

HOUSE BILL REPORT

HB 2626

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to a violation of any condition or requirement by an offender.

Brief Description: Modifying violation provisions for offenders.

Sponsors: Representatives Kelley, Conway, Simpson, Morrell and Hurst.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/19/10, 1/22/10 [DP].

Brief Summary of Bill

- Requires an offender to serve a mandatory minimum term in total confinement for a violation of community custody.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

Staff: Yvonne Walker (786-7841).

Background:

"Community custody" means that 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 DOC must supervise all felony offenders sentenced to community custody that are classified as high risk to offend and certain other felony offenders. The DOC must supervise all sex offenders, including those whose sole offense is failure to register, regardless of risk. The DOC must also supervise offenders classified as: (1) dangerous mentally ill offenders; (2) those with indeterminate sentences; (3) those required to be supervised under the

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.

Interstate Compact for Adult Offender Supervision; and (4) offenders sentenced to special sentencing alternatives.

While on community custody, offenders are subject to a variety of conditions. For example, unless waived by the court, the terms of an offender's community custody must include:

- reporting to a community corrections officer;
- working at the DOC approved education, employment, or community restitution;
- refraining from possessing or consuming controlled substances;
- paying supervision fees; and
- obtaining prior DOC approval for residence location and living arrangements.

In addition, the court may impose a variety of conditions of community custody, including:

- remaining within, or outside of, specified geographical boundaries;
- refraining from contacting the victim or a specified class of individuals;
- 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. The conditions the DOC may order include electronic monitoring.

If the offender violates the conditions of community custody, the offender may be required to serve up to 60 days of confinement for each violation. In lieu of confinement, an offender may be sanctioned with work release; home detention with electronic monitoring; work crew; community restitution; inpatient treatment; daily reporting; curfew; educational or counseling sessions; or any other sanctions available in the community.

An offender accused of violating a condition of community custody is entitled to a hearing before the DOC before sanctions are imposed. The hearing is considered a disciplinary hearing and is not subject to the requirements of the Administrative Procedure Act. For offenders not in total confinement, the hearing must be held within 15 days, but no less than 24 hours, after notice of violation.

Summary of Bill:

An offender who violates a condition of his or her community custody must serve a mandatory period of 48 hours in total confinement. The mandatory minimum term of confinement is in addition to any other penalties imposed by the DOC.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The tragedy of the Lakewood officers has brought forth a number of bills this year. This bill is based upon a program that was established and has worked well in Hawaii. The bill would require an immediate 48-hour jail sentence, in addition to any other penalties, for any offender violating parole.

There is no accountability for offenders that are out on the street on community custody. It can take days in order to get a secretary's warrant for an offender that is violating community custody. In Hawaii they have a swift penalty of an immediate 48-hour jail sentence for community custody violations.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; and Brian Wurts, Lakewood Police Department Guild.

Persons Signed In To Testify But Not Testifying: None.