

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. _____ C.M.S.

DRAFT

INTRODUCED BY COUNCIL MEMBER DESLEY BROOKS

RESOLUTION DECLARING THE CITY OF OAKLAND'S SUPPORT OF SENATE BILL-1366 WHICH WOULD REQUIRE THAT SEXUAL PREDATORS BE RETURNED TO THE COUNTY WHERE THEY WERE CONVICTED EXCEPT UNDER EXTRAORDINARY CIRCUMSTANCES, AND MANDATE NOTIFICATION OF LOCAL LAW ENFORCEMENT 45 DAYS PRIOR TO RELEASE.

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, Senator Deham has introduced Senate Bill 1366 (SB 1366), which attempts to address issues related to the release of sexually violent predators; and

WHEREAS, existing law provides for the commitment of convicted sexually violent predators to the custody of the State Department of Mental Health for treatment. If the Director of Mental Health determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director is required to forward a report and recommendation for conditional release to the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and the court is required to set a hearing; and

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WHEREAS, existing law further provides that a person who has been committed as a sexually violent predator may petition the court for conditional release with or without the recommendation or concurrence of the Director of Mental Health. Upon receipt of a petition from the Director of Mental Health or a committed person, if that petition is not based upon frivolous grounds, the court is required to hold a hearing to determine whether the person committed would be 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 due to his or her diagnosed mental disorder if under supervision and treatment in the community; if not, the court is required to order the committed person to be placed with an appropriate forensic conditional release program operated by the state for one year. Under existing law, that placement must occur within 21 days after receiving notice of the court's finding; and

WHEREAS, existing law also requires the department to provide notice to certain local law enforcement agencies in certain communities, including in the community in which the person may be released for community outpatient treatment. Existing law requires this notice to be made 15 days prior to the department's recommendation to the court for community outpatient treatment. Existing law also requires the Department of Corrections to notify the State Department of Mental Health, and local law enforcement agencies, when the court orders the release of a sexually violent predator; and

WHEREAS, SB-1366 would require placement of a sexually violent predator into a conditional release program within 50 days of the court's finding, and would require notice to local law enforcement agencies by the department or the Department of Corrections 45 days prior to making its recommendation to the court, or the court's release of the sexually violent predator; and

WHEREAS, SB-1366 would authorize local law enforcement agencies that received notice pursuant to the bill to offer placement suggestions and alternatives to the department or court.

WHEREAS, SB-1366 would require the department to provide reasonable public notice to the community into which a person committed as a sexually violent predator may be released, at least 45 days prior to the department's submission of its recommendation to the court for conditional release. It would require the notice to include the name of the person who may be released into the community and a description of the specific crime or crimes for which the person was committed as a sexually violent predator.

WHEREAS, SB-1366 would authorize the department to modify its placement recommendation based on the comments from law enforcement agencies; and

WHEREAS, SB-1366 would require a nonparolee who is conditionally released under these provisions to be placed in the county of civil commitment, except under extraordinary circumstances, as defined in the bill.

RESOLVED, that the City of Oakland declares its support for SB-1366; 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, April 6, 2004

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California