

FINAL BILL REPORT

HB 1227

C 264 L 01

Synopsis as Enacted

Brief Description: Changing provisions relating to escaping from custody.

Sponsors: By Representatives Ballasiotes, Lovick and O'Brien.

House Committee on Criminal Justice & Corrections

Senate Committee on Judiciary

Background:

Generally, the crime of escape is committed when a person flees from a detention facility or flees from custody having been charged with a criminal offense. However, escape does not include a person civilly committed under a plea of insanity for a sex, violent, or felony harassment offense who 1) has been conditionally released on a less restrictive alternative and 2) leaves or remains absent from the state without authorization.

Escape in the First Degree. Escape in the first degree is committed when a person escapes from custody or a detention facility while being detained pursuant to a felony or an equivalent juvenile offense. Although knowledge is not a statutory element of the crime, the element has been added by the case law. Escape in the first degree is a seriousness level IV, class B felony

Escape in the Second Degree. Escape in the second degree occurs when a person: escapes from a detention facility; escapes from custody having been charged with a felony or an equivalent juvenile offense; or leaves Washington without prior authorization having been found to be a sexually violent predator and placed under an order of conditional release.

Although knowledge is not a statutory element of the crime, the element has been added by the case law. Escape in the second degree is a seriousness level III, class C felony.

Willful Failure to Return to Work Release or from Furlough. The general escape statutes are inapplicable to felony prisoners who fail to return from work release or furlough. Instead, these offenders are charged with willfully failing to return to work release or from furlough. Willful failure to return from work release is a seriousness level III, class B felony. Willful failure to return from furlough is a seriousness level IV, class B felony.

Bail Jumping. The crime of bail jumping occurs when a person 1) has been released by court order or admitted to bail with the requirement of a subsequent personal appearance

before a court and 2) knowingly fails to appear as required by the court. The punishment for bail jumping varies depending on the type of crime for which the offender is being held.

Uniform Criminal Extradition Act. Under the Uniform Criminal Extradition Act, the Governor is authorized to issue a warrant for the arrest of any person who is charged with committing a crime in another state, has fled from justice, and is found in this state. A demand for the extradition of the person from the Governor of that foreign state must precede the warrant. However, the Governor may exercise his or her discretion as to whether to issue the warrant and have the fugitive arrested and delivered to the executive authority of the demanding state.

Summary:

Escape in the First Degree. The element of knowledge is added to the crime of escape in the first degree. An affirmative defense to the crime is that:

- uncontrollable circumstances prevented the person from remaining in custody or in the detention facility, or from returning to custody or to the detention facility;
- the person did not contribute to the creation of the circumstances in reckless disregard of the requirement to remain or return; and
- the person returned to custody or the detention facility as soon as the circumstances ceased to exist.

Escape in the Second Degree. The element of knowledge is added to the crime of escape in the second degree. Leaving Washington without prior authorization having been found to be a sexually violent predator and placed under an order of conditional release is removed from escape in the second degree. The crime is expanded to include persons civilly committed under a plea of insanity for a sex, violent, or felony harassment offense who 1) have been conditionally released on a less restrictive alternative, and 2) leave or remain absent from the state without authorization.

An affirmative defense to the crime is that:

- uncontrollable circumstances prevented the person from remaining in custody or in the detention facility, or from returning to custody or to the detention facility;
- the person did not contribute to the creation of the circumstances in reckless disregard of the requirement to remain or return; and
- the person returned to custody or the detention facility as soon as the circumstances ceased to exist.

Willful Failure to Return to Work Release or from Furlough. The crimes relating to willfully failing to return to work release and from furlough are repealed.

Bail Jumping. The crime of bail jumping is expanded to include failing to report to a correctional facility for service of sentence. The element of knowledge in the crime is

changed: instead of requiring a person to knowingly fail to appear in order to be convicted of bail jumping, the act requires the person to have knowledge of the requirement to appear before a court or to report to a correctional facility.

An affirmative defense to the crime is that:

- uncontrollable circumstances prevented the person from remaining in custody or in the detention facility, or from returning to custody or to the detention facility;
- the person did not contribute to the creation of the circumstances in reckless disregard of the requirement to remain or return; and
- the person returned to custody or the detention facility as soon as the circumstances ceased to exist.

For purposes of escape in the first degree, escape in the second degree, and bail jumping, uncontrollable circumstances– means an act of nature such as a flood, earthquake, or fire, or a medical condition that requires immediate hospitalization or treatment, or an act of man such as an automobile accident or threats of death, forcible sexual attack, or substantial bodily injury in the immediate future for which there is no time for a complaint to the authorities and no time or opportunity to resort to the courts.

Uniform Criminal Extradition Act. Under the Uniform Criminal Extradition Act, a law enforcement agency must deliver a person in custody to the accredited agent or agents of a demanding state without the governor’s warrant if:

- the person is alleged to have broken the terms of his or her probation, parole, bail, or any other release of the demanding state; and
- the law enforcement agency has received from the demanding state an authenticated copy of a prior waiver of extradition signed by the person as a term of his or her probation, parole, bail, or any other release of the demanding state as well as photographs, fingerprints, or other evidence properly identifying the person as the person who signed the waiver.

Votes on Final Passage:

House 98 0
Senate 48 0 (Senate amended)
House (House refused to concur)
Senate 47 0 (Senate amended)
House 91 0 (House concurred)

Effective: July 1, 2001