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## Public Safety Committee

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### HB 1678

**Brief Description:** Allowing multiple terms of community custody to be served concurrently.

**Sponsors:** Representative Pettigrew; by request of Department of Corrections.

#### Brief Summary of Bill

- Requires terms of community custody to run concurrently when an offender is serving consecutive terms of confinement for multiple sentences, unless a court specifically orders otherwise.
- Requires the Department of Corrections to recalculate the community custody terms of certain currently incarcerated or supervised offenders.

**Hearing Date:** 2/9/17

**Staff:** Kelly Leonard (786-7147).

#### Background:

*Concurrent and Consecutive Sentences.* Under the Sentencing Reform Act (SRA), judges determine sentences for felony offenses by selecting a determinate sentence from a range provided in statute. Ranges are determined by reference to a sentencing grid, which is based on the defendant's "offender score" and the "seriousness level" classification of the offense.

When an offender is convicted for multiple offenses in the same case, the court imposes separate sentences, including terms of confinement, for each offense. In this context, the SRA generally requires the sentences to run concurrently, which means the offender serves both sentences simultaneously, with the longest period of confinement controlling. However, the presence of multiple offenses affects the offender score, which lengthens the base sentences for both offenses.

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*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.*

There are exceptions to the requirement for concurrent sentences in exceptional circumstances. For example, sentences must run consecutively if the offender committed two or more serious violent offenses arising from separate and distinct criminal conduct.

In the case of consecutive sentences, all periods of total confinement must be served before any periods of partial confinement, including community custody. If two or more sentences that run consecutively include periods of community custody, the aggregate of the community custody period shall not exceed 24 months.

*Conviction for a New Offense While Still Serving a Sentence.* If an offender commits a new offense while still serving his or her sentence for a previous felony, including during a period of community custody, the term of confinement for the new offense does not commence until the expiration of the sentence for the prior offense, unless a judge imposes an exceptional sentence based on mitigating circumstances.

*Conviction of Multiple Offenses in Different Jurisdictions.* When an offender receives multiple convictions from different jurisdictions for offenses committed while he or she was not serving a sentence, the sentences run concurrently, unless the court ordering the subsequent sentence expressly orders that they run consecutively.

*Community Custody.* Community custody is the portion of an offender's sentence served in the community under the supervision of the Department of Corrections (DOC). Courts are mandated to order community custody for offenders convicted of certain crimes. While on community custody, offenders are subject to a variety of conditions imposed by the court and DOC. The DOC must assess the offender's risk to reoffend and may establish and modify the offender's conditions of community custody based on the offender's risk to community safety and conditions imposed by the court.

The DOC may issue warrants for the arrest of any offender who violates a condition of community custody. If an offender violates the conditions, the offender may be required to serve up to the remaining portion of his or her sentence in confinement.

### **Summary of Bill:**

The requirements for terms of community custody in the context of consecutive sentences are changed. The default rule is for terms of community custody for multiple sentences to run concurrently to each other, regardless if the terms of confinement are consecutive. However, the court may order community custody terms to run consecutively.

The DOC must recalculate the scheduled end dates for terms of community custody, community supervision, and community placement so that they run concurrently to previously imposed sentences of community custody, community supervision, community placement, probation, and parole, unless the court pronouncing the current sentence has expressly required the terms to run consecutively. This applies to all offenders currently in confinement or under active supervision.

The recalculations of community custody required by the bill do not create any expectations that a particular community custody term will end before July 1, 2017, and offenders have no reason

to conclude that the recalculation of their community custody terms is an entitlement or creates any liberty interest in their community custody term ending before July 1, 2017.

This bill applies retroactively and prospectively regardless of the date of an offender's underlying offense.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2017.