

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1227

57th Legislature
2001 Regular Legislative Session

Passed by the House April 20, 2001
Yeas 91 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 19, 2001
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1227** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1227

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Representatives Ballasiotes, Lovick and O'Brien

Read first time 01/22/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to escaping from custody; amending RCW 9A.76.110,
2 9A.76.120, 9A.76.170, 9A.76.010, and 9.94A.360; adding a new section to
3 chapter 10.88 RCW; creating a new section; repealing RCW 72.65.070 and
4 72.66.060; prescribing penalties; providing an effective date; and
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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 ~~((, 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

1 custody or the detention facility as soon as such circumstances ceased
2 to exist.

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

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

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

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

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

10 (c) ~~((Having been found to be a sexually violent predator and being~~
11 ~~under an order of conditional release, he or she leaves the state of~~
12 ~~Washington without prior court authorization))~~ Having been committed
13 under chapter 10.77 RCW for a sex, violent, or felony harassment
14 offense and being under an order of conditional release, he or she
15 knowingly leaves or remains absent from the state of Washington without
16 prior court authorization.

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

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

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

28 (1) Any person having been released by court order or admitted to
29 bail with knowledge of the requirement of a subsequent personal
30 appearance before any court of this state, or of the requirement to
31 report to a correctional facility for service of sentence, and who
32 ((knowingly)) fails to appear or who fails to surrender for service of
33 sentence as required is guilty of bail jumping.

34 (2) It is an affirmative defense to a prosecution under this
35 section that uncontrollable circumstances prevented the person from
36 appearing or surrendering, and that the person did not contribute to
37 the creation of such circumstances in reckless disregard of the

1 requirement to appear or surrender, and that the person appeared or
2 surrendered as soon as such circumstances ceased to exist.

3 (3) Bail jumping is:

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

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

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

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

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

14 The following definitions are applicable in this chapter unless the
15 context otherwise requires:

16 (1) "Custody" means restraint pursuant to a lawful arrest or an
17 order of a court, or any period of service on a work crew: PROVIDED,
18 That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and
19 74.13.031 and chapter 13.32A RCW shall not be deemed custody for
20 purposes of this chapter;

21 (2) "Detention facility" means any place used for the confinement
22 of a person (a) arrested for, charged with or convicted of an offense,
23 or (b) charged with being or adjudicated to be a juvenile offender as
24 defined in RCW 13.40.020 as now existing or hereafter amended, or (c)
25 held for extradition or as a material witness, or (d) otherwise
26 confined pursuant to an order of a court, except an order under chapter
27 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough,
28 or other such facility or program;

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

32 (4) "Uncontrollable circumstances" means an act of nature such as
33 a flood, earthquake, or fire, or a medical condition that requires
34 immediate hospitalization or treatment, or an act of man such as an
35 automobile accident or threats of death, forcible sexual attack, or
36 substantial bodily injury in the immediate future for which there is no
37 time for a complaint to the authorities and no time or opportunity to
38 resort to the courts.

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

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

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

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

12 (2) Class A and sex prior felony convictions shall always be
13 included in the offender score. Class B prior felony convictions other
14 than sex offenses shall not be included in the offender score, if since
15 the last date of release from confinement (including full-time
16 residential treatment) pursuant to a felony conviction, if any, or
17 entry of judgment and sentence, the offender had spent ten consecutive
18 years in the community without committing any crime that subsequently
19 results in a conviction. Class C prior felony convictions other than
20 sex offenses shall not be included in the offender score if, since the
21 last date of release from confinement (including full-time residential
22 treatment) pursuant to a felony conviction, if any, or entry of
23 judgment and sentence, the offender had spent five consecutive years in
24 the community without committing any crime that subsequently results in
25 a conviction. Serious traffic convictions shall not be included in the
26 offender score if, since the last date of release from confinement
27 (including full-time residential treatment) pursuant to a felony
28 conviction, if any, or entry of judgment and sentence, the offender
29 spent five years in the community without committing any crime that
30 subsequently results in a conviction. This subsection applies to both
31 adult and juvenile prior convictions.

32 (3) Out-of-state convictions for offenses shall be classified
33 according to the comparable offense definitions and sentences provided
34 by Washington law. Federal convictions for offenses shall be
35 classified according to the comparable offense definitions and
36 sentences provided by Washington law. If there is no clearly
37 comparable offense under Washington law or the offense is one that is
38 usually considered subject to exclusive federal jurisdiction, the

1 offense shall be scored as a class C felony equivalent if it was a
2 felony under the relevant federal statute.

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

6 (5)(a) In the case of multiple prior convictions, for the purpose
7 of computing the offender score, count all convictions separately,
8 except:

9 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
10 encompass the same criminal conduct, shall be counted as one offense,
11 the offense that yields the highest offender score. The current
12 sentencing court shall determine with respect to other prior adult
13 offenses for which sentences were served concurrently or prior juvenile
14 offenses for which sentences were served consecutively, whether those
15 offenses shall be counted as one offense or as separate offenses using
16 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
17 if the court finds that they shall be counted as one offense, then the
18 offense that yields the highest offender score shall be used. The
19 current sentencing court may presume that such other prior offenses
20 were not the same criminal conduct from sentences imposed on separate
21 dates, or in separate counties or jurisdictions, or in separate
22 complaints, indictments, or informations;

23 (ii) In the case of multiple prior convictions for offenses
24 committed before July 1, 1986, for the purpose of computing the
25 offender score, count all adult convictions served concurrently as one
26 offense, and count all juvenile convictions entered on the same date as
27 one offense. Use the conviction for the offense that yields the
28 highest offender score.

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

35 (6) If the present conviction is one of the anticipatory offenses
36 of criminal attempt, solicitation, or conspiracy, count each prior
37 conviction as if the present conviction were for a completed offense.
38 When these convictions are used as criminal history, score them the
39 same as a completed crime.

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

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

11 (9) If the present conviction is for a serious violent offense,
12 count three points for prior adult and juvenile convictions for crimes
13 in this category, two points for each prior adult and juvenile violent
14 conviction (not already counted), one point for each prior adult
15 nonviolent felony conviction, and 1/2 point for each prior juvenile
16 nonviolent felony conviction.

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

22 (11) If the present conviction is for a felony traffic offense
23 count two points for each adult or juvenile prior conviction for
24 Vehicular Homicide or Vehicular Assault; for each felony offense count
25 one point for each adult and 1/2 point for each juvenile prior
26 conviction; for each serious traffic offense, other than those used for
27 an enhancement pursuant to RCW 46.61.520(2), count one point for each
28 adult and 1/2 point for each juvenile prior conviction.

29 (12) If the present conviction is for a drug offense count three
30 points for each adult prior felony drug offense conviction and two
31 points for each juvenile drug offense. All other adult and juvenile
32 felonies are scored as in subsection (8) of this section if the current
33 drug offense is violent, or as in subsection (7) of this section if the
34 current drug offense is nonviolent.

35 (13) If the present conviction is for (~~Willful Failure to Return~~
36 ~~from Furlough, RCW 72.66.060, Willful Failure to Return from Work~~
37 ~~Release, RCW 72.65.070, or~~) Escape from Community Custody, RCW
38 72.09.310, count only prior escape convictions in the offender score.

1 Count adult prior escape convictions as one point and juvenile prior
2 escape convictions as 1/2 point.

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

6 (15) If the present conviction is for Burglary 2 or residential
7 burglary, count priors as in subsection (7) of this section; however,
8 count two points for each adult and juvenile prior Burglary 1
9 conviction, two points for each adult prior Burglary 2 or residential
10 burglary conviction, and one point for each juvenile prior Burglary 2
11 or residential burglary conviction.

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

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

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

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

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

25 (2) The law enforcement agency has received from the demanding
26 state an authenticated copy of a prior waiver of extradition signed by
27 such person as a term of his or her probation, parole, bail, or any
28 other release of the demanding state and photographs or fingerprints or
29 other evidence properly identifying the person as the person who signed
30 the waiver.

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

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

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

1 NEW SECTION. **Sec. 8.** The laws repealed by this act are repealed
2 except with respect to rights and duties which matured, penalties which
3 were incurred, proceedings which were begun prior to the effective date
4 of this act, or proceedings which are initiated after this act for
5 violations committed prior to the effective date of this act.

6 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 July 1, 2001.

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