

FINAL BILL REPORT

ESHB 2303

C 118 L 24
Synopsis as Enacted

Brief Description: Modifying conditions of community custody.

Sponsors: House Committee on Community Safety, Justice, & Reentry (originally sponsored by Representatives Goodman, Simmons and Peterson).

House Committee on Community Safety, Justice, & Reentry
Senate Committee on Human Services

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 persons convicted prior to the 1981 enactment of the Sentencing Reform Act, persons convicted of certain sex offenses committed on or after September 1, 2001, and persons convicted of one or more offenses committed prior to age 18 and sentenced as adults to a term of confinement longer than 20 years.

Community Custody.

Community custody is the portion of a person'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, a person is subject to conditions imposed by the DOC, the sentencing court, and the ISRB in certain circumstances. The Secretary of the DOC may issue a warrant for the arrest of any person who violates a condition of community custody. A person who violates a condition may be subject to sanctions.

The DOC may issue conditions of community custody when a person is released to the community based upon the risk to community safety. By the close of the next business day after receiving notice of a condition imposed or modified by the DOC, the person may request an administrative review. The condition must remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the person's risk of

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reoffending, or the safety of the community.

When a person on community custody is under the authority of the ISRB, the ISRB may impose conditions in addition to court-ordered conditions. By the close of the next business day after receiving notice of a condition imposed by the ISRB, the person may request an administrative hearing. The condition must remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- the crime of conviction;
- the person's risk of reoffending;
- the safety of the community;
- the person's risk of domestic violence reoffense.

Recent Cases.

In 2023 the Washington Supreme Court held in *In re Personal Restraint of Ansell* that the ISRB is authorized to impose community custody conditions that are reasonably related to the crime of conviction, the risk of reoffense, and the safety of the community; a condition that fails to relate to all three topics is invalid.

In 2023 the Washington Supreme Court held in *State v. Hubbard* that trial courts do not have the authority to modify a court-imposed discretionary community custody condition for an individual that is no longer serving a Special Sexual Offender Sentencing Alternative sentence.

Summary:

The ISRB may impose or modify a person's community custody conditions. Regardless of the person's date of sentencing, additional conditions imposed or modified by the ISRB may be based upon the individual's:

- crime of conviction;
- risk of reoffense; or
- risk to community safety.

The ISRB may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions. In modifying conditions of community custody, it is not a requirement that the additional conditions be crime related if the conditions reasonably relate to either the risk of reoffense or risk to community safety. The ISRB must notify the individual in writing of any additional or modified conditions.

A person may request an administrative review within 10 business days of receiving notice of a condition imposed or modified by the DOC or the ISRB.

On the motion of a person on community custody, following the person's release from total confinement, the court may amend the substantive conditions of community custody imposed by the court. The person has the burden of proving by a preponderance of the

evidence that there has been a substantial change in circumstances such that the condition is no longer necessary for community safety. In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on the fact that time has passed without a violation. Motions to modify community custody conditions are limited to not more than once every 12 months. The time limit for collateral attacks does not apply to motions to amend conditions of community custody. Motions to modify community custody conditions may not reopen the person's conviction to challenges that would otherwise be barred by statute or other procedural barriers.

Votes on Final Passage:

House 58 39

Senate 38 11

Effective: March 15, 2024