

SENATE BILL 634

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2004 Regular Session
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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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 23, 2004

CHAPTER _____

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, and juvenile
12 community detention orders; prohibiting a person from knowingly violating
13 certain restrictions on movement, failing to return to certain places of
14 confinement under certain conditions, and certain tampering with certain
15 monitoring devices; clarifying various types of home detention or custodial
16 confinement programs subject to the crime of escape in the second degree;
17 modifying a defined term; establishing certain penalties; and generally relating
18 to escape in the first degree and escape in the second degree.

19 BY repealing and reenacting, without amendments,
20 Article - Criminal Law
21 Section 9-410(a)
22 Annotated Code of Maryland
23 (2002 Volume and 2003 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Criminal Law
 2 Section 9-401(f), 9-404, ~~and 9-405~~ 9-405, and 9-410(f)
 3 Annotated Code of Maryland
 4 (2002 Volume and 2003 Supplement)

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

7 **Article - Criminal Law**

8 9-401.

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

10 (1) a correctional facility;

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

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

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

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

16 (6) (3) (III) ~~EXCEPT AS PROVIDED IN § 9-405 OF THIS SUBTITLE~~, any
 17 other facility in which a person is confined under color of law.

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

19 (I) A DETENTION CENTER FOR JUVENILES;

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

22 (III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
 23 ORDER.

24 9-404.

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

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

29 (b) A person may not:

30 (1) escape from:

- 1 (I) a detention center for juveniles [or];
- 2 (II) a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the
3 Code; OR
- 4 (III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
5 ORDER; and
- 6 (2) in the course of the escape commit an assault.
- 7 [(c) (1) This subsection applies to a person who is:
- 8 (i) temporarily released from a place of confinement; or
- 9 (ii) committed to home detention under the terms of pretrial release
10 or by the Division of Correction under Title 3, Subtitle 4 of the Correctional Services
11 Article.
- 12 (2) A person may not knowingly:
- 13 (i) violate any restriction on movement imposed under the terms of
14 a temporary release or a home detention order or agreement; or
- 15 (ii) fail to return to a place of confinement under the terms of a
16 temporary release or a home detention order or agreement.]
- 17 [(d) (C) [Except as provided in § 9-405 of this subtitle, a] A person who
18 violates this section is guilty of the felony of escape in the first degree and on
19 conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding
20 \$20,000 or both.
- 21 9-405.
- 22 (a) (1) A person who has been lawfully arrested may not knowingly depart
23 from custody without the authorization of a law enforcement or judicial officer.
- 24 (2) A person may not knowingly fail to obey a court order to report to a
25 place of confinement.
- 26 (3) A person who is serving a sentence in a home detention program
27 [other than the Division of Correction home detention program under Title 3, Subtitle
28 4 of the Correctional Services Article] may not knowingly:
- 29 (i) violate any restriction on movement imposed under the terms of
30 the home detention order or agreement; or
- 31 (ii) fail to return to a place of confinement under the terms of the
32 home detention order or agreement.
- 33 (4) [Except as otherwise punishable under § 9-404(b) of this subtitle, a]
34 A person may not escape from:

1 (i) EXCEPT AS OTHERWISE PUNISHABLE UNDER § 9-404(B) OF THIS
 2 SUBTITLE, a detention center for juveniles or a facility for juveniles listed in Article
 3 83C, § 2-117(a)(2) of the Code; [or]

4 (ii) [a place of confinement] A PLACE IDENTIFIED IN A HOME
 5 DETENTION ORDER OR AGREEMENT; OR

6 (III) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
 7 ORDER.

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

9 (I) TEMPORARILY RELEASED FROM A PLACE OF CONFINEMENT;

10 (II) COMMITTED TO A PRETRIAL AGENCY;

11 (III) COMMITTED TO HOME DETENTION BY:

12 1. THE COURT; OR

13 2. THE DIVISION OF CORRECTION UNDER TITLE 3, SUBTITLE
 14 4 OF THE CORRECTIONAL SERVICES ARTICLE;

15 (IV) COMMITTED TO A HOME DETENTION PROGRAM ADMINISTERED
 16 BY A COUNTY;

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

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

24 (2) A PERSON MAY NOT KNOWINGLY:

25 (I) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
 26 THE TERMS OF A TEMPORARY RELEASE, CUSTODIAL CONFINEMENT, OR HOME
 27 DETENTION ORDER OR AGREEMENT; ~~OR~~

28 (II) FAIL TO RETURN TO A PLACE OF CONFINEMENT UNDER THE
 29 TERMS OF A TEMPORARY RELEASE, CUSTODIAL CONFINEMENT, OR HOME
 30 DETENTION ORDER OR AGREEMENT; OR

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

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

4 9-410.

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

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

8 (I) A CORRECTIONAL FACILITY;

9 (II) A FACILITY OF THE DEPARTMENT OF HEALTH AND MENTAL
10 HYGIENE;

11 (III) A DETENTION CENTER FOR JUVENILES;

12 (IV) A FACILITY FOR JUVENILES LISTED IN ARTICLE 83C, §
13 2-117(A)(2) OF THE CODE;

14 (V) A PLACE IDENTIFIED IN A JUVENILE COMMUNITY DETENTION
15 ORDER; OR

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

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

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