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HOUSE BILL 1227

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State of Washington

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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, and 9.94A.360; adding a new section to chapter  
3 10.88 RCW; creating a new section; repealing RCW 72.65.070 and  
4 72.66.060; and prescribing penalties.

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

6 **Sec. 1.** RCW 9A.76.110 and 1982 1st ex.s. c 47 s 23 are each  
7 amended to read as follows:

8 (1) A person is guilty of escape in the first degree if ~~((7))~~ he or  
9 she knowingly escapes from custody or a detention facility while being  
10 detained pursuant to a conviction of a felony or an equivalent juvenile  
11 offense ~~((7 he escapes from custody or a detention facility))~~.

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

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

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

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

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

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

8       (c) Having been found to be a sexually violent predator and being  
9 under an order of conditional release, he or she knowingly leaves or  
10 remains absent from the state of Washington without prior court  
11 authorization.

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

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

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

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

29       (2) It is an affirmative defense to a prosecution under this  
30 section that uncontrollable circumstances prevented the person from  
31 appearing or surrendering, and that the person did not contribute to  
32 the creation of such circumstances in reckless disregard of the  
33 requirement to appear or surrender, and that the person appeared or  
34 surrendered as soon as such circumstances ceased to exist.

35       (3) Bail jumping is:

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

1 (b) A class B felony if the person was held for, charged with, or  
2 convicted of a class A felony other than murder in the first degree;  
3 (c) A class C felony if the person was held for, charged with, or  
4 convicted of a class B or class C felony;  
5 (d) A misdemeanor if the person was held for, charged with, or  
6 convicted of a gross misdemeanor or misdemeanor.

7 **Sec. 4.** RCW 9.94A.360 and 2000 c 28 s 15 are each amended to read  
8 as follows:

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

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

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

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

1 (3) Out-of-state convictions for offenses shall be classified  
2 according to the comparable offense definitions and sentences provided  
3 by Washington law. Federal convictions for offenses shall be  
4 classified according to the comparable offense definitions and  
5 sentences provided by Washington law. If there is no clearly  
6 comparable offense under Washington law or the offense is one that is  
7 usually considered subject to exclusive federal jurisdiction, the  
8 offense shall be scored as a class C felony equivalent if it was a  
9 felony under the relevant federal statute.

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

13 (5)(a) In the case of multiple prior convictions, for the purpose  
14 of computing the offender score, count all convictions separately,  
15 except:

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

30 (ii) In the case of multiple prior convictions for offenses  
31 committed before July 1, 1986, for the purpose of computing the  
32 offender score, count all adult convictions served concurrently as one  
33 offense, and count all juvenile convictions entered on the same date as  
34 one offense. Use the conviction for the offense that yields the  
35 highest offender score.

36 (b) As used in this subsection (5), "served concurrently" means  
37 that: (i) The latter sentence was imposed with specific reference to  
38 the former; (ii) the concurrent relationship of the sentences was  
39 judicially imposed; and (iii) the concurrent timing of the sentences

1 was not the result of a probation or parole revocation on the former  
2 offense.

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

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

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

18 (9) If the present conviction is for a serious violent offense,  
19 count three points for prior adult and juvenile convictions for crimes  
20 in this category, two points for each prior adult and juvenile violent  
21 conviction (not already counted), one point for each prior adult  
22 nonviolent felony conviction, and 1/2 point for each prior juvenile  
23 nonviolent felony conviction.

24 (10) If the present conviction is for Burglary 1, count prior  
25 convictions as in subsection (8) of this section; however count two  
26 points for each prior adult Burglary 2 or residential burglary  
27 conviction, and one point for each prior juvenile Burglary 2 or  
28 residential burglary conviction.

29 (11) If the present conviction is for a felony traffic offense  
30 count two points for each adult or juvenile prior conviction for  
31 Vehicular Homicide or Vehicular Assault; for each felony offense count  
32 one point for each adult and 1/2 point for each juvenile prior  
33 conviction; for each serious traffic offense, other than those used for  
34 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
35 adult and 1/2 point for each juvenile prior conviction.

36 (12) If the present conviction is for a drug offense count three  
37 points for each adult prior felony drug offense conviction and two  
38 points for each juvenile drug offense. All other adult and juvenile  
39 felonies are scored as in subsection (8) of this section if the current

1 drug offense is violent, or as in subsection (7) of this section if the  
2 current drug offense is nonviolent.

3 (13) If the present conviction is for (~~(Willful Failure to Return~~  
4 ~~from Furlough, RCW 72.66.060, Willful Failure to Return from Work~~  
5 ~~Release, RCW 72.65.070, or~~) Escape from Community Custody, RCW  
6 72.09.310, count only prior escape convictions in the offender score.  
7 Count adult prior escape convictions as one point and juvenile prior  
8 escape convictions as 1/2 point.

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

12 (15) If the present conviction is for Burglary 2 or residential  
13 burglary, count priors as in subsection (7) of this section; however,  
14 count two points for each adult and juvenile prior Burglary 1  
15 conviction, two points for each adult prior Burglary 2 or residential  
16 burglary conviction, and one point for each juvenile prior Burglary 2  
17 or residential burglary conviction.

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

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

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.88 RCW  
24 to read as follows:

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

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

31 (2) The law enforcement agency has received from the demanding  
32 state an authenticated copy of a prior waiver of extradition signed by  
33 such person as a term of his or her probation, parole, bail, or any  
34 other release of the demanding state and photographs or fingerprints or  
35 other evidence properly identifying the person as the person who signed  
36 the waiver.

1        NEW SECTION.   **Sec. 6.**   The following acts or parts of acts are each  
2 repealed:

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

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

7        NEW SECTION.   **Sec. 7.**   The laws repealed by this act are repealed  
8 except with respect to rights and duties which matured, penalties which  
9 were incurred, proceedings which were begun prior to the effective date  
10 of this act, or proceedings which are initiated after this act for  
11 violations committed prior to the effective date of this act.

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