
Public Safety Committee

HB 2417

Brief Description: Concerning individuals serving community custody terms.

Sponsors: Representatives Davis and Peterson.

Brief Summary of Bill

- Removes the tiered sanction requirements for low-level violations of community custody conditions, and instead allows the Department of Corrections to impose a nonconfinement sanction or up to three days of confinement for any low-level violation.
- Removes the requirement that a sixth or subsequent low-level violation of community custody conditions be sanctioned as a high-level violation.
- Removes specialized sanction requirements imposed upon persons with certain underlying felony convictions.

Hearing Date: 1/21/20

Staff: Kelly Leonard (786-7147).

Background:

Community Custody. Community custody is the portion of a person's criminal sentence served in the community under the supervision of the Department of Corrections (DOC) following his or her release from confinement in a state correctional facility. Courts are mandated to order community custody for persons convicted of certain crimes. The term of community custody varies depending upon the underlying offense and the person's risk to reoffend.

While on community custody, a person is subject to conditions imposed by the court and the DOC. The DOC may establish and modify conditions based on risks to community safety. The DOC may issue warrants for the arrest of any person who violates a condition of community custody. If a person violates the conditions, he or she may be subject to sanctions.

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.

Sanctions. In 2012 the state established statutory requirements for sanctioning violations of community custody, commonly referred to as "swift and certain" (SAC). The SAC requirements generally rely upon immediate and brief confinement sanctions in lieu of long-term confinement sanctions. The DOC is required to adopt rules classifying types of violations as "low level" or "high level," as well as rules for aggravating and mitigating factors. The statutory requirements then direct certain sanctions based on those classifications and factors, as follows:

- For the first low-level violation, the DOC may impose one or more nonconfinement sanctions.
- For the second, third, fourth, and fifth low-level violation, the DOC may impose up to three days of confinement.
- For the sixth and subsequent low-level violation, any low-level violation with aggravating factors, and any high-level violation, the DOC may impose up to 30 days of confinement, subject to a hearing.

The DOC may arrest persons for violating conditions. If a violation constitutes a new criminal offense, the DOC must report the conduct to the local law enforcement agency or prosecuting attorney. The report functions as notice that the DOC will hold the person in confinement for no more than three days. However, for certain persons with qualifying underlying felony convictions, the DOC must hold the person in confinement for 30 days from the time of arrest or until a prosecuting attorney charges the person with a crime, whichever occurs first. Persons with the following underlying felony convictions are subject to those restrictions:

- Assault in the first degree;
- Assault of a child in the first or second degree;
- Burglary in the first degree;
- Child molestation in the first degree;
- Commercial Sexual Abuse of a Minor (CSAM) or Promoting CSAM;
- Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Homicide by Abuse;
- Indecent Liberties with forcible compulsion;
- Indecent Liberties with a person capable of consent;
- Kidnapping in the first degree;
- Murder in the first or second degree;
- Rape in the first or second degree;
- Rape of a child in the first or second degree;
- Robbery in the first degree;
- Sexual Exploitation of a Minor; or
- Vehicular Homicide while under the influence of intoxicating liquor or any drug.

Summary of Bill:

The tiered sanction requirements for low-level violations are removed. Instead, any low-level violations may be sanctioned with either a nonconfinement sanction or up to three days of confinement.

The requirement for a sixth or subsequent low-level violation to be sanctioned as a high-level violation is removed. All low-level violations without aggravating factors are, therefore, subject to the same types of sanctions.

The specialized sanction requirements for holding persons with qualifying underlying felony convictions in confinement for an extended period are removed.

Appropriation: None.

Fiscal Note: Requested on January 15, 2020.

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