

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL MEMBER DESLEY BROOKS

DRAFT

TITLE: ADOPT A RESOLUTION DECLARING THE CITY OF OAKLAND'S SUPPORT OF ASSEMBLY BILL-2450 WHICH WOULD CLARIFY AND IMPROVE LOCAL AGENCY INPUT IN THE RELEASE OF SEXUALLY VIOLENT PREDATORS.

WHEREAS, it has been reported that there are an estimated 3,000 parolees and 7,000 probationers in Oakland at any one time; and

WHEREAS, there are approximately 50 probation officers assigned to the City of Oakland who are responsible for supervising these estimated 10,000 adult probationers and parolees; and

WHEREAS, previous placements of sexually violent predators in the city of Oakland have been done under a cloak of secrecy; and

WHEREAS, existing law requires the State Department of Mental Health to notify local law enforcement officials when it makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when it is aware that such a person has petitioned a court for release to the community; and

WHEREAS, Assembly Bill -2450 (AB-2450) authored by Assembly Member Canciamilla would require notice to be given when the community placement of a sexually violent predator is proposed by the court; and

WHEREAS, AB-2450 would require the notice to include, among other things, the date, place, and time of the court hearing, would authorize the local agencies to provide written comment to the department and the court, would require the department to respond to those comments, and would require the court to consider those comments and responses; and

WHEREAS, AB-2450 would delete the prohibition against notice being given after the release date; and be it

RESOLVED, that the City of Oakland declares its support for AB-2450; and

BE IT FURTHER RESOLVED, that the City Council directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA. MARCH 16, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS. BRUNNER. CHANG. NADEL, QUAN. REID. WAN and PRESIDENT DE LA FUENTE

NOES-

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ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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CITY OF OAKLAND
BILL ANALYSIS



Date: 25 March 2004

Bill Number: AB 2450

Bill Author: Assembly Member Canciamilla

DEPARTMENT INFORMATION

Contact: William Roy Uber

Department: Oakland Police Department, Admin & Tech Services Division

Telephone: 510.238.6792 **FAX #** 510.238.7490 **E-mail:** wuber@oaklandnet.com

RECOMMENDED POSITION: (SUPPORT, SUPPORT IF AMENDED, NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

The Oakland Police Department recommends the City Council **SUPPORT** AB 2450.

Summary of the Bill

This bill would amend the Welfare and Institutions Code sections relating to notification procedures to local entities when the State Department of Mental Health (DMH) makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when the Department is aware that such a person has petitioned a court for release to the community. Specifically, the changes would:

- Require notice to be given when the community placement of a sexually violent predator is proposed by the court. The notice would be required to contain, among other things, the date, place, and time of the court hearing.
- Authorize the local agencies to provide written comment to the State Department of Mental Health and the court.
- Require the Department of Mental Health to respond to the comments and would require the courts to consider those comments and responses.
- Delete the prohibition against notice being given after the release date.

Positive Factors for Oakland

The advance notification requirements of the bill, coupled with providing local agencies the opportunity to provide written comment to the Department of Mental Health and the courts could possibly prevent a re-occurrence of the Cary Verse situation, wherein Mr. Verse, a convicted sexual predator, was first released in Mill Valley and was subsequently relocated to downtown Oakland, instead of being released to Contra Costa County, where he was originally sentenced.

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Also, neither the Police Department nor other city officials received notice from the courts or the DMH that Mr. Verse was being moved to Oakland.

At the time, Police Chief Richard Word noted that, "Ex-offenders should not be dumped in communities. Oakland, with approximately 3,000 parolees, already has more than its share."

Negative Factors for Oakland

None noted.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal** or **None** (do not review with City Council, position not required)

Known support:

City of Martinez

Known Opposition:

None

Is state/federal legislative committee analysis available? (If yes, see attached)

No. The bill is tentatively scheduled for committee hearing on March 21.

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BILL NUMBER: AB 2450 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Canciamilla

FEBRUARY 19, 2004

An act to amend Section 6609.1 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as introduced, Canciamilla. Sexually violent predators: notice.

Existing law requires the State Department of Mental Health to notify local law enforcement officials when it makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when it is aware that such a person has petitioned a court for release to the community.

This bill would, in addition, require notice to be given when the community placement is proposed by the court. This bill would require the notice to include, among other things, the date, place, and time of the court hearing, would authorize the local agencies to provide written comment to the department and the court, would require the department to respond to those comments, and would require the court to consider those comments and responses. This bill would delete the prohibition against notice being given after the release date.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6609.1 of the Welfare and Institutions Code is amended to read:

6609.1. (a) (1) When the State Department of Mental Health makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or is aware, of the filing of the petition, the department shall 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:

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

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

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~~(3)~~

(C) The county that filed for the person's civil commitment pursuant to this article.

~~The~~

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

(3) The notice shall be given when the department makes a recommendation under subdivision (e) of Section 6608 or when a community placement is proposed by the court.

~~The~~

(4) The notice shall be given at least 15 days prior to the department's submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment , or in the case of a recommendation by someone other than the department, within 48 hours after becoming aware of the recommendation, whichever is later .

(5) The notice shall include all of the following information concerning each person committed as a sexually violent predator who is proposed or is petitioning to receive outpatient care in a conditional release program in that city or county:

(A) The name, proposed placement address, date of commitment, county from which committed, proposed date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than 3 1/8 X 3 1/8 inches in size, or clear copies of the fingerprints and photograph.

(B) The date, place, and time of the court hearing at which the location of placement is to be considered and a proof of service attesting to the notice's mailing in accordance with this subdivision.

(b) Those agencies receiving the notice referred to in subdivision (a) may provide written comment to the department and the court regarding the impending release, placement, location, and conditions of release. The State Department of Mental Health shall respond in writing to each of the commenting agencies and to the court within 10 days of receiving the written comments with a determination as to whether to adjust the release location or conditions, documenting and explaining the basis for its decision.

(c) The agencies' comments and department's responses shall be considered by the court which shall, based on those comments and responses, approve, modify, or reject the department's recommendation or proposal regarding the community or specific address to which the person is scheduled to be released or the conditions that shall apply to the release if the court finds that the department's recommendation or proposal is not appropriate.

~~(b)~~

(d) (1) When the State Department of Mental Health makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section 6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

~~(1)~~

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

~~(2)~~

(B) The community in which the person will probably be released, if recommending not to pursue recommitment.

~~(3)~~

(C) The county that filed for the person's civil commitment pursuant to this article.

~~The~~

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

~~Those~~

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

~~(e)~~

(e) (1) If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections. The Department of Corrections shall notify the State Department of Mental Health, the sheriff or chief of police, or both, and the district attorney, that have jurisdiction over the following locations:

~~(1)~~

(A) The community in which the person is to be released.

~~(2)~~

(B) The community in which the person maintained his or her last legal residence as defined in Section 3003 of the Penal Code.

~~The~~

(2) The Department of Corrections shall make the notifications required by this subdivision regardless of whether the person released will be serving a term of parole after release by the court.

~~(d)~~

(f) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

~~(g)~~

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

~~(f)~~

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

~~(g)~~

(i) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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