf. & Inst. Code, § 6604.9, subd. (d).)

Existing law requires the director of DSH to forward a report and recommendation for conditional release to the court, the prosecuting agency, and the attorney of record for the committed person if DSH determines that the person’s condition has so changed that he or she is not likely to commit acts of predatory sexual violence while under community treatment and supervision. (Welf. & Inst. Code, § 6607.)

Existing law establishes a process whereby a person committed as an SVP can petition for conditional release or an unconditional discharge with or without the recommendation or concurrence of DSH. Provides that a hearing upon the petition cannot be held until the person who is committed has been under commitment for one year from the date of the order for commitment. (Welf. & Inst. Code, § 6608, subds. (a) & (f).)

Existing law provides that if the petition is made without the consent of the director of the treatment facility, no action may be taken on the petition without first obtaining the written recommendation of the director of the treatment facility. (Welf. & Inst. Code, § 6608, subd. (e).)

Existing law prohibits the court from holding a hearing on a petition for conditional release until the community program director designated by DSH submits a report to the court that makes a recommendation as to the appropriateness of placing the person in a forensic conditional release program. (Welf. & Inst. Code, § 6608, subd. (f); Pen. Code, § 1605, subd. (a).)

Existing law requires the court to place the committed person in a conditional release program for one year if it finds that the person is not a danger to others due to their mental disorder diagnosis while under treatment and supervision in the community. Requires that the conditional release program include outpatient care. (Welf. & Inst. Code, § 6608, subd. (g).)

Existing law provides that before placing a person on conditional release, the community program director designated by DSH must submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the person. (Welf. & Inst. Code, § 6608, subd. (h).)

Existing law provides that the committed person, with or without the recommendation or concurrence of DSH, may petition the court for unconditional discharge after a minimum of one year on conditional release. (Welf. & Inst. Code, § 6608, subd. (m).)

Existing law requires, after a judicial determination that a person should be conditionally released, the person to be placed in the county of domicile of the person prior to the person's incarceration, unless both of the following conditions are satisfied: the court finds that extraordinary circumstances require placement outside the county of domicile and the designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county. (Welf. & Inst. Code, § 6608.5, subd. (a).)

Existing law defines "county of domicile" as "the county where the person has their true, fixed, and permanent home and principal residence and to which the person has manifested the intention of returning whenever the person is absent." Specifies the information the court must consider when determining the county of domicile. Provides that if no information can be identified or verified, the county of domicile of the individual is considered to be the county in which the person was arrested for the crime for which the person was last incarcerated in the state prison or from which the person was last returned from parole. (Welf. & Inst. Code, § 6608.5, subd. (b).)

Existing law defines "extraordinary circumstances" to mean "circumstances that would inordinately limit the department's ability to effect conditional release of the person in the county of domicile." (Welf. & Inst. Code, § 6608.5, subd. (c).)

Existing law requires specified government officials from the county of domicile to provide assistance and consultation in the process of locating and securing housing within the county for persons committed as SVPs who are about to be conditionally released. (Welf. & Inst. Code, § 6608.5, subd. (d).)

Existing law requires DSH or its designee to consider the following in recommending a specific placement for community outpatient treatment: the concerns and proximity of the victim or the victim's next of kin and the age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. Provides that the "profile" of a victim includes, but is not limited to, gender, physical appearance, economic background, profession, and other social or personal characteristics. (Welf. & Inst. Code, § 6608.5, subd. (e).)

Existing law prohibits a conditionally-released person from being placed within a quarter-mile of any public or private school providing instruction in kindergarten through twelfth grade if the court finds that the person has “a history of improper sexual conduct with children” or has previously been convicted of specified sex offenses. (Welf. & Inst. Code, § 6608.5, subd. (f).)

Existing law requires the court, if the committed person is ordered to be conditionally released in a county other than the county of commitment due to extraordinary circumstances, to order that jurisdiction of the person and all records related to the case be transferred to the court of the county of placement. (Welf. & Inst. Code, § 6608.5, subd. (g).)

Existing law provides that the court may make a finding of extraordinary circumstances only after the committed person’s county of domicile has petitioned the court to make this finding. (Welf. & Inst. Code, § 6608.6, subd. (a).)

Existing law provides that the court may grant the county of domicile’s petition and make a finding of extraordinary circumstances only after all of the following have occurred:

- The county of domicile has demonstrated to the court that the county of domicile has engaged in an exhaustive housing search with meaningful and robust participation from specified participants;
 - The county of domicile has provided at least one alternative placement county for consideration and has noticed the district attorney, or district attorneys, of the alternative placement county, or counties, and the department regarding the county of domicile’s intention to petition for a finding of extraordinary circumstance; and the county of domicile shall indicate, if applicable, how the committed person has a community connection to a proposed alternative placement county, including whether the committed person has previously resided, been employed, or has next of kin in a proposed alternative placement county.
 - The county of domicile has provided the required declarations and community connection information to the department and to the district attorney of a proposed alternative placement county.
 - The department and the district attorney of a proposed alternative placement county have had an opportunity to be heard at a hearing.
- (Welf. & Inst. Code, § 6608.6, subd. (b).)

Existing law requires the court to state its findings on the record and the grounds supporting its findings if the court finds that extraordinary circumstances require the placement to occur outside the county of domicile. Provides that extraordinary costs associated with a housing placement inside the county of domicile are not grounds for a finding of extraordinary circumstances. (Welf. & Inst. Code, § 6608.6, subd. (c).)

Existing law requires DSH, when DSH makes a recommendation to the court for community outpatient treatment for any person committed as an SVP, or when a person who is committed as an SVP has petitioned a court for conditional release or has petitioned a court for subsequent unconditional discharge and DSH is notified or aware of the filing of the petition and when a community placement location is recommended or proposed, to notify the sheriff or chief of police, or both, the district attorney, or the county’s designated counsel, that have jurisdiction

over the following locations: the community in which the person may be released for community outpatient treatment; the community in which the person maintained his or her last legal residence; and, the county that filed for the person's civil commitment. (Welf. and Inst. Code, § 6609.1, subd. (a)(1).)

Existing law provides that agencies receiving notice may provide written comment to DSH and the court regarding the impending release, placement, location, and conditions of release. (Welf. & Inst. Code, 6609.1, subd. (b).)

Existing law requires that the agencies' comments and DSH's statements be considered by the court. Provides that the court approve, modify, or reject DSH's recommendation or proposal regarding the community or specific address to which the person is scheduled to be released or the conditions that will apply to the release if the court finds that DSH's recommendation or proposal is not appropriate. (Welf. & Inst. Code, 6609.1, subd. (c).)

This bill requires DSH to conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the conditional release program and to submit the findings of the analysis in a report to the Legislature on or before September 1, 2025.

This bill contains an urgency clause.

COMMENTS

1. Need For This Bill

According to the author:

SB 380 implements the recommendation of the California State Auditor's report, "2023-130 Conditional Release Program for Sexually Violent Predators," by requiring the Department of State Hospitals (DSH) to conduct a feasibility study on utilizing transitional housing in the Forensic Conditional Release Program (CONREP) for Sexually Violent Predators (SVPs).

In 2023, the Joint Legislative Audit Committee approved an audit of the CONREP process and the collaboration between DSH and Liberty Healthcare. The audit found that DSH has encountered numerous hurdles in securing suitable housing for program participants. These challenges include complex program requirements designed to ensure public safety, a scarcity of property owners willing to rent for the program, and significant public opposition to placing SVPs in local communities. Consequently, placements have taken an average of 17 months—far exceeding the 30-day period mandated by state law.

The audit recommended that DSH explore establishing state-owned transitional housing by analyzing its benefits and feasibility; however, DSH declared that it would not implement this recommendation.

By mandating a feasibility study, SB 380 ensures that the Legislature will have the necessary data to evaluate whether state-owned transitional housing can improve the efficiency and effectiveness of the SVP placement process while maintaining public

safety. As an urgency measure, the bill would take immediate effect to address these pressing challenges.

2. SVP Background

The Sexually Violent Predator Act (SVPA) establishes an extended civil commitment scheme for sex offenders who are about to be released from prison but are referred to DSH for treatment in a state hospital because they have suffered from a mental illness which causes them to be a danger to the safety of others. The initial screening is conducted by the California Department of Corrections and Rehabilitation (CDCR) and the Board of Parole Hearings. (Welf. & Inst. Code, § 6601, subd. (b).) If a determination is made that the person is likely a sexually violent predator, CDCR is required to refer to the person to DSH for a full evaluation. (*Ibid.*)

Under existing law, a person may be deemed an SVP if: the person has been convicted of specified sex offenses against one or more victims; the person has been diagnosed with a mental disorder that makes the person a danger to the health and safety of others in that it is likely that the person will engage in sexually violent criminal behavior; and, two licensed psychiatrists or psychologists concur in the diagnosis. (Welf. & Inst. Code, §§ 6600, subd. (a), 6601, subd. (d).) If DSH finds that the person meets the criteria to be considered an SVP, the case is referred to the county's designated counsel who may file a petition for civil commitment. (Welf. & Inst. Code, § 6601, subd. (i).)

Once a petition has been filed, a judge holds a probable cause hearing. (Welf. & Inst. Code, § 6602.) If probable cause is found, the case proceeds to a trial at which the prosecutor must prove beyond a reasonable doubt that the person meets the statutory criteria to be considered an SVP. (Welf. & Inst. Code, § 6604.) If the prosecutor meets this burden, the person can be civilly committed to a DSH facility for treatment.

DSH must conduct an examination of an SVP's mental condition at least annually and submit an annual report to the court. (Welf. & Inst. Code, § 6604.9, subd. (a).) This annual review is prepared by a professionally qualified person. (*Ibid.*) In addition, DSH has an obligation to seek judicial review any time it believes a person committed as an SVP no longer meets the criteria. (Welf. & Inst. Code, § 6607.)

The SVPA was substantially amended by Proposition 83 ("Jessica's Law") which became operative on November 7, 2006. An SVP commitment, as originally enacted, was for two years and subject to possible extension. Under Jessica's Law, a person committed as an SVP may be held for an indeterminate term upon commitment or until it is shown that the defendant no longer poses a danger to others. (See *People v. McKee* (2010) 47 Cal.4th 1172, 1185-87.) Jessica's Law also amended the SVPA to make it more difficult for SVPs to petition for less restrictive alternatives to commitment. These changes have survived due process, ex post facto, and equal protection challenges. (See *Id.* at p. 1193 (finding no due process violation because the SVPA has appropriate constitutional protections in place and the committed person "may not be held in civil commitment when he or she no longer meets the requisites of such commitment" (i.e., the person has the opportunity for release); *People v. McKee* (2012) 207 Cal.App.4th 1325; *People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774.) Due to the significant deprivation of a person's liberty while SVP proceedings are conducted, and potentially indefinitely after being committed as an SVP, the California Supreme Court recently held that all trial courts in the state

are required to advise criminal defendants prior to pleading guilty or nolo contendere to an offense enumerated in the SVPA, or in cases where the court is aware that the defendant has a prior conviction for such an offense, of potential repercussions related to the SVPA. (*In re Tellez* (2024) 17 Cal.5th 77, 92.)

3. Release of SVPs

Two types of release exist for SVPs—unconditional discharge and conditional release. Both types of release require a petition for release. The petition can be filed with or without the concurrence of the Director of State Hospitals, and the Director’s concurrence or lack thereof determines which is process used.

An SVP can, with the concurrence of the Director of State Hospitals, petition for unconditional discharge if the patient “no longer meets the definition of a sexually violent predator,” or for conditional release. (Welf. & Inst. Code, § 6604.9, subd. (d).) When the petition is filed for unconditional discharge (i.e., with the concurrence of the DSH), the court must order a show cause hearing. (Welf. & Inst. Code, § 6604.9, subd. (f).) If the court at the show cause hearing determines that probable cause exists to believe that the committed person’s diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court must hold a hearing on the issue. (Welf. & Inst. Code, § 6605, subd. (a)(2).) At the hearing, the committed person has a right to a jury trial and is entitled to relief unless the prosecuting attorney proves “beyond a reasonable doubt that the committed person’s diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent behavior if discharged.” (Welf. & Inst. Code, § 6605, subd. (a)(3).)

A person committed as an SVP may also petition the court for conditional release, with or without the recommendation or concurrence of the Director of State Hospitals. (Welf. & Inst. Code, § 6608, subd. (a).) A hearing on the petition cannot be held until the SVP has been under commitment for at least one year. (Welf. & Inst. Code, § 6608, subd. (f).) Upon receipt of a first or subsequent petition from a committed person without the concurrence of the Director, the court is required whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, to deny the petition without a hearing. (Welf. & Inst. Code, § 6608, subd. (a).) If the petition is not found to be frivolous, the court is required to hold a hearing. (*People v. Smith* (2013) 216 Cal.App.4th 947.)

Once the court sets the hearing on the petition, the petitioner is entitled to both the assistance of counsel and the appointment of experts. (Welf. & Inst. Code, § 6608, subs. (c), (g); *People v. McKee, supra*, 47 Cal.4th 1172, 1193.) At the hearing, the person petitioning for release has the burden of proof by a preponderance of the evidence. (Welf. & Inst. Code, § 6608, subd. (i); *People v. Rasmuson* (2006) 145 Cal.App.4th 1487, 1503.) If the petition is denied, the SVP may not file a subsequent petition until one year from the date of the denial. (Welf. & Inst. Code, § 6608, subd. (j).)

If a person is approved for conditional release, DSH is required to find a suitable housing placement for the person in the community. Existing law requires that the person be placed in the county of domicile prior to the person’s incarceration unless the court finds that extraordinary circumstances require placement outside the county of domicile and the designated county of placement was given prior notice and an opportunity to comment on the proposed placement of

the committed person in the county. (Welf. & Inst. Code, § 6608.5, subd. (a).) DSH is required to convene a housing committee consisting of the committed person's attorney, the sheriff or the chief of police of the locality for placement, the county counsel, and the district attorney from the county of domicile, and the housing committee is required to provide assistance and consultation in DSH's process of locating and securing housing. (Welf. & Inst. Code, § 6608.5, subd. (d)(1).) DSH must consider a number of factors when locating housing, including statutory residency restrictions, the concerns or proximity to the victim or victim's next of kin, and the age and profile of the victim or victims of the sexually violent offenses committed by the person subject to placement. (Welf. & Inst. Code, § 6608.5, subds. (e) & (f).) Notably, if no housing placement has been found and the court has ordered the person to conditional release, the person can be released as a transient. (*Karsai, supra*, at p. 788-89.)

4. State Auditor's Report

In October 2024, the California State Auditor published a report on DSH's Sexually Violent Predator Conditional Release Program. The Auditor examined the administration of the program, obstacles DSH faced in attempting to place program participants in the community, and the department's oversight of the contractor it uses to provide various services related to the program. (State Auditor, *Conditional Release Program for Sexually Violent Predators: Program Participants Are Less Likely to Reoffend, While the State Has Difficulty Finding Suitable Housing*, Report 2023-130, available at <<https://www.auditor.ca.gov/reports/2023-130/>> (hereafter Auditor's Report).) The Auditor found that individuals who participated in the program were convicted of new offenses less often than SVPs who were unconditionally released and did not participate in the program. (*Id.* at p. 1.) The report also highlighted the numerous hurdles that the department has faced when attempting to locate suitable housing for program participants and found that DSH could improve its oversight of its contractor's administration of the program. (*Id.* at pp. 1-2.)

Among the challenges faced by DSH with respect to finding housing for program participants, the report noted that there are complex program requirements, few property owners willing to rent for the purpose of housing program participants, and community opposition to placements which resulted in an average of 17 months for DSH's contractor, Liberty Healthcare, to secure housing for program participants. (*Id.* at pp. 13-17.) The report shared information about one particularly difficult placement. Following the Stanislaus County Superior Court's order of a person into the program, more than 6,500 housing sites were considered over nearly three years. (*Id.* at p. 16.) Residential restrictions contribute to the complexity of finding suitable placements. State law prohibits the placement of some conditionally-released individuals within a quarter-mile of any public or private K-12 school. (Welf. & Inst. Code, § 6608.5, subd. (f).) The report noted that "an appellate court ruled that home schools fall within the definition of schools under this law, including home schools that are established after a program participant location was already determined. ... [T]he establishment of a home school can necessitate relocating a program participant from existing housing to a state hospital" until a new placement can be secured. (Auditor's Report, *supra*, at p. 14.) With respect to community opposition to placement of program participants, the report included the following:

Liberty Healthcare's clinical director stated that even when a property owner is fully committed and Liberty Healthcare has properly vetted the property for meeting the required criteria, there have been instances when people have publicly harassed the property owner or sabotaged the property, making placement there no longer a viable option. In one example, vandals rendered a

potential placement location uninhabitable by using a hose to flood the attic, damaging the house. Liberty Healthcare's assistant community program director described other instances when property owners withdrew their willingness to rent their properties for the purpose of housing program participants because community members stopped patronizing the local businesses they also owned. (*Id.* at p. 17.)

The State Auditor concluded that state-owned transitional housing could help mitigate some of the challenges that DSH has faced in locating housing for program participants which would decrease the time that program participants would be housed in a state hospital awaiting approval of a placement in the community. (*Id.* at pp. 13-20.) Specifically, the report recommended:

To potentially reduce the time needed to place program participants in community housing, DSH should explore establishing state-owned transitional housing similar to other states. Specifically, by September 2025, DSH should conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the program. To the extent it finds transitional housing beneficial to the program, it should seek necessary funding and legislative authority to implement such housing for the program. (*Id.* at p. 35.)

In response to the Auditor's recommendation, DSH stated:

DSH disagrees with the recommendation to conduct further analysis of the benefits and feasibility of establishing transitional housing, including identification of potential legislative prohibitions. DSH has previously reviewed this option. DSH notes transitional housing would not address many of the challenges that currently exist that contribute to the lengthy average timelines to placement in the community and ultimately could further delay placement of individuals. These challenges include but are not limited to the following:

- Siting locations for transitional facilities for multiple individuals would not be easier and likely would be more difficult than for the current types of individual placements utilized.
- Statutory residency restrictions and individual risk factors would continue to make certain areas of the state unsuitable for this type of facility.
- There would still be the risk that homeschools being developed in the vicinity of any developed transitional facility could render it unusable for this purpose at any time.
- Community protests over the potential placement of multiple individuals designated as an SVP in one facility location in a community would be expected, thus delaying the development of a facility of this type.
- Absent extraordinary circumstances, the law requires that individuals be placed into their county of domicile, and for most counties there are not enough individuals to support establishing an SVP transitional facility in the county. If individuals could be placed in alternate counties, any county identified for potential placement of these types of facilities would likely respond with significant protest of the placement of the facility into their county and housing individuals designated as an SVP from other counties. (*Id.* at pp. 49-50.)

This bill adopts the State Auditor's recommendation to require DSH to conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the conditional release program. The deadline to conduct the analysis and submit a report with the findings to the Legislature is September 1, 2025. Committee members may wish to consider whether it would be prudent to require DSH to study this option if the department has indicated that it has already done so. If so, notwithstanding the urgency clause, would DSH be able to conduct a meaningful analysis and prepare a report by the deadline established in this bill?

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