



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #278

Revocation of Extended Supervision (Corrections -- Sentencing Modifications)

[LFB 2009-11 Budget Summary: Page 215, #5]

CURRENT LAW

If a person on extended supervision violates any condition of his or her extended supervision, and the reviewing authority revokes extended supervision as a result, the offender is returned to the court where he or she was convicted, and the court will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

GOVERNOR

Modify current law to specify that, if a person's extended supervision is revoked as a result of a violation of his or her supervision, the reviewing authority, rather than the court, will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

DISCUSSION POINTS

1. Current law provides that if a person released to extended supervision violates a condition of extended supervision, the "reviewing authority" may revoke the extended supervision of the person. If the extended supervision of the person is revoked, the person must be returned to the circuit court for the county in which the person was convicted, and the court must order the person to be returned to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

2. "Reviewing authority" means the Division of Hearings and Appeals in the Department of Administration, upon proper notice and hearing, or the Department of Corrections, if the person on extended supervision waives a hearing.

3. When the person is returned to court, the reviewing authority must make a recommendation to the court concerning the period of time for which the person should be returned to prison. The court will order the person to prison for any specified period of time not exceeding the time remaining on the bifurcated sentence, which is the total length of the bifurcated sentence, less time served by the person in confinement under the sentence before release to extended supervision, and less all time served in confinement for previous revocations of extended supervision under the sentence.

4. A person who is returned to prison after revocation of extended supervision must be incarcerated for the entire time specified by the court. If the person is returned for a period of time less than the time remaining on the bifurcated sentence, the person will be released to extended supervision after serving the specified incarceration time. If the person is released to extended supervision, the remaining extended supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less time served by the person in confinement under the sentence before release to extended supervision, and less all time served in confinement for previous revocations of extended supervision under the sentence.

5. Under AB 75, language related to the circuit courts would be removed and replaced by the reviewing authority. As a result, the reviewing authority would make the determination for the specified period of time for which a person who should be returned to prison after revocation of extended supervision. No modification to the imposed sentence would be made.

Council of State Governments and Justice Reinvestment Initiative Oversight Committee

6. The Council of State Governments (CSG) Justice Center analyzed the state's criminal justice system, examining areas including crime, arrests, prison admissions, length of confinement and supervision time, probation and post-release supervision populations, recidivism rates, and behavioral health and unemployment. For a more detailed description of the work by the CSG Justice Center and the JRIO Committee, see budget paper #275, entitled "Sentence Adjustments for Class C through Class I Felonies."

7. Based on their analysis, the CSG Justice Center staff developed five policy recommendations focused on targeting resources and changing behavior. The CSG recommendation that appears relevant to the revocation of extended supervision provision is:

- ***Parole and Extended Supervision Revocation Process.*** Modify current law to provide that the reviewing authority, rather than the court, may order the person to return to prison if revoked from extended supervision or parole for a period equal to the time remaining on the bifurcated sentence or for six months, whichever is less. This modification excludes Class A, B, and C felonies, and sex offense specified under the sex offender registry statute, for which current law would still apply (the offender may be returned to prison for any time that does not exceed the remainder of the sentence).

If the person violates any prison regulation, refuses or neglects to perform required or assigned duties, or refuses or neglects to participate in required programming or treatment, the Department may extend the term of confinement in prison by not more than 90 days.

8. The CSG recommendation modifies the same statute as the provision in AB 75. Both the CSG recommendation and AB 75 provision would modify current law to provide that the reviewing authority, rather than the court, may order a person returned to prison after revocation of extended supervision. Further, the CSG recommendation would provide this change to persons returned to prison after revocation of parole (AB 75 only applies to revocations of extended supervision). In addition, the CSG recommendation would limit the time for which a person may be returned to prison up to six months, or the remainder of the sentence, whichever is less, which the Department may extend up to 90 days if the person violates any regulation or refused participation in any required programming.

9. Because both the CSG recommendation and the AB 75 provision make changes to the same statute, and the CSG recommendation makes additional modifications to the process of revocation, the Committee may wish to remove the provision from the bill. [Alternative 3] Alternatively, considering research and work conducted by CSG and the JRIO Committee, the Committee may wish to remove the Governor's recommendation and instead adopt the CSG recommendation related to revocation. [Alternative 2]

ALTERNATIVES

1. Approve the Governor's recommendation to specify that, if a person's extended supervision is revoked as a result of a violation of his or her supervision, the reviewing authority, rather than the court, will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

2. Delete the Governor's recommendation and instead incorporate the provisions of WLC 0426/3, which would allow the reviewing authority to order an offender whose parole or extended supervision is revoked to be confined in prison for six months or the total length of the remaining sentence, whichever is less.

3. Delete provision.

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