

HOUSE BILL REPORT

HB 2838

As Reported by House Committee On:
Public Safety

Title: An act relating to clarifying the department of corrections' authority to impose conditions prohibiting contact with other persons, even if the offender is not a sex offender.

Brief Description: Clarifying the department of corrections' authority to impose conditions prohibiting contact with other persons, even if the offender is not a sex offender.

Sponsors: Representatives Klippert and Hayes; by request of Department of Corrections.

Brief History:

Committee Activity:

Public Safety: 2/2/16, 2/5/16 [DP].

Brief Summary of Bill

- Authorizes the Department of Corrections to impose no-contact requirements for an offender under its supervision in community custody based on the offender's risk to the community.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Ellie Page (786-7291) and Kelly Leonard (786-7147).

Background:

Community Custody is Imposed by the Court.

Community custody may be ordered by the court as part of an offender's sentence, and allows the offender to be in the community while under the supervision of the Department of Corrections (DOC). An offender receives a specified term of community custody for select crimes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When a court sentences an offender to a term of community custody, it may impose specified conditions at its discretion, such as require the offender to refrain from direct contact with the victim of the crime. By contrast, some conditions are imposed unless the court waives them, such as requiring the offender to refrain from consuming controlled substances. Many conditions are mandatory, including compliance with the conditions imposed by the DOC.

The Department of Corrections Supervises Offenders in Community Custody.

An offender who is sentenced to a period of community custody must report to the DOC. The DOC must then assess the offender's risk to the community and may establish and modify additional conditions of community custody based on the offender's risk. However, these additional conditions may not contradict or decrease those imposed by the court.

At a minimum, the DOC must require the offender to complete specified tasks, such as report to a community corrections officer and pay the supervision fee assignment. If the offender was sentenced as the result of a conviction for a sex offense, the DOC may impose electronic monitoring, and require the offender to avoid direct or indirect contact with the victim of the crime or an immediate family member of the victim. If a victim, parent, or guardian of a minor victim speaking on the victim's behalf, or an immediate family member of the victim requests that the offender not contact him or her, the DOC must require the offender to refrain from contact.

The DOC must notify the offender of any conditions in addition to those imposed by the court unless an emergency requires the DOC to immediately impose a condition to prevent the offender from committing a crime. The offender may request an administrative hearing to challenge any condition.

Summary of Bill:

The DOC may impose no-contact conditions on offenders in community custody if the conditions are based on risk to community safety.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The DOC's current practice is to impose no-contact conditions on offenders in community custody based on risk to the community. However, in 2014 a law passed explicitly stating that no-contact conditions may be imposed for offenders convicted of a sex offense, which created confusion concerning the extent of the DOC's ability to impose no-

contact conditions. The Office of the Attorney General said there is ambiguity in the law. The bill is therefore meant to clarify that no-contact conditions may be imposed by the DOC, regardless of the crime, if the offender is a risk to Washington citizens.

(Opposed) None.

Persons Testifying: Representative Klippert, prime sponsor; and Anna Aylward, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.