

# HOUSE BILL REPORT

## ESHB 2490

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*As Passed House  
February 17, 1992*

**Title:** An act relating to escape from community placement or community supervision.

**Brief Description:** Making escape from community placement or supervision a class C felony.

**Sponsor(s):** By House Committee on Judiciary (originally sponsored by Representatives Padden, Morris, D. Sommers, Hochstatter, Forner, Brough, Broback, Silver, Fuhrman, Horn, P. Johnson, Bowman, Wynne, Morton, Carlson, Chandler, Mitchell and Tate).

**Brief History:**

Reported by House Committee on:  
Judiciary, February 6, 1992, DPS;  
Appropriations, February 10, 1992, DPS(JUD);  
Passed House, February 17, 1992, 98-0.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

**Staff:** Pat Shelledy (786-7149).

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**HOUSE COMMITTEE ON  
APPROPRIATIONS**

**Majority Report:** *The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass.* Signed by 28 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Braddock; Brekke; Carlson; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Lisk; May; Mielke;

Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Sprenkle; Valle; and Wang.

**Staff:** John Woolley (786-7154).

**Background:** An offender who is released from prison may be charged with escape if the offender is in "community custody" and "wilfully fails to comply with any one or more of the controls placed on the inmate's movements by the department of corrections." The offense is a class C felony. "Community custody" is a term of art under the sentencing reform act. Most offenders who are sentenced to prison earn "good time" which is credited against their term of confinement. An inmate is released when the inmate has served his or her time ordered minus any good time earned. The concept of community custody means the convict is "confined in the community" and an "inmate" of the department of corrections during the time period that reflects the inmate's good time.

According to the department, prosecutors vary in interpretations of the statute's phrase "fails to comply with any one or more of the controls placed on the inmate's movements." Some prosecutors do not charge under the statute and other prosecutors are charging escape when the department does not consider the inmate to have absconded from community custody. The department may place many restrictions on an inmate's movements (such as ordering them not to visit playgrounds if the offender is a child abuser) which do not have anything to do with escaping from supervision.

The crime of escaping from community custody is an unranked offense which means the sentencing range is up to one year in jail. When calculating offender points for similar offenses such as willful failure to return from furlough or work release, the offender only gets points if the offender has previous escape offenses.

When the court sentences an offender convicted of a sex offense or a serious violent offender to the department, the court must impose a term of community placement upon release. The court must impose a variety of conditions unless the court waives those conditions. In addition, the court may impose special conditions. One special condition a court may impose on a sex offender is that the offender obtain the department's prior approval of the offender's residence location and living arrangements. The provision is not mandatory and does not apply to serious violent offenders.

**Summary of Bill:** The definition of escape is changed to mean that the inmate willfully discontinues making himself or herself available to the department for supervision by making his or her whereabouts unknown or by failing to maintain contact with the department as directed by the community corrections officer. The crime is ranked at seriousness level two which is 0-90 days in jail for a first offender. Like other comparable escape statutes, only prior escape convictions are counted as the offender's prior criminal history. A number of technical changes are made as needed in the sentencing reform act.

The court must require sex offenders and serious violent offenders to obtain the department's approval of the offender's living arrangements and residence location during the period of community placement.

**Fiscal Note:** Available. New fiscal note requested on February 7, 1992.

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

**Testimony For:** (Judiciary): The definition of escape from community custody needs clarification.

(Appropriations): None.

**Testimony Against:** (Judiciary): Expanding the provisions to apply to community supervision and placement will have significant fiscal impact.

(Appropriations): None.

**Witnesses:** (Judiciary): Dave Savage, Department of Corrections (supports concept, but opposes particular provisions--prefers HB 2267); and Mike Redman, Washington Association of Prosecuting Attorneys (supports concept, but opposes particular provisions).

(Appropriations): None.