

# FINAL BILL REPORT

## SHB 2417

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Synopsis as Enacted

**Brief Description:** Concerning individuals serving community custody terms.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Davis and Peterson).

**House Committee on Public Safety**  
**House Committee on Appropriations**  
**Senate Committee on Human Services, Reentry & Rehabilitation**

### **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 required to order community custody for persons convicted of certain crimes. The term of community custody varies depending upon the underlying offense and the person's risk to reoffend.

While on community custody, a person is subject to conditions imposed by the court and the DOC. The DOC may establish and modify conditions based on risks to community safety. If a person violates the conditions, he or she may be subject to sanctions.

*Sanctions.* In 2012 requirements for sanctioning violations of community custody were established. These are commonly referred to as "swift and certain" (SAC) sanctions. The SAC sanctions generally rely upon immediate and brief confinement sanctions in lieu of long-term confinement sanctions.

The DOC is required to adopt rules classifying types of violations as "low level" or "high level," as well as rules for aggravating and mitigating factors. The statutory requirements then direct certain sanctions based on those classifications and factors, as follows:

- For the first low-level violation, the DOC may impose one or more nonconfinement sanctions.
- For the second, third, fourth, and fifth low-level violation, the DOC may impose up to three days of confinement.

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- For the sixth and subsequent low-level violation, any low-level violation with aggravating factors, and any high-level violation, the DOC may impose up to 30 days of confinement, subject to a hearing.

The DOC may arrest persons for violating conditions. If a violation constitutes a new criminal offense, the DOC must report the conduct to the local law enforcement agency or prosecuting attorney. The report functions as notice that the DOC will hold the person in confinement for no more than three days. However, for certain persons with qualifying underlying felony convictions, the DOC must hold the person in confinement for 30 days from the time of arrest or until a prosecuting attorney charges the person with a crime, whichever occurs first. Persons with the following underlying felony convictions are subject to those restrictions:

- Assault in the first degree;
- Assault of a Child in the first or second degree;
- Burglary in the first degree;
- Child Molestation in the first degree;
- Commercial Sexual Abuse of a Minor (CSAM) or Promoting CSAM;
- Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Homicide by Abuse;
- Indecent Liberties with forcible compulsion;
- Indecent Liberties with a person capable of consent;
- Kidnapping in the first degree;
- Murder in the first or second degree;
- Rape in the first or second degree;
- Rape of a Child in the first or second degree;
- Robbery in the first degree;
- Sexual Exploitation of a Minor; or
- Vehicular Homicide while under the influence of intoxicating liquor or any drug.

**Summary:**

*Sanctions.* The tiered sanction requirements for low-level violations are removed. Instead, any low-level violation may be sanctioned with either a nonconfinement sanction or up to three days of confinement.

The requirement for a sixth or subsequent low-level violation to be automatically sanctioned as a high-level violation is removed. Instead, the DOC has the discretion to treat a sixth or subsequent violation as a high-level violation, so long as the decision to elevate a violation complies with policies and rules established by the DOC. This allows the DOC to impose either low-level sanctions (up to three days of confinement) or high-level sanctions (up to 30 days of confinement, subject to a hearing).

The requirement for holding a person with a qualifying underlying felony conviction who commits a new crime while on community custody is modified. The person must be held in total confinement for 30 days, until the prosecuting attorney files new charges against the offender, or until the prosecuting attorney provides written notice to the DOC that new charges will not be filed, whichever is sooner. Therefore, the DOC must release the person when receiving notice that new charges will not be filed.

The DOC must track and collect data and information on violations of community custody conditions and the sanctions imposed for violations, which must include specified data points and trends. The DOC must annually report to the Governor and Legislature, beginning November 1, 2021.

*Staffing.* Subject to an appropriation, the DOC must contract with an independent third party to provide a comprehensive review of the community corrections staffing model and develop an updated staffing model for use by DOC. The updated model must include additional time and flexibility for community corrections officers to focus on case management, engagement, and interventions. The DOC must submit a report, including a summary of the review and update, to the Governor and Legislature by July 1, 2021.

**Votes on Final Passage:**

House	95	2
Senate	26	21

**Effective:** June 11, 2020