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**Public Safety & Emergency Preparedness  
Committee**

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**HB 1072**

**Brief Description:** Prohibiting certain sex offenders on community custody from accessing the internet.

**Sponsors:** Representatives Simpson, Kelley, Pearson, Chase, Van De Wege, Hudgins, Seaquist, Morrell and Williams.

**Brief Summary of Bill**

- Requires the prosecutor in a sex offense case to file a special allegation of Internet facilitation when facts are likely to support a finding that the defendant used the Internet to facilitate the commission of the offense.
- Requires the court, when sentencing an offender convicted of a sex offense with a finding of Internet facilitation, to impose conditions of community custody to restrict, monitor, or prohibit the offender from accessing the Internet.

**Hearing Date:** 1/26/10

**Staff:** Alexa Silver (786-7190).

**Background:**

Community custody is the portion of an offender's sentence of confinement served in the community subject to controls placed on the offender's movement and activities by the Department of Corrections (DOC). The sentencing court is required to order a term of community custody for an offender who is convicted of specified crimes, as well as any offender sentenced under the drug offender sentencing alternative, the special sex offender sentencing alternative, the work ethic camp, or non-persistent sex offender provisions. Community custody is ordered pursuant to the community custody range set out in statute or up to the period of earned release, whichever is longer.

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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.*

While on community custody, offenders are subject to a variety of conditions. For example, conditions that may be waived by the court include: reporting to a community corrections officer; working at education, employment, or community restitution approved by the DOC; refraining from possessing or consuming controlled substances; paying supervision fees; and obtaining prior approval by the DOC for residence location and living arrangements. Discretionary conditions include: remaining within or outside of geographical boundaries; refraining from contacting the victim or a class of people; participating in counseling; refraining from consuming alcohol; or complying with crime-related conditions.

The DOC is also authorized to impose conditions of community custody as long as they do not conflict with any court-ordered conditions.

If the offender violates the conditions of community custody, the offender may be required to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition on the alleged violation. However, if a sex offender violates any condition of community custody, the DOC may impose a sanction of up to 60 days confinement in a local correctional facility for each violation. Additionally, if the offender has served his or her maximum term of confinement, the DOC may impose a sanction of up to 60 days to be served in the community through programs such as work release, work crew, daily reporting, electronic monitoring, community restitution, inpatient treatment, or educational or counseling sessions.

#### **Summary of Bill:**

In prosecuting a sex offense, the prosecutor must file a special allegation of Internet facilitation when sufficient admissible evidence exists that the defendant used the Internet to facilitate the commission of the offense. The prosecutor has the burden to prove beyond a reasonable doubt that the defendant used the Internet to facilitate the commission of the offense. The special allegation may not be withdrawn without court approval, and the court may not approve withdrawal of the allegation unless it is necessary to correct an error or the evidence is insufficient. If a jury finds the defendant guilty, it must find a special verdict as to whether the defendant used the Internet to facilitate the commission of the offense.

Upon conviction, the court must impose conditions of community custody to prohibit the offender from accessing or using a computer or any other device with Internet capability without approval of the DOC. The offender must submit to unannounced inspections of his or her computer by a community corrections officer or a computer specialist employed by or under contract with the DOC. The inspection may include the retrieval of data from the computer or device and any internal or external peripherals, and the removal of the data, computer, device, or peripheral to conduct a more thorough investigation. The offender must allow hardware or software systems to be installed on his or her computer to monitor Internet use and must submit to any other restrictions the DOC deems appropriate regarding use or access to a computer or other device with Internet capability.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2010.

**Effective Date:** The bill takes effect on August 1, 2009.