

HOUSE BILL 575

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2004 Regular Session
(4lr1892)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Brown (Committee to Revise Article 27 - Crimes and Punishments)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 358

1 AN ACT concerning

2 **Criminal Law - First and Second Degree Escape - Home Detention, Juvenile,**
3 **and Custodial Confinement Programs**

4 FOR the purpose of modifying the elements and penalties for escape in the first
5 degree and escape in the second degree; repealing certain violations of escape in
6 the first degree involving certain juvenile facilities, home detention orders,
7 temporary releases from confinement, custodial confinement, and juvenile
8 community detention orders; establishing ~~those~~ certain violations as escape in
9 the second degree; prohibiting a person from escaping from certain types of
10 confinement or restrictions involving juvenile facilities, home detention orders,
11 temporary releases from confinement, custodial confinement, ~~location tracking~~
12 ~~systems~~, and juvenile community detention orders; prohibiting a person from
13 knowingly violating certain restrictions on movement, failing to return to certain
14 places of confinement under certain conditions, and certain tampering with
15 certain monitoring devices; clarifying various types of home detention or
16 custodial confinement programs subject to the crime of escape in the second

1 degree; modifying a defined term; establishing certain penalties; and generally
 2 relating to escape in the first degree and escape in the second degree.

3 *BY repealing and reenacting, without amendments,*

4 *Article - Criminal Law*

5 *Section 9-410(a)*

6 *Annotated Code of Maryland*

7 *(2002 Volume and 2003 Supplement)*

8 BY repealing and reenacting, with amendments,

9 Article - Criminal Law

10 Section 9-401(f), 9-404, ~~and~~ 9-405, *and 9-410(f)*

11 Annotated Code of Maryland

12 (2002 Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Criminal Law**

16 9-401.

17 (f) (1) "Place of confinement" means:

18 ~~(1)~~ (I) a correctional facility;

19 ~~(2)~~ (II) [a place identified in a home detention order or agreement;

20 (3)] a facility of the Department of Health and Mental Hygiene; OR

21 [(4) a detention center for juveniles or a facility for juveniles listed in
 22 Article 83C, § 2-117(a)(2) of the Code;

23 (5) a place identified in a juvenile community detention order; or

24 (6)] ~~(3)~~ (III) ~~EXCEPT AS PROVIDED IN § 9-405 OF THIS SUBTITLE,~~ any
 25 other facility in which a person is confined under color of law.

26 (2) "PLACE OF CONFINEMENT" DOES NOT INCLUDE:

27 (I) A DETENTION CENTER FOR JUVENILES;

28 (II) A FACILITY FOR JUVENILES LISTED IN ARTICLE 83C, §
 29 2-117(A)(2) OF THE CODE; OR

30 (III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
 31 ORDER.

1 9-404.

2 (a) A person may not knowingly escape from a place of confinement.

3 ~~(b) A person may not escape from a detention center for juveniles or a facility~~
 4 ~~for juveniles listed in Article 83C, § 2-117(a)(2) of the Code and in the course of the~~
 5 ~~escape commit an assault.~~

6 *(b) A person may not:*

7 *(I) escape from:*

8 *(I) a detention center for juveniles [or];*

9 *(II) a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the*
 10 *Code; OR*

11 *(III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION*
 12 *ORDER; and*

13 *(2) in the course of the escape commit an assault.*

14 [(c) (1) This subsection applies to a person who is:

15 (i) temporarily released from a place of confinement; or

16 (ii) committed to home detention under the terms of pretrial release
 17 or by the Division of Correction under Title 3, Subtitle 4 of the Correctional Services
 18 Article.

19 (2) A person may not knowingly:

20 (i) violate any restriction on movement imposed under the terms of
 21 a temporary release or a home detention order or agreement; or

22 (ii) fail to return to a place of confinement under the terms of a
 23 temporary release or a home detention order or agreement.]

24 [(d)] (C) [Except as provided in § 9-405 of this subtitle, a] A person who
 25 violates this section is guilty of the felony of escape in the first degree and on
 26 conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding
 27 \$20,000 or both.

28 9-405.

29 (a) ~~(1)~~ (1) A person who has been lawfully arrested may not knowingly
 30 depart from custody without the authorization of a law enforcement or judicial officer.

31 ~~(2)~~ (2) A person may not knowingly fail to obey a court order to
 32 report to a place of confinement.

1 (3) A person who is serving a sentence in a home detention program
2 ~~[other than the Division of Correction home detention program under Title 3, Subtitle~~
3 ~~4 of the Correctional Services Article]~~ may not knowingly:

4 (i) violate any restriction on movement imposed under the terms of
5 ~~the home detention order or agreement; or~~

6 (ii) fail to return to a place of confinement under the terms of the
7 ~~home detention order or agreement.~~

8 (4) ~~[Except as otherwise punishable under § 9-404(b) of this subtitle, a]~~
9 ~~A person may not escape from:~~

10 (i) EXCEPT AS OTHERWISE PUNISHABLE UNDER § 9-404(B) OF THIS
11 ~~SUBTITLE, a detention center for juveniles or a facility for juveniles listed in Article~~
12 ~~83C, § 2-117(a)(2) of the Code; [or]~~

13 (ii) ~~[a place of confinement] A PLACE IDENTIFIED IN A HOME~~
14 ~~DETENTION ORDER OR AGREEMENT; OR~~

15 (iii) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
16 ~~ORDER.~~

17 (B) (1) THIS SUBSECTION APPLIES TO A PERSON WHO IS:

18 (i) TEMPORARILY RELEASED FROM A PLACE OF CONFINEMENT;

19 (ii) COMMITTED TO A PRETRIAL AGENCY;

20 (iii) COMMITTED TO HOME DETENTION BY:

21 1. THE COURT; OR

22 2. THE DIVISION OF CORRECTION UNDER TITLE 3, SUBTITLE
23 ~~4 OF THE CORRECTIONAL SERVICES ARTICLE;~~

24 (iv) COMMITTED TO A HOME DETENTION PROGRAM ADMINISTERED
25 ~~BY A COUNTY;~~

26 (v) COMMITTED TO A PRIVATE HOME DETENTION MONITORING
27 ~~AGENCY AS DEFINED IN § 20-101 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS~~
28 ~~ARTICLE; OR~~

29 (vi) ORDERED BY A COURT TO SERVE A TERM OF CUSTODIAL
30 ~~CONFINEMENT AS DEFINED IN § 6-219 OF THE CRIMINAL PROCEDURE ARTICLE AS A~~
31 ~~CONDITION OF A SUSPENDED SENTENCE OR PROBATION BEFORE OR AFTER~~
32 ~~JUDGMENT.~~

33 (2) A PERSON MAY NOT KNOWINGLY:

1 (4) ~~VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER~~
2 ~~THE TERMS OF A TEMPORARY RELEASE, CUSTODIAL CONFINEMENT, OR HOME~~
3 ~~DETENTION ORDER OR AGREEMENT; OR~~

4 (II) ~~FAIL TO RETURN TO A PLACE OF CONFINEMENT UNDER THE~~
5 ~~TERMS OF A TEMPORARY RELEASE, CUSTODIAL CONFINEMENT, OR HOME~~
6 ~~DETENTION ORDER OR AGREEMENT.~~

7 ~~(C) A PERSON MAY NOT KNOWINGLY ESCAPE FROM A DETENTION CENTER~~
8 ~~FOR JUVENILES OR A FACILITY FOR JUVENILES LISTED IN ARTICLE 83C, § 2-117(A)(2)~~
9 ~~OF THE CODE.~~

10 ~~(D) A PERSON WHO HAS BEEN COMMITTED TO HOME OR COMMUNITY~~
11 ~~DETENTION MAY NOT KNOWINGLY:~~

12 (1) ~~VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER THE~~
13 ~~TERMS OF THE HOME OR COMMUNITY DETENTION ORDER OR AGREEMENT; OR~~

14 (2) ~~DEPART FROM OR FAIL TO RETURN TO CONFINEMENT IN VIOLATION~~
15 ~~OF THE TERMS OF THE HOME OR COMMUNITY DETENTION ORDER OR AGREEMENT.~~

16 ~~(E) A PERSON WHO HAS BEEN ORDERED BY A COURT TO SERVE A TERM OF~~
17 ~~CUSTODIAL CONFINEMENT AS DEFINED IN § 6-219 OF THE CRIMINAL PROCEDURE~~
18 ~~ARTICLE AS A CONDITION OF A SUSPENDED SENTENCE OR PROBATION BEFORE OR~~
19 ~~AFTER JUDGMENT MAY NOT KNOWINGLY:~~

20 (1) ~~VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER THE~~
21 ~~TERMS OF THE CUSTODIAL CONFINEMENT ORDER OR AGREEMENT; OR~~

22 (2) ~~DEPART FROM OR FAIL TO RETURN TO CONFINEMENT IN VIOLATION~~
23 ~~OF THE TERMS OF THE CUSTODIAL CONFINEMENT ORDER OR AGREEMENT.~~

24 ~~(F) A PERSON WHO HAS BEEN TEMPORARILY RELEASED FROM A PLACE OF~~
25 ~~CONFINEMENT UNDER THE TERMS OF A TEMPORARY RELEASE ORDER OR~~
26 ~~AGREEMENT MAY NOT KNOWINGLY:~~

27 (1) ~~VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER THE~~
28 ~~TERMS OF THE TEMPORARY RELEASE ORDER OR AGREEMENT; OR~~

29 (2) ~~DEPART FROM OR FAIL TO RETURN TO A PLACE OF CONFINEMENT IN~~
30 ~~VIOLATION OF THE TERMS OF THE TEMPORARY RELEASE ORDER OR AGREEMENT.~~

31 ~~(G) A PERSON MAY NOT KNOWINGLY ESCAPE FROM CONFINEMENT IMPOSED~~
32 ~~UNDER COLOR OF LAW THROUGH A RESTRICTION ON THE PERSON'S MOVEMENT BY~~
33 ~~REMOVING, BLOCKING, DEACTIVATING, OR OTHERWISE TAMPERING WITH A~~
34 ~~MONITORING DEVICE, INCLUDING:~~

35 (1) ~~AN ANKLE OR WRIST BRACELET;~~

1 (2) A GLOBAL POSITION SATELLITE OFFENDER TRACKING TECHNOLOGY
2 SYSTEM; OR

3 (3) ANY COMPARABLE EQUIPMENT OR SYSTEM THAT TRACKS THE
4 PERSON'S LOCATION WHEN WORN ON THE PERSON'S BODY OR CARRIED BY THE
5 PERSON.

6 (3) A PERSON MAY NOT ESCAPE FROM:

7 (1) EXCEPT AS OTHERWISE PUNISHABLE UNDER § 9-404(B) OF THIS
8 SUBTITLE, A DETENTION CENTER FOR JUVENILES OR A FACILITY FOR JUVENILES
9 LISTED IN ARTICLE 83C, § 2-117(A)(2) OF THE CODE;

10 (II) A PLACE IDENTIFIED IN A HOME DETENTION ORDER OR
11 AGREEMENT; OR

12 (III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
13 ORDER.

14 (B) (1) THIS SUBSECTION APPLIES TO A PERSON WHO IS:

15 (1) TEMPORARILY RELEASED FROM A PLACE OF CONFINEMENT;

16 (II) COMMITTED TO A PRETRIAL AGENCY;

17 (III) COMMITTED TO HOME DETENTION BY:

18 1. THE COURT; OR

19 2. THE DIVISION OF CORRECTION UNDER TITLE 3, SUBTITLE
20 4 OF THE CORRECTIONAL SERVICES ARTICLE;

21 (IV) COMMITTED TO A HOME DETENTION PROGRAM
22 ADMINISTERED BY A COUNTY;

23 (V) COMMITTED TO A PRIVATE HOME DETENTION MONITORING
24 AGENCY AS DEFINED IN § 20-101 OF THE BUSINESS OCCUPATIONS AND
25 PROFESSIONS ARTICLE; OR

26 (VI) ORDERED BY A COURT TO SERVE A TERM OF CUSTODIAL
27 CONFINEMENT AS DEFINED IN § 6-219 OF THE CRIMINAL PROCEDURE ARTICLE AS A
28 CONDITION OF A SUSPENDED SENTENCE OR PROBATION BEFORE OR AFTER
29 JUDGMENT.

30 (2) A PERSON MAY NOT KNOWINGLY:

31 (1) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
32 THE TERMS OF A TEMPORARY RELEASE, PRETRIAL COMMITMENT, CUSTODIAL
33 CONFINEMENT, OR HOME DETENTION ORDER OR AGREEMENT;

1 (II) FAIL TO RETURN TO A PLACE OF CONFINEMENT UNDER THE
2 TERMS OF A TEMPORARY RELEASE, PRETRIAL COMMITMENT, CUSTODIAL
3 CONFINEMENT, OR HOME DETENTION ORDER OR AGREEMENT; OR

4 (III) REMOVE, BLOCK, DEACTIVATE, OR OTHERWISE TAMPER WITH A
5 MONITORING DEVICE REQUIRED TO BE WORN OR CARRIED BY THE PERSON TO
6 TRACK THE PERSON'S LOCATION, INCLUDING AN ANKLE OR WRIST BRACELET.
7 GLOBAL POSITION SATELLITE OFFENDER TRACKING TECHNOLOGY, OR
8 COMPARABLE EQUIPMENT OR SYSTEM.

9 (b) ~~(E)~~ ~~(H)~~ (C) A person who violates this section is guilty of the
10 misdemeanor of escape in the second degree and on conviction is subject to
11 imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

12 9-410.

13 (a) In this part the following words have the meanings indicated.

14 (f) (1) "Place of confinement" [has the meaning stated in § 9-401 of this
15 subtitle] MEANS:

16 (I) A CORRECTIONAL FACILITY;

17 (II) A FACILITY OF THE DEPARTMENT OF HEALTH AND MENTAL
18 HYGIENE;

19 (III) A DETENTION CENTER FOR JUVENILES;

20 (IV) A FACILITY FOR JUVENILES LISTED IN ARTICLE 83C. §
21 2-117(A)(2) OF THE CODE;

22 (V) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
23 ORDER; OR

24 (VI) ANY OTHER FACILITY IN WHICH A PERSON IS CONFINED
25 UNDER COLOR OF LAW.

26 (2) "Place of confinement" does not include a place identified in a home
27 detention order or agreement.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2004.

