

SENATE BILL REPORT

HB 2838

As of February 25, 2016

Title: An act relating to clarifying the department of corrections' authority to impose conditions prohibiting contact with other persons, even if the offender is not a sex offender.

Brief Description: Clarifying the department of corrections' authority to impose conditions prohibiting contact with other persons, even if the offender is not a sex offender.

Sponsors: Representatives Klippert and Hayes; by request of Department of Corrections.

Brief History: Passed House: 2/16/16, 84-13.

Committee Activity: Law & Justice: 2/24/16.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lindsay Erickson (786-7465)

Background: When a court sentences an offender to a term of community custody, the court imposes conditions prohibiting or requiring specified behaviors. Every person who is sentenced to a period of community custody must report to and be placed under the supervision of the Department of Corrections (DOC). The DOC must then assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based on the offender's risk. The DOC may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

At a minimum, the DOC must instruct the offender to:

- report as directed to a community corrections officer;
- remain within prescribed geographical boundaries;
- notify the community corrections officer of any change in the offender's address or employment;
- pay the supervision fee assessment; and
- disclose the fact of supervision to any mental health or chemical dependency treatment provider.

If the offender was sentenced pursuant to a conviction for a sex offense, the DOC may impose electronic monitoring and require the offender to refrain from direct or indirect contact with the victim of the crime or immediate family member of the victim of the crime.

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.

If a victim or victim's immediate family member has requested that the offender not contact him or her, the DOC must require the offender to refrain from contact with the requestor. If the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf.

Summary of Bill: Clarifies that the DOC may impose no-contact conditions on offenders in community custody if the conditions are based on risk to community safety.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill clarifies that if an offender is a risk to the community, DOC can issue a no-contact order for that offender. This capability is needed for all offenders, not just those who are sex offenders. This bill does not represent new powers or rules; this bill is simply a clarification. DOC currently has the ability to impose conditions on offenders who are under DOC supervision. Last year, there was legislation passed that was specific to sex offenders, and the Attorney General's Office says there may be ambiguity in the law after those changes. There is an argument that with the new language, DOC's ability to impose a no-contact order might be taken away. If a victim did not want such an order to be imposed against the offender, this presents a complex issue. Often times, community corrections officers will be told that a family member does not want the protective order if asked in front of the offender, but the victim may indicate he or she wants the order if asked privately. With additional training and resources, DOC can do more to impose safety. If there is a threat, DOC needs to be able to protect community safety.

Persons Testifying: PRO: Representative Klippert, Prime Dponsor; Anna Aylward, Dept. of Corrections.

Persons Signed In To Testify But Not Testifying: No one.