

2 **HB 1227** - S COMM AMD  
3 By Committee on Judiciary

4 ADOPTED 04/11/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 9A.76.110 and 1982 1st ex.s. c 47 s 23 are each  
8 amended to read as follows:

9 (1) A person is guilty of escape in the first degree if ~~((he or~~  
10 ~~she knowingly escapes from custody or a detention facility while being~~  
11 ~~detained pursuant to a conviction of a felony or an equivalent juvenile~~  
12 ~~offense((~~he escapes from custody or a detention facility~~))).~~

13 (2) It is an affirmative defense to a prosecution under this  
14 section that uncontrollable circumstances prevented the person from  
15 remaining in custody or in the detention facility or from returning to  
16 custody or to the detention facility, and that the person did not  
17 contribute to the creation of such circumstances in reckless disregard  
18 of the requirement to remain or return, and that the person returned to  
19 custody or the detention facility as soon as such circumstances ceased  
20 to exist.

21 (3) Escape in the first degree is a class B felony.

22 "**Sec. 2.** RCW 9A.76.120 and 1995 c 216 s 15 are each amended to read  
23 as follows:

24 (1) A person is guilty of escape in the second degree if:

25 (a) He or she knowingly escapes from a detention facility;

26 (b) Having been charged with a felony or an equivalent juvenile  
27 offense, he or she knowingly escapes from custody; ~~((or))~~

28 (c) Having been found to be a sexually violent predator and being  
29 under an order of conditional release, he or she knowingly leaves or  
30 remains absent from the state of Washington without prior court  
31 authorization; or

32 (d) Having been committed under chapter 10.77 RCW for a sex,  
33 violent, or felony harassment offense and being under an order of  
34 conditional release, he or she knowingly leaves or remains absent from  
35 the state of Washington without prior court authorization.

1       (2) It is an affirmative defense to a prosecution under this  
2 section that uncontrollable circumstances prevented the person from  
3 remaining in custody or in the detention facility or from returning to  
4 custody or to the detention facility, and that the person did not  
5 contribute to the creation of such circumstances in reckless disregard  
6 of the requirement to remain or return, and that the person returned to  
7 custody or the detention facility as soon as such circumstances ceased  
8 to exist.

9       (3) Escape in the second degree is a class C felony.

10       **Sec. 3.** RCW 9A.76.170 and 1983 1st ex.s. c 4 s 3 are each amended  
11 to read as follows:

12       (1) Any person having been released by court order or admitted to  
13 bail with knowledge of the requirement of a subsequent personal  
14 appearance before any court of this state, or of the requirement to  
15 report to a correctional facility for service of sentence, and who  
16 ((knowingly)) fails to appear or who fails to surrender for service of  
17 sentence as required is guilty of bail jumping.

18       (2) It is an affirmative defense to a prosecution under this  
19 section that uncontrollable circumstances prevented the person from  
20 appearing or surrendering, and that the person did not contribute to  
21 the creation of such circumstances in reckless disregard of the  
22 requirement to appear or surrender, and that the person appeared or  
23 surrendered as soon as such circumstances ceased to exist.

24       (3) Bail jumping is:

25       (a) A class A felony if the person was held for, charged with, or  
26 convicted of murder in the first degree;

27       (b) A class B felony if the person was held for, charged with, or  
28 convicted of a class A felony other than murder in the first degree;

29       (c) A class C felony if the person was held for, charged with, or  
30 convicted of a class B or class C felony;

31       (d) A misdemeanor if the person was held for, charged with, or  
32 convicted of a gross misdemeanor or misdemeanor.

33       **Sec. 4.** RCW 9A.76.010 and 1991 c 181 s 6 are each amended to read  
34 as follows:

35       The following definitions are applicable in this chapter unless the  
36 context otherwise requires:

1 (1) "Custody" means restraint pursuant to a lawful arrest or an  
2 order of a court, or any period of service on a work crew: PROVIDED,  
3 That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and  
4 74.13.031 and chapter 13.32A RCW shall not be deemed custody for  
5 purposes of this chapter;

6 (2) "Detention facility" means any place used for the confinement  
7 of a person (a) arrested for, charged with or convicted of an offense,  
8 or (b) charged with being or adjudicated to be a juvenile offender as  
9 defined in RCW 13.40.020 as now existing or hereafter amended, or (c)  
10 held for extradition or as a material witness, or (d) otherwise  
11 confined pursuant to an order of a court, except an order under chapter  
12 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough,  
13 or other such facility or program;

14 (3) "Contraband" means any article or thing which a person confined  
15 in a detention facility is prohibited from obtaining or possessing by  
16 statute, rule, regulation, or order of a court;

17 (4) "Uncontrollable circumstances" means an act of nature such as  
18 a flood, earthquake, or fire, or a medical condition that requires  
19 immediate hospitalization or treatment, or an act of man such as an  
20 automobile accident or threats of death, forcible sexual attack, or  
21 substantial bodily injury in the immediate future for which there is no  
22 time for a complaint to the authorities and no time or opportunity to  
23 resort to the courts.

24 **Sec. 5.** RCW 9.94A.360 and 2000 c 28 s 15 are each amended to read  
25 as follows:

26 The offender score is measured on the horizontal axis of the  
27 sentencing grid. The offender score rules are as follows:

28 The offender score is the sum of points accrued under this section  
29 rounded down to the nearest whole number.

30 (1) A prior conviction is a conviction which exists before the date  
31 of sentencing for the offense for which the offender score is being  
32 computed. Convictions entered or sentenced on the same date as the  
33 conviction for which the offender score is being computed shall be  
34 deemed "other current offenses" within the meaning of RCW 9.94A.400.

35 (2) Class A and sex prior felony convictions shall always be  
36 included in the offender score. Class B prior felony convictions other  
37 than sex offenses shall not be included in the offender score, if since  
38 the last date of release from confinement (including full-time

1 residential treatment) pursuant to a felony conviction, if any, or  
2 entry of judgment and sentence, the offender had spent ten consecutive  
3 years in the community without committing any crime that subsequently  
4 results in a conviction. Class C prior felony convictions other than  
5 sex offenses shall not be included in the offender score if, since the  
6 last date of release from confinement (including full-time residential  
7 treatment) pursuant to a felony conviction, if any, or entry of  
8 judgment and sentence, the offender had spent five consecutive years in  
9 the community without committing any crime that subsequently results in  
10 a conviction. Serious traffic convictions shall not be included in the  
11 offender score if, since the last date of release from confinement  
12 (including full-time residential treatment) pursuant to a felony  
13 conviction, if any, or entry of judgment and sentence, the offender  
14 spent five years in the community without committing any crime that  
15 subsequently results in a conviction. This subsection applies to both  
16 adult and juvenile prior convictions.

17 (3) Out-of-state convictions for offenses shall be classified  
18 according to the comparable offense definitions and sentences provided  
19 by Washington law. Federal convictions for offenses shall be  
20 classified according to the comparable offense definitions and  
21 sentences provided by Washington law. If there is no clearly  
22 comparable offense under Washington law or the offense is one that is  
23 usually considered subject to exclusive federal jurisdiction, the  
24 offense shall be scored as a class C felony equivalent if it was a  
25 felony under the relevant federal statute.

26 (4) Score prior convictions for felony anticipatory offenses  
27 (attempts, criminal solicitations, and criminal conspiracies) the same  
28 as if they were convictions for completed offenses.

29 (5)(a) In the case of multiple prior convictions, for the purpose  
30 of computing the offender score, count all convictions separately,  
31 except:

32 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to  
33 encompass the same criminal conduct, shall be counted as one offense,  
34 the offense that yields the highest offender score. The current  
35 sentencing court shall determine with respect to other prior adult  
36 offenses for which sentences were served concurrently or prior juvenile  
37 offenses for which sentences were served consecutively, whether those  
38 offenses shall be counted as one offense or as separate offenses using  
39 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and

1 if the court finds that they shall be counted as one offense, then the  
2 offense that yields the highest offender score shall be used. The  
3 current sentencing court may presume that such other prior offenses  
4 were not the same criminal conduct from sentences imposed on separate  
5 dates, or in separate counties or jurisdictions, or in separate  
6 complaints, indictments, or informations;

7 (ii) In the case of multiple prior convictions for offenses  
8 committed before July 1, 1986, for the purpose of computing the  
9 offender score, count all adult convictions served concurrently as one  
10 offense, and count all juvenile convictions entered on the same date as  
11 one offense. Use the conviction for the offense that yields the  
12 highest offender score.

13 (b) As used in this subsection (5), "served concurrently" means  
14 that: (i) The latter sentence was imposed with specific reference to  
15 the former; (ii) the concurrent relationship of the sentences was  
16 judicially imposed; and (iii) the concurrent timing of the sentences  
17 was not the result of a probation or parole revocation on the former  
18 offense.

19 (6) If the present conviction is one of the anticipatory offenses  
20 of criminal attempt, solicitation, or conspiracy, count each prior  
21 conviction as if the present conviction were for a completed offense.  
22 When these convictions are used as criminal history, score them the  
23 same as a completed crime.

24 (7) If the present conviction is for a nonviolent offense and not  
25 covered by subsection (11) or (12) of this section, count one point for  
26 each adult prior felony conviction and one point for each juvenile  
27 prior violent felony conviction and 1/2 point for each juvenile prior  
28 nonviolent felony conviction.

29 (8) If the present conviction is for a violent offense and not  
30 covered in subsection (9), (10), (11), or (12) of this section, count  
31 two points for each prior adult and juvenile violent felony conviction,  
32 one point for each prior adult nonviolent felony conviction, and 1/2  
33 point for each prior juvenile nonviolent felony conviction.

34 (9) If the present conviction is for a serious violent offense,  
35 count three points for prior adult and juvenile convictions for crimes  
36 in this category, two points for each prior adult and juvenile violent  
37 conviction (not already counted), one point for each prior adult  
38 nonviolent felony conviction, and 1/2 point for each prior juvenile  
39 nonviolent felony conviction.

1 (10) If the present conviction is for Burglary 1, count prior  
2 convictions as in subsection (8) of this section; however count two  
3 points for each prior adult Burglary 2 or residential burglary  
4 conviction, and one point for each prior juvenile Burglary 2 or  
5 residential burglary conviction.

6 (11) If the present conviction is for a felony traffic offense  
7 count two points for each adult or juvenile prior conviction for  
8 Vehicular Homicide or Vehicular Assault; for each felony offense count  
9 one point for each adult and 1/2 point for each juvenile prior  
10 conviction; for each serious traffic offense, other than those used for  
11 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
12 adult and 1/2 point for each juvenile prior conviction.

13 (12) If the present conviction is for a drug offense count three  
14 points for each adult prior felony drug offense conviction and two  
15 points for each juvenile drug offense. All other adult and juvenile  
16 felonies are scored as in subsection (8) of this section if the current  
17 drug offense is violent, or as in subsection (7) of this section if the  
18 current drug offense is nonviolent.

19 (13) If the present conviction is for (~~Willful Failure to Return~~  
20 ~~from Furlough, RCW 72.66.060, Willful Failure to Return from Work~~  
21 ~~Release, RCW 72.65.070, or~~) Escape from Community Custody, RCW  
22 72.09.310, count only prior escape convictions in the offender score.  
23 Count adult prior escape convictions as one point and juvenile prior  
24 escape convictions as 1/2 point.

25 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or  
26 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
27 juvenile prior convictions as 1/2 point.

28 (15) If the present conviction is for Burglary 2 or residential  
29 burglary, count priors as in subsection (7) of this section; however,  
30 count two points for each adult and juvenile prior Burglary 1  
31 conviction, two points for each adult prior Burglary 2 or residential  
32 burglary conviction, and one point for each juvenile prior Burglary 2  
33 or residential burglary conviction.

34 (16) If the present conviction is for a sex offense, count priors  
35 as in subsections (7) through (15) of this section; however count three  
36 points for each adult and juvenile prior sex offense conviction.

37 (17) If the present conviction is for an offense committed while  
38 the offender was under community placement, add one point.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.88 RCW  
2 to read as follows:

3 A law enforcement agency shall deliver a person in custody to the  
4 accredited agent or agents of a demanding state without the governor's  
5 warrant provided that:

6 (1) Such person is alleged to have broken the terms of his or her  
7 probation, parole, bail, or any other release of the demanding state;  
8 and

9 (2) The law enforcement agency has received from the demanding  
10 state an authenticated copy of a prior waiver of extradition signed by  
11 such person as a term of his or her probation, parole, bail, or any  
12 other release of the demanding state and photographs or fingerprints or  
13 other evidence properly identifying the person as the person who signed  
14 the waiver.

15 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
16 repealed:

17 (1) RCW 72.65.070 (Wilfully failing to return--Deemed escapee and  
18 fugitive--Penalty) and 1967 c 17 s 7; and

19 (2) RCW 72.66.060 (Wilfully failing to return--Deemed escapee and  
20 fugitive--Penalty) and 1971 ex.s. c 58 s 7.

21 NEW SECTION. **Sec. 8.** The laws repealed by this act are repealed  
22 except with respect to rights and duties which matured, penalties which  
23 were incurred, proceedings which were begun prior to the effective date  
24 of this act, or proceedings which are initiated after this act for  
25 violations committed prior to the effective date of this act."

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28 ADOPTED 04/11/01

29 On page 1, line 1 of the title, after "custody;" strike the  
30 remainder of the title and insert "amending RCW 9A.76.110, 9A.76.120,  
31 9A.76.170, 9A.76.010, and 9.94A.360; adding a new section to chapter  
32 10.88 RCW; creating a new section; repealing RCW 72.65.070 and  
33 72.66.060; and prescribing penalties."

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