

Judiciary Committee

HB 2226

Title: An act relating to establishing a life sentence for sexually violent predators who escape from the special commitment center or from a less restrictive alternative.

Brief Description: Creating the crime of aggravated escape.

Sponsors: Representatives Carrell, Kirby, Talcott, Conway, Esser, Lantz, Roach, Haigh, DeBolt, Campbell, Delvin, Marine, Armstrong, Bush, Morell, Casada and Jackley.

Brief Summary of Bill

- *Creates the crime of aggravated escape for persons who escape from McNeil Island facilities for sexually violent predators or from associated conditional release or off-premise supervised escort.*
- *Sets the punishment for aggravated escape at life imprisonment without the possibility of release.*

Hearing Date: 3/30/01

Staff: Bill Perry (786-7123).

Background:

The crime of escape exists in three degrees.

- *First-degree escape is committed by a convicted felon who escapes from custody or a detention facility. It is a class B felony which means the maximum penalty is 10 years in prison and a \$20,000 fine. First-degree escape is ranked at level IV under the Sentencing Reform Act (SRA). The mid-point in the standard sentencing ranges for a level IV offense begins at six months. (Of course, a person with a felony conviction who commits escape will have some criminal history and an offender score of something more than zero, thereby moving into some higher range on the level IV scale.)*

- *Second-degree escape is committed by a person (other than a convicted felon) who escapes from a detention facility, or who has been charged with a felony and escapes custody, or who is a sexually violent predator under conditional release who leaves the state without authorization. Second-degree escape is a class C felony which means the maximum penalty is five years in prison and a \$10,000 fine. Second-degree escape is ranked at level III under the SRA. The mid-point in the standard sentencing ranges for a level III offense begins at two months.*
- *Third-degree escape is committed by a person (other than a convicted or charged felon, or a sexually violent predator on conditional release) who escapes from custody. It is a gross misdemeanor which means the maximum penalty is one year in jail and a \$5,000 fine.*

Under the SRA, felonies are ranked by seriousness level from I to XVI. The only crime ranked at level XVI is aggravated first-degree murder. Absent a death sentence, the penalty for this level XVI offense is life imprisonment without the possibility of release.

Under the Community Protection Act of 1990, a sexually violent predator may be civilly committed upon the expiration of his or her criminal sentence. A sexually violent predator is a person who has been convicted of, charged with and found not guilty by reason of insanity of, or found to be incompetent to stand trial for, a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) and confined at the Special Commitment Center (SCC) for control, care, and individualized treatment.

A person who has been civilly committed is entitled to an annual review of his or her mental condition, including consideration of whether conditional release to a less restrictive alternative (LRA) is in the best interest of the person and would adequately protect the community. Before the court can order that a person be conditionally released from the SCC to an LRA, the court must find that certain requirements are met, including the requirement that housing is available that is sufficiently secure to protect the community.

House Bill 2223, introduced at the request of the Governor and the attorney general, authorizes the DSHS to establish an LRA treatment facility for sexually violent predators on court-ordered conditional release from the SCC on McNeil Island.

Summary of Bill:

The crime of aggravated escape is created. The crime is a class A felony with an SRA seriousness ranking of level XVI. The penalty for aggravated escape is life in prison without the possibility of release.

Aggravated escape is committed by a sexually violent predator who:

- *escapes from the SCC on McNeil Island;*
- *escapes from an LRA treatment facility for sexually violent predators if such a facility*

- is established on McNeil Island pursuant to HB 2223;*
- escapes from escorted supervision while away from such an LRA treatment facility; or*
- leaves the state without authorization while on conditional release.*

Appropriation: *None.*

Fiscal Note: *Available.*

Effective Date: *The bill contains an emergency clause and takes effect immediately, except for Section 4 which takes effect July 1, 2001.*