

2 **HB 1227** - S AMD 351
3 By Senator Kline

4 ADOPTED 04/19/01

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 ~~((~~7~~))~~ 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(~~(~~7~~ 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 leaves the state of~~
30 ~~Washington without prior court authorization))~~ Having been committed
31 under chapter 10.77 RCW for a sex, violent, or felony harassment
32 offense and being under an order of conditional release, he or she
33 knowingly leaves or remains absent from the state of Washington without
34 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 9A.76.170, 9A.76.010, and 9.94A.360; adding a new section to chapter
2 10.88 RCW; creating a new section; repealing RCW 72.65.070 and
3 72.66.060; prescribing penalties; providing an effective date; and
4 declaring an emergency."

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