
**Community Safety, Justice, & Reentry
Committee**

HB 2303

Brief Description: Modifying conditions of community custody.

Sponsors: Representatives Goodman, Simmons and Peterson.

Brief Summary of Bill

- Modifies the criteria by which the Department of Corrections (DOC) or the Indeterminate Sentence Review Board (ISRB) may modify or impose additional conditions of community custody to clarify that the modifications may be based on the individual's crime of conviction, risk of reoffense, or risk to community safety.
- Provides that, on the defendant's motion, the court may amend the conditions of community custody if the court determines that there is not a substantial risk to community safety.

Hearing Date: 1/16/24

Staff: Lena Langer (786-7192).

Background:

Indeterminate Sentence Review Board.

The Indeterminate Sentence Review Board (ISRB) is a quasi-judicial board established in the Department of Corrections (DOC) that has jurisdiction over individuals convicted prior to the 1981 enactment of the Sentencing Reform Act, individuals convicted of certain sex offenses committed on or after September 1, 2001, and individuals convicted of one or more offenses committed prior to age 18 and sentenced as adults to a term of confinement longer than 20

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years.

Community Custody.

Community custody is the portion of an individual's criminal sentence served in the community under the supervision of the DOC following release from confinement in a state correctional facility. While on community custody, an individual is subject to conditions imposed by the DOC, the sentencing court, and the ISRB in certain circumstances. The Secretary of the DOC may issue a warrant for the arrest of any individual who violates a condition of community custody. If an individual violates a condition, he or she may be subject to sanctions.

The DOC may issue conditions of community custody when an individual is released to the community based upon the risk to community safety. After receiving notice of a condition imposed or modified by the DOC, an individual may request an administrative review. The condition must remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

When an individual on community custody is under the authority of the ISRB, the ISRB may impose conditions in addition to court-ordered conditions. After receiving notice of a condition imposed by the ISRB, an individual may request an administrative hearing. The condition must remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- the crime of conviction;
- the individual's risk of reoffending;
- the safety of the community;
- the offender's risk of domestic violence reoffense.

Aggravated Murder in the First Degree.

An individual is guilty of Aggravated Murder in the first degree if the individual commits Murder in the first degree and one or more of 14 statutory aggravating circumstances are present. After an eligible individual has completed the minimum term of the individual's sentence for Aggravated Murder in the first degree, the ISRB must review the individual's case for the possibility of release. If the individual is released, the individual is subject to community custody under the supervision of the DOC and the authority of the ISRB for a specified period of time.

Recent Cases.

In 2023, the Washington Supreme Court held in *In re Personal Restraint of Ansell* that the ISRB is authorized to impose community custody conditions that are reasonably related to the crime of conviction, the risk of reoffense, and the safety of the community; a condition that fails to relate to all three topics is invalid.

In 2023, the Washington Supreme Court held in *State v. Hubbard* that trial courts do not have the authority to modify a court-imposed discretionary community custody condition for an individual that is no longer serving a Special Sexual Offender Sentencing Alternative sentence.

Summary of Bill:

The Department of Corrections (DOC) and the Indeterminate Sentence Review Board (ISRB) may establish and modify an individual's conditions of community custody based upon the individual's:

- crime of conviction;
- risk of reoffense; or
- risk to community safety.

In modifying conditions of community custody, regardless of the individual's date of sentencing, it is not a requirement that the additional conditions be crime-related if the conditions relate to either the risk of reoffense or risk to community safety. The ISRB must notify the individual in writing of any additional or modified conditions.

On the defendant's motion, the court may amend the conditions of community custody if the court determines that there is not a substantial risk to community safety. The time limit for collateral attacks does not apply to any motion filed by the defendant to amend the conditions of community custody.

Appropriation: None.

Fiscal Note: Requested on January 11, 2024.

Effective Date: The bill contains an emergency clause and takes effect immediately.