

## **NOTICE OF PROPOSED RULEMAKING**

### **TITLE 9, CALIFORNIA CODE OF REGULATIONS ADOPT CHAPTER 15 REGARDING ASSESSMENT OF SEXUALLY VIOLENT PREDATORS**

#### **NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Department of Mental Health (DMH) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on May 11, 2009, in the California Room at the Department of Motor Vehicles Offices located at 2120 Broadway in Sacramento, California. It will start at 9:00 A.M. and end when all comments have been received or at 5:00 P.M. whichever comes first.

Following the public hearing the Department of Mental Health may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 4005.1 and 4027 of the Welfare and Institutions Code, and to implement, interpret or make specific sections 6600 and 6601 of the Welfare and Institutions Code, the Department of Mental Health (DMH) is seeking changes to Division 1 of Title 9 of the California Code of Regulations as follows: Adoption of Chapter 15.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Welfare and Institutions Code Section 6601 (c) requires DMH to develop and update as necessary a standardized assessment protocol to be used to evaluate whether a person is a sexually violent predator, as such term is defined in Welfare and Institutions Code Section 6600 (a)(1). The proposed regulation seeks to permanently establish into law the evaluator requirements as part of the standardized assessment protocol to determine whether a person should be deemed to be a sexually violent predator.

Emergency regulations containing the identical language of the proposed regulation was filed with the Office of Administrative Law (OAL) on January 30, 2009, and was accepted for filing by the OAL on February 6, 2009. To make the emergency regulation language permanent after the expiration of the 180-day period where the language has the force and effect of law, DMH needs to complete this regular, noticed rulemaking action,

and submit it, along with a certification that it has complied with the procedures for a regular, noticed rulemaking action no later than August 5, 2009.

**LOCAL MANDATE**

This proposal does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT ESTIMATES**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the state.

**COSTS OR SAVINGS TO STATE AGENCIES**

No additional costs or savings to state agencies are anticipated.

**BUSINESS IMPACT/SMALL BUSINESSES**

The Department of Mental Health has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610. The impact is limited to state employed and contract psychiatrists and psychologists who perform the assessment, and does not require any significant change in their business practices.

**ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES**

The Department of Mental Health has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The Department of Mental Health is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON HOUSING COSTS:** None

**CONSIDERATION OF ALTERNATIVES:** The Department of Mental Health has determined that no reasonable alternative which it has considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

## **CONTACT PERSONS**

Inquiries concerning the proposed adoption of these regulations and written comments may be directed to:

Jon Cordova  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Matthew Garber  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-3851

Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [regulations@dmh.ca.gov](mailto:regulations@dmh.ca.gov). Comments must be submitted prior to 5:00 p.m. on May 11, 2009.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Department of Mental Health has prepared an initial statement of the reasons for the proposed action and has available all of the information upon which the proposal is based.

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Department of Mental Health at 1600 9th Street room 435, Sacramento, CA 95814. These documents may also be viewed and downloaded from the DMH website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

## **WEBSITE ACCESS**

Materials regarding this proposal may be found at [www.dmh.ca.gov](http://www.dmh.ca.gov).