

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**SPR21-08**

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<b>Title</b>	<b>Action Requested</b>
Criminal Forms: Commitment Orders for Sexually Violent Predators	Review and submit comments by May 27, 2021
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Revise form CR-173; revoke form CR-174	January 1, 2022
<b>Proposed by</b>	<b>Contact</b>
Criminal Law Advisory Committee Hon. Brian M. Hoffstadt, Chair	Sarah Fleischer-Ihn, 415-865-7702 <a href="mailto:Sarah.Fleischer-Ihn@jud.ca.gov">Sarah.Fleischer-Ihn@jud.ca.gov</a>

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### Executive Summary and Origin

The Criminal Law Advisory Committee recommends revising *Order for Commitment* (form CR-173) and revoking *Order for Extended Commitment* (form CR-174) to incorporate changes to the statutes governing sexually violent predator proceedings (Welf. & Inst. Code, § 6600 et seq.), replace gender-specific pronouns, and incorporate revisions for procedural efficiency, accuracy, and clarity.

### Background

The Judicial Council approved two optional forms, *Order for Commitment* (form CR-173) and *Order for Extended Commitment* (form CR-174), effective January 1, 2005, to provide increased uniformity of commitment forms for people determined to be sexually violent predators under the Welfare and Institutions Code. The forms were most recently amended, effective January 1, 2018, for renumbering, but have not been substantively revised to incorporate statutory changes to Welfare and Institutions Code section 6600 et seq. by Senate Bill 1128 (Stats. 2006, ch. 337), the Sexual Predator Punishment and Control Act (Proposition 83), and Assembly Bill 1470 (Stats. 2012, ch. 24). The committee also recommends replacing gender-specific pronouns and revising the form for procedural efficiency, accuracy, and clarity.

### The Proposal

The proposal would revise *Order for Commitment* (form CR-173) based on statutory changes, as follows:

- Revise the findings section to require one or more convictions of a qualifying offense to reflect Welfare and Institutions Code section 6600, which defines a sexually violent

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predator, in part, as a person who has been convicted of a sexually violent offense against one or more victims;

- Revise the reference to sexually violent predatory criminal behavior to exclude the term “predatory,” to reflect the statutory language of Welfare and Institutions Code section 6600;
- Replace references to the California Department of Mental Health with the California Department of State Hospitals, to reflect the transfer of duties regarding sexually violent predators made by AB 1470; and
- Replace references to the two-year custody limit with an indeterminate term, and eliminate references to extended commitment requirements, to reflect statutory changes to custody terms made by SB 1128 and Prop. 83.

The committee also recommends the following revisions:

- Replace gender-specific pronouns;
- Identify the county of domicile for purposes of discharge under Welfare and Institutions Code section 6608.5, to promote court efficiencies by having the identification occur at an earlier stage of the proceedings;
- Eliminate references to confinement at a specific state hospital, to reflect that some respondents may be released to community treatment under the custody of the Department of State Hospitals; and
- Order a specific entity to transport the respondent, to provide clarity about the agency responsible for transportation.

The proposal would also revoke *Order for Extended Commitment* (form CR-174). A prior version of Welfare and Institutions Code section 6604 stated that if a person was determined by the court or jury to be a sexually violent predator, that person must be committed for two years to the custody of the Department of State Hospitals and could not be kept in actual custody longer than two years unless a subsequent extended commitment was obtained from the court. SB 1128 and Prop. 83 amended section 6604 to change the two-year custody limit to an indeterminate term and deleted the extended commitment requirement.

### **Alternatives Considered**

Because the form revision and revocation are largely necessitated by statutory changes, the committee did not consider any alternatives to those revisions. The committee unanimously agreed on the revisions based on procedural efficiency, accuracy, and clarity and thought they were appropriate to recommend at the same time as the revisions based on statutory changes.

### **Fiscal and Operational Impacts**

Expected costs are limited to training, possible case management system updates, and the production of new forms. No other implementation requirements or operational impacts are expected.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

## Attachments and Links

1. Form CR-173, at page 4
2. Form CR-174, at page 5
3. Link A: Welf. & Inst. Code, § 6600,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=6600.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6600.&lawCode=WIC)
4. Link B: Welf. & Inst. Code, § 6604,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=6604.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6604.&lawCode=WIC)
5. Link C: Welf. & Inst. Code, § 6608.5,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=6608.5.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6608.5.&lawCode=WIC)
6. Link D: Sen. Bill 1128 (Stats. 2006, ch. 337),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200520060SB1128](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200520060SB1128)
7. Link E: Assem. Bill 1470 (Stats. 2012, ch. 24),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201120120AB1470](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201120120AB1470)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial</b> <b>Council</b>
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	
<b>ORDER FOR COMMITMENT</b> <b>(Sexually Violent Predator)</b>	CASE NUMBER:

After the trial in the above captioned matter on *(date)*: the allegations in the petition were found true beyond a reasonable doubt. At the trial the  court  jury found

1. that the respondent has suffered **one or more** convictions for violations of *(specify code sections)*:  
and
2. that the respondent has a diagnosed mental disorder that makes the **respondent** a danger to the health and safety of others in that it is likely that respondent will engage in sexually violent criminal behavior; **and**
3. thus, **that** the respondent is a "sexually violent predator" as defined in Welfare and Institutions Code section 6600.

**The court finds that the county of domicile for purposes of discharge under provisions of Welfare and Institutions Code section 6608.5 is the county of:**

**THEREFORE, THE COURT ORDERS**

4. The respondent **is to** be committed to the custody of the California Department of **State Hospitals** for appropriate treatment under the provisions of Welfare and Institutions Code section 6604 for **an indeterminate term** commencing *(date)*:
5. The respondent **is to** be transported immediately to the **custody of the California Department of State Hospitals by** *(agency)*:

Date: \_\_\_\_\_

\_\_\_\_\_  
(JUDICIAL OFFICER)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT</b></p> <p style="text-align: center;">Not approved by the Judicial Council</p>
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	
<b>ORDER FOR EXTENDED COMMITMENT (Sexually Violent Predator)</b>	CASE NUMBER:

1. After a trial in the above captioned matter, the  court  jury found that the respondent, by reason of a diagnosed mental disorder, continues to be a sexually violent predator as defined in section 6600 of the Welfare and Institutions Code and remains a danger in that he or she is likely to engage in acts of sexual violence if released from custody.

**THE COURT ORDERS**

- Respondent is recommitted under Welfare and Institutions Code 6604 for a period of two years at (name):  
State Hospital and will be transported to the facility immediately.
- Under Welfare and Institutions Code section 6604.1, the time of recommitment begins to run on the date the original commitment terminates, (date):

REVOKED

Date: \_\_\_\_\_ (JUDICIAL OFFICER)