

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1227**

Chapter 264, Laws of 2001

57th Legislature  
2001 Regular Legislative Session

ESCAPING FROM CUSTODY

EFFECTIVE DATE: 7/1/01

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

FRANK CHOPP  
**Speaker of the House of Representatives**

CLYDE BALLARD  
**Speaker of the House of Representatives**

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

BRAD OWEN  
**President of the Senate**

Approved May 11, 2001

GARY LOCKE  
**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.

TIMOTHY A. MARTIN  
**Chief Clerk**

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

May 11, 2001 - 9:56 a.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 1227

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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.

      Passed the House April 20, 2001.

      Passed the Senate April 19, 2001.

      Approved by the Governor May 11, 2001.

      Filed in Office of Secretary of State May 11, 2001.