
Community Safety, Justice, & Reentry Committee

HB 2178

Brief Description: Establishing a pathway off lifetime community custody for individuals with sex offense convictions.

Sponsors: Representatives Goodman, Simmons and Doglio.

Brief Summary of Bill

- Provides a framework for the Department of Corrections and the Indeterminate Sentence Review Board to discharge eligible individuals with sex offense convictions from community custody after a specified number of years.
- Modifies the maximum term of community custody that a court may impose for an individual with a Special Sex Offender Sentencing Alternative sentence.

Hearing Date: 1/16/24

Staff: Lena Langer (786-7192).

Background:

Indeterminate Sentence Review Board.

The Indeterminate Sentence Review Board (ISRB) is a quasi-judicial board established in the Department of Corrections (DOC) that has jurisdiction over:

- individuals who committed crimes prior to July 1, 1984, and were sentenced to a state correctional facility;

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- individuals who committed certain sex offenses on or after September 1, 2001; and
- individuals who committed crimes prior to their eighteenth birthday and were sentenced as adults.

For individuals who committed certain sex offenses on or after September 1, 2001, in addition to the other terms of the sentence, the court must sentence the individual to community custody under the supervision of the Department of Corrections (DOC) and authority of the ISRB until the expiration of the maximum term of the sentence. Nearly all of these cases have lifetime community custody requirements upon their release from confinement.

Community Custody.

Community custody is the portion of an individual's criminal sentence served in the community under the supervision of the DOC following release from confinement in a state correctional facility. While on community custody, an individual is subject to conditions imposed by the DOC and the sentencing court. The Secretary of the DOC may issue a warrant for the arrest of any individual who violates a condition of community custody. If an individual violates a condition, he or she may be subject to sanctions.

End of Sentence Review Committee.

The End of Sentence Review Committee (ESRC), chaired by the DOC, classifies individuals convicted of sex offenses being released from state correctional facilities according to their risk of reoffense within the community. The classifications are forwarded to the county sheriff in the jurisdiction where the individual will reside.

In assigning risk levels, an individual must be classified as:

- level I – if the individual's risk assessment and other relevant factors indicate that the individual is at a low risk to sexually reoffend within the community at large;
- level II – if the individual's risk assessment and other relevant factors indicate that the individual is at a moderate risk to sexually reoffend within the community at large; or
- level III – if the individual's risk assessment and other relevant factors indicate that the individual is at a high risk to sexually reoffend within the community at large.

Special Sex Offender Sentencing Alternative.

The Special Sex Offender Sentencing Alternative (SSOSA) is an alternative to standard sentencing wherein the court suspends the individual's sentence in exchange for treatment and other conditions. A SSOSA sentence consists of a suspended standard range sentence, incarceration for up to 12 months, treatment for up to five years, and a term of community custody. The term of community custody must be the length of the suspended sentence, the length of the maximum term imposed under the statute prescribing the sentencing for sex offenses, or three years, whichever is longer.

An individual is eligible for a SSOSA sentence if:

- the individual is convicted of a sex offense that is not a serious violent offense or rape in the second degree;

- the individual has no prior felony sex offenses;
- the individual has no prior adult violent offenses within five years of the current offense;
- the current offense did not cause substantial bodily harm to the victim;
- the individual had an established relationship or connection to the victim; and
- the standard sentence range for the current offense includes the possibility of incarceration for less than 11 years.

Summary of Bill:

Discharge from Community Custody.

Individuals who are recommended by the End of Sentence Review Committee (ESRC) as level I upon their release from confinement must be discharged from community custody five years after their release from confinement if they have not committed a "disqualifying event." The Department of Corrections (DOC) must review the individual's file to determine eligibility and process the individual off of community custody if the criteria is met. If the DOC determines that a level I individual does not meet the criteria, or can identify a specific safety concern, the case file must be sent to the Indeterminate Sentence Review Board (ISRB) for review. The DOC may make a referral to the ISRB for review of a level I individual at least 90 days prior to discharge from community custody if the DOC has reasonable grounds to believe the individual poses a significant risk of sexual recidivism.

Individuals who are recommended by the ESRC as level II may be eligible for discharge from community custody 10 years after their release from confinement if they have not committed a "disqualifying event." The ISRB must review the individual's file to determine if the individual qualifies for relief from community custody and hold a review hearing at least 120 days before the end of the presumed community custody period. If a "disqualifying event" occurs within the last five years of the first 10 years from release, the individual will not be eligible for discharge from community custody for at least three years after the initial 10 years have concluded. The ISRB must hold a review hearing at least 120 days prior to the individual's new discharge date.

Individuals who are recommended by the ESRC as level III may be eligible for discharge from community custody 15 years after their release from confinement if they have not committed a "disqualifying event." The ISRB must review the individual's file to determine if the individual qualifies for relief from community custody and hold a review hearing at least 120 days before the end of the presumed community custody period. If a "disqualifying event" occurs within the last five years of the first 15 years from release, the individual will not be eligible for discharge from community custody for at least five years after the initial 15 years in the community. The ISRB must hold a review hearing at least 120 days prior to the individual's new discharge date.

A disqualifying event occurs when the individual:

- has been found guilty of any serious and risk-relevant violation of the conditions of community custody, as determined by the ISRB at an on-site hearing;
- has been convicted of any new felony offense or any misdemeanor sex offense;
- has not completed all recommended treatment as required, but the IRSB may waive this

condition if there is a finding that the individual did not complete all treatment as a result of the individual's indigence;

- has been found to be noncompliant with conditions of supervision on a repeated basis as documented by the DOC and referred to the ISRB; and
- has been assessed to be at significant risk for sexual recidivism on a risk assessment completed within 120 days of eligibility for discharge.

Special Sex Offender Sentencing Alternative.

For an individual granted a SSOSA, the court must impose a term of community custody that is the length of the suspended sentence or three years, whichever is longer. The sentencing court must schedule a supervision termination hearing within the last 60 days of the presumed expiration of community custody to determine if the individual should be released from community custody.

Beginning December 1, 2024, the DOC must submit an annual report to the Governor and the Legislature that includes:

- the number of individuals eligible for discharge from lifetime community custody;
- the number of individuals granted discharge from lifetime community custody; and
- the number of individuals who, subsequent to discharge from lifetime community custody, are investigated for a recent overt act or new sex offense.

Appropriation: None.

Fiscal Note: Requested on January 8, 2024.

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