

# HOUSE BILL REPORT

## SB 6370

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to individuals under the department of corrections' jurisdiction.

**Brief Description:** Concerning individuals under the department of corrections' jurisdiction.

**Sponsors:** Senators Nguyen, Padden, Dhingra, Darneille, Stanford, Das, Lovelett and Wilson, C.

**Brief History:**

**Committee Activity:**

Public Safety: 2/24/20, 2/25/20 [DP].

**Brief Summary of Bill**

- Requires terms of community custody to run concurrently when a person is serving consecutive terms of confinement for multiple sentences, unless a court specifically orders otherwise.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 6 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Lovick, Pellicciotti and Pettigrew.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Sutherland, Assistant Ranking Minority Member; Graham.

**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. While on community custody, a person is

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subject to conditions imposed by the court and the DOC. The DOC may establish and modify conditions based on the person's risk 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 vary depending on the type of violation, the underlying offense, and other conditions. For many types of violations, a sanction can include being returned to confinement for a specified period.

#### Concurrent and Consecutive Sentences.

*General Requirements.* When a person is convicted for multiple offenses in the same case, the court imposes separate sentences, including terms of confinement, for each offense. In this context, state law generally requires the sentences to run concurrently, which means the person serves both sentences simultaneously, with the longest period of confinement controlling.

There are exceptions to the requirement for concurrent sentences. Consecutive sentences may apply when the person:

- committed two or more serious violent offenses arising from separate and distinct criminal conduct;
- committed a new offense while still serving his or her sentence for a previous felony, including during a period of community custody; or
- receives multiple convictions for offenses committed in different jurisdictions.

In the case of consecutive sentences, all periods of confinement must be served before community custody.

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

Requirements are established for terms of community custody imposed in cases with consecutive sentences, including circumstances involving multiple convictions in the same case, a conviction for a new offense while still serving a prior sentence, and convictions for multiple offenses in different jurisdictions. In these circumstances, the terms of community custody for the multiple sentences run concurrently to each other, unless the court expressly requires those terms to run consecutively.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on June 1, 2020.

**Staff Summary of Public Testimony:**

(In support) This bill is recommended by the Sentencing Guidelines Commission and the Washington State Criminal Sentencing Task Force. Many stakeholders and experts have looked into this issue. This bill helps with evolving the sentencing system and more sensibly allocating resources.

The bill reduces complexity for administering sentencing. Many courts do not indicate how to apply multiple community custody terms on judgment and sentence forms. Courts do not always check the boxes on the forms. This bill provides that the default rule will be to impose the terms of community custody concurrently, but it otherwise provides a judge with discretion to impose them consecutively. This is an appropriate solution. It will provide clarity in the law for the courts and the DOC.

Further, making community custody terms concurrent will align supervision conditions. In the case of consecutive terms, the conditions for each term are also consecutive. This means the person is subject to only one set of conditions at a time. This does not advance public safety. The DOC wants to be able to impose and supervise an offender on all conditions at the same time. The authority for the DOC to create or alter conditions is very limited and depends on current behavior and other issues. Making the terms concurrent solves this problem.

The length of the term of supervision is less important than the quality of the supervision. There are diminishing returns on community custody over time. Resources are better spent up front where conditions and programming are most necessary and beneficial.

(Opposed) The problem statement associated with this bill is legitimate. There is confusion and complexity in the sentencing system. Courts do not always check the right boxes, or check them at all. However, this is the wrong solution. This reduces community custody and effectively reduces funding to community corrections by over \$20 million.

This bill has a negative impact on public safety. It reduces community custody for the persons most likely to reoffend and therefore in the most need of supervision. It also creates an incentive to commit more offenses. There is no need to impose concurrent terms in order to resolve issues with conditions. Those concerns are misplaced. Community corrections officers can impose affirmative conditions based on current behavior and conduct, regardless of the underlying crime for which the person is being supervised.

If the Legislature proceeds with this change, it should put any savings into a dedicated account for community corrections, jails, and reentry services.

**Persons Testifying:** (In support) Senator Nguyen, prime sponsor; Stephen Sinclair and Mac Pevey, Department of Corrections.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs; and Don Malo, Washington Federation of State Employees.

**Persons Signed In To Testify But Not Testifying:** None.