

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES

DIVISION 1. DEPARTMENT OF MENTAL HEALTH

CHAPTER 15. ASSESSMENT OF SEXUALLY VIOLENT PREDATORS

Amend Section 4000 as follows:

§ 4000. Application of Chapter

This chapter applies to ~~evaluators performing an assessment~~ screenings or evaluations used to determine whether a person is a sexually violent predator pursuant to Welfare and Institutions Code § 6600 et. seq.

Authority: Welfare and Institutions Code Sections 4005.1 and ~~4027~~ 4101

Reference: Welfare and Institutions Code Sections 6600, 6601.

Adopt Section 4001 as follows:

§ 4001. Definitions

(a) As used in this chapter the term “Screening” shall mean an administrative or clinical screening performed pursuant to Welfare and Institutions Code Section 6601(b).

(b) As used in this chapter the term “Evaluation” shall mean an evaluation performed pursuant to Welfare and Institutions Code Section 6601(c).

(c) As used in this chapter the term “Individual” shall mean a person as defined in Welfare and Institutions Code Section 6601(a)(1).

Authority: Welfare and Institutions Code Sections 4005.1 and 4101

Reference: Welfare and Institutions Code Sections 6600 and 6601.

Adopt Section 4011 as follows:

§ 4011. Screening Designation

The Department of Mental Health may accept designation in whole or in part from the California Department of Corrections and Rehabilitation of the function to conduct screenings of individuals pursuant to Welfare and Institutions Code Section 6601(b).

Authority: Welfare and Institutions Code Sections 4005.1 and 4101

Reference: Welfare and Institutions Code Sections 6600, 6601.

Adopt Section 4015 as follows:

§ 4015. Screening Procedures

(a) A screening shall include a determination of the existence of a conviction for a sexually violent predatory offense as set forth in Welfare and Institutions Code Section 6600(b).

(b) A screening shall be performed by an administrative or clinical staff member employed by, or a non-state employee contracting with, the California Department of Corrections and Rehabilitation or the California Department of Mental Health.

(c) A screening conducted pursuant to Welfare and Institutions Code Section 6601(b) shall include at a minimum the following criteria:

1. The individual's social, criminal or institutional history.
2. Whether the individual's criminal offense has not been adjudicated.
3. Whether the individual's parole is in revoked status or otherwise revoked.
4. Whether the individual referred for evaluation is located in the state of California.
5. Whether the individual's release date is beyond nine months, including date changes.
6. Whether the individual's parole is likely to expire prior to the completion of the screening process and whether the individual's Controlling Discharge Date allows sufficient time for full evaluation..
7. Whether the individual was released from custody prior to the completion of the screening process.
8. Whether the individual is serving an indeterminate sentence.
9. Whether the individual has a current petition for civil commitment pending.
10. Whether the basis for a prior negative finding or the status of the individual's mental disorder or mental illness has changed since a prior screening or evaluation.
11. In the case of first-time referrals and re-referrals, whether the individual's crime or act is a qualifying offense.
12. In the case of first-time referrals and re-referrals, whether the individual's crime or act supports a likelihood of sexually reoffending in a predatory manner.

(d) When a clinical screen is performed, the screener, according to his or her professional judgment, shall apply the provisions of subdivision (c) of this section where applicable and tests or instruments along with other static and dynamic risk factors when conducting the screening. Such tests, instruments and risk factors must have gained professional recognition or acceptance in the field of diagnosing, evaluating or treating sexual offenders and be appropriate to the particular patient and applied on a case-by-case basis.

The term “professional recognition or acceptance” as used in this section means that the test, instrument or risk factor has undergone peer review by a conference, committee or journal of a professional organization in the fields of psychology or psychiatry, including, but not limited to, the American Psychological Association, the American Psychiatric Association, and the Association for the Treatment of Sexual Abusers.

(e) The Department of Mental Health shall maintain its own records documenting the screenings it has performed in accordance with the provisions of this chapter.

Authority: Welfare and Institutions Code Sections 4005.1 and 4101

Reference: Welfare and Institutions Code Sections 6600, 6601.