
**Criminal Justice & Corrections
Committee**

SSB 5749

Brief Description: Revising procedures for hearings concerning violations by sex offenders of postrelease conditions.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Rasmussen; by request of Indeterminate Sentence Review Board).

Brief Summary of Substitute Bill

- Authorizes a designee of the Indeterminate Sentence Board (ISRB) to administer hearings for any sex offender accused of violating his or her community custody status.
- Expands the time-line for holding hearings for disciplinary proceedings.

Hearing Date: 3/26/03

Staff: Yvonne Walker (786-7841).

Background:

A sex offender that has been released by the ISRB and who violates a condition of community custody can be arrested and detained in a more restrictive confinement status. A system of graduated sanctions may be imposed on an offender who violates his or her community custody (e.g., home detention, electronic monitoring, work crew, curfew, etc.), or the offender's release to community custody may be suspended or revoked. The offender is entitled to an administrative hearing before the ISRB prior to the imposition of sanctions. Hearings for disciplinary proceedings can only be conducted by direct members of the ISRB unless entered into an agreement with the Department of Corrections to use hearing officers.

Anytime an offender is accused of violating his or her community custody status, that offender must receive written notice of his or her violation. The offender is then entitled to a hearing prior to the imposition of sanctions, unless he or she waives the hearing. All

hearings must be electronically recorded and 1) held within 15 working days, but not less than 24 hours after notice of the violation, if the offender is not being held in custody; or 2) held within five working days, but not less than 24 hours after notice of the violation, if the offender has been arrested and is being held in total confinement.

At the hearing the offender has the right to be present, to testify or remain silent, to have the assistance of a qualified advisor if he or she has a language or communications barrier, to call witnesses and present documentary evidence, and to question witnesses. In addition, the person has a right to an attorney if revocation of community custody is a possible sanction. The offender can appeal the decision to a panel of three officers designated by the chair of the ISRB. The sanction is to be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to the crime of conviction, the violation committed, the offender's risk of re-offending, or the safety of the community. A violation finding cannot be based on unconfirmed or unconfirmable allegations.

Currently, the ISRB administers approximately 40 hearings per year.

Summary of Bill:

The time line for holding hearings for disciplinary proceedings of sex offenders accused of violating their community custody status is expanded and such hearings may be administered by members other than the ISRB members.

A provision is added to authorize any member of the ISRB or his or her designee to hold an administrative hearing for any sex offender accused of violating any condition or requirement of community custody, prior to the imposition of sanctions. If the accused offender is not being held in confinement, the hearing must take place within 30 days (instead of 15 working days) upon receiving notice of the violation. If the accused offender is being held in custody, then the hearing must take place within 30 days (instead of five working days) upon receiving notice of the violation. Within 48 hours of receipt of the allegation, the ISRB or its designee must make a determination whether probable cause exists to believe the violation occurred. If probable cause exists, the offender has the right to an attorney if revocation of community custody is a probable sanction (as opposed to a possible sanction). The ISRB may not revoke an offender's release to community custody if he or she was not represented by an attorney at the administrative hearing, unless the offender waived the right to counsel.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.