

SENATE BILL REPORT

HB 1227

As Reported By Senate Committee On:
Judiciary, March 27, 2001

Title: An act relating to escaping from custody.

Brief Description: Changing provisions relating to escaping from custody.

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

Brief History:

Committee Activity: Judiciary: 3/19/01, 3/27/01 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: Escape is committed when an offender, being detained pursuant to a felony or an equivalent juvenile offense, escapes from custody or a detention facility. Knowledge is not a statutory element of escape in the first or second degree; however, case law requires the proof of knowledge. Escape does not apply to a felony prisoner who fails to return from furlough or work release. Instead, these offenders are charged under "failure to return" statutes which include the element of wilfulness. A person may be charged with bail jumping when the person has been released from custody and he or she knowingly fails to appear for a subsequent court hearing as required by a condition of his or her release.

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 and has fled from justice and is found in this state. A demand for the extradition of the person from the foreign governor must precede the warrant. The Governor may exercise discretion as to whether to issue the warrant and have the fugitive arrested and delivered to the executive authority of the demanding state.

Summary of Amended Bill: A person must have knowledge to be charged with escape in the first or second degree. A person committed as criminally insane for a sex, violent, or felony harassment offense who knowingly leaves or remains absent from the state is guilty of escape in the second degree. An affirmative defense to a prosecution of that charge is that: (1) uncontrollable circumstances prevented the person from remaining in custody or in the detention facility, or from returning to custody or to the detention facility; (2) the person did not contribute to the creation of the circumstances in reckless disregard of the requirement to remain or return; and (3) the person returned to custody or the detention facility as soon as the circumstances ceased to exist.

An offender is guilty of bail jumping if the person has been released by court order or admitted to bail and: (1) with knowledge of the requirement of a subsequent personal appearance before any court of this state, he or she fails to appear as required; or (2) with knowledge of the requirement to report to a correctional facility for service of a sentence, he or she fails to surrender for service of their sentence as required. An affirmative defense to bail jumping is that: (1) uncontrollable circumstances prevented the person from appearing or surrendering; (2) the person did not contribute to the creation of the circumstances in reckless disregard of the requirement to appear or surrender; and (3) the person appeared or surrendered as soon as the circumstances ceased to exist.

"Uncontrollable circumstances" are defined as acts of nature, automobile accidents, or immediate threats of death, forcible sexual attack, or substantial bodily injury for which there is no time to complain to the authorities or resort to the courts.

The crimes of wilfully failing to return from furlough and wilfully failing to return from work release are repealed and removed from consideration in the offender score.

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 when the person is alleged to have broken the terms of his or her probation, parole, bail, or any other release of the demanding state; the law enforcement agency has received 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; and photographs, fingerprints, or other evidence properly identify the person as the person who signed the waiver.

Amended Bill Compared to Original Bill: A person committed as criminally insane for a sex, violent, or felony harassment offense who knowingly leaves or remains absent from the state is guilty of escape in the second degree. "Uncontrollable circumstances" are defined.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill codifies common law requirements and defenses. It also provides for a presigned waiver of extradition in situations when an offender leaves the state with the court's permission, but then fails to return.

Testimony Against: None.

Testified: PRO: Representative Ballasiotes, prime sponsor; Pam Loginski, Washington Association of Prosecuting Attorneys.