
Public Safety Committee

HB 2435

Brief Description: Concerning sanctions for violating community custody conditions.

Sponsors: Representative Klippert.

Brief Summary of Bill

- Modifies requirements for confining a person with a qualifying underlying felony conviction who commits a new crime while on community custody by providing that the person is released if the prosecuting attorney notifies the Department of Corrections that new criminal charges will not be filed.

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.

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

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"high level," as well as rules for aggravating and mitigating factors. The statutory requirements then direct certain sanctions based on those classifications and factors.

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 requirement for holding a person with a qualifying underlying felony conviction who commits a new crime while on community custody is modified. The person must be held in total confinement for 30 days, until the prosecuting attorney files new charges against the offender, or until the prosecuting attorney provides written notice to the DOC that new charges will not be filed, whichever is sooner. Therefore, the DOC must release the person when receiving notice that new charges will not be filed.

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.