

SENATE BILL 634

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2004 Regular Session
4r1140
CF 4r1892

By: **Senators Giannetti and Stone (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 violations as escape in the
9 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, and juvenile
12 community detention orders; clarifying various types of home detention or
13 custodial confinement programs subject to the crime of escape in the second
14 degree; modifying a defined term; establishing certain penalties; and generally
15 relating to escape in the first degree and escape in the second degree.

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Law
18 Section 9-401(f), 9-404, and 9-405
19 Annotated Code of Maryland
20 (2002 Volume and 2003 Supplement)

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

23 **Article - Criminal Law**

24 9-401.

25 (f) "Place of confinement" means:

26 (1) a correctional facility;

27 (2) [a place identified in a home detention order or agreement;

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

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

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

5 (6)] (3) EXCEPT AS PROVIDED IN § 9-405 OF THIS SUBTITLE, any other
6 facility in which a person is confined under color of law.

7 9-404.

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

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

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

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

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

17 (2) A person may not knowingly:

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

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

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

26 9-405.

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

29 (2) A person may not knowingly fail to obey a court order to report to a
30 place of confinement.

31 (3) A person who is serving a sentence in a home detention program
32 [other than the Division of Correction home detention program under Title 3, Subtitle
33 4 of the Correctional Services Article] may not knowingly:

1 (i) violate any restriction on movement imposed under the terms of
2 the home detention order or agreement; or

3 (ii) fail to return to a place of confinement under the terms of the
4 home detention order or agreement.

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

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

10 (ii) [a place of confinement] A PLACE IDENTIFIED IN A HOME
11 DETENTION ORDER OR 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 (I) 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 ADMINISTERED
22 BY A COUNTY;

23 (V) COMMITTED TO A PRIVATE HOME DETENTION MONITORING
24 AGENCY AS DEFINED IN § 20-101 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS
25 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 (I) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
32 THE TERMS OF A TEMPORARY RELEASE, CUSTODIAL CONFINEMENT, OR HOME
33 DETENTION ORDER OR AGREEMENT; OR

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

4 [(b)] (C) A person who violates this section is guilty of the misdemeanor of
5 escape in the second degree and on conviction is subject to imprisonment not
6 exceeding 3 years or a fine not exceeding \$5,000 or both.

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