# HOUSE BILL NO. 310

# INTRODUCED BY HOFFMAN, VAN VALKENBURG BY REQUEST OF THE DEPARTMENT OF JUSTICE

	IN THE HOUSE	
JANUARY 21, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.	
JANUARY 22, 1991	FIRST READING.	
FEBRUARY 5, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.	
FEBRUARY 6, 1991	PRINTING REPORT.	
FEBRUARY 7, 1991	SECOND READING, DO PASS.	
FEBRUARY 8, 1991	ENGROSSING REPORT.	
FEBRUARY 9, 1991	THIRD READING, PASSED. AYES, 94; NOES, 0.	
	TRANSMITTED TO SENATE.	
	IN THE SENATE	
FEBRUARY 11, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.	
	FIRST READING.	
MARCH 7, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.	
MARCH 11, 1991	SECOND READING, CONCURRED IN.	
MARCH 12, 1991	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.	
	RETURNED TO HOUSE.	
IN THE HOUSE		
MARCH 13, 1991	RECEIVED FROM SENATE.	
	SENT TO ENROLLING.	

REPORTED CORRECTLY ENROLLED.

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LC 1116/01

INTRODUCED BY HOffman Va Valenbu 1 2 BY REQUEST OF THE DEPARTMENT OF JUSTICE 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE 6 CRIME OF ESCAPE INCLUDES ESCAPE WHILE IN TRANSIT TO OR FROM 7 A PLACE OF OFFICIAL DETENTION: TO INCLUDE IN THE CRIME OF в ESCAPE AN ESCAPE FROM A PLACE OF OFFICIAL DETENTION OPERATED BY AN INDIAN TRIBE OR THE UNITED STATES GOVERNMENT; TO LIMIT 9 10 TO CHARGED OR CONVICTED FELONS THE PENALTY FOR ESCAPE 11 WITHOUT FORCE OR THREAT OF FORCE FROM CERTAIN PLACES OR WHILE IN TRANSIT TO OR FROM THOSE PLACES; AND AMENDING 12 SECTION 45-7-306, MCA." 13

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 Section 1. Section 45-7-306, MCA, is amended to read: 17 "45-7-306. Escape. (1) "Official detention" means 18 imprisonment which resulted from a conviction for an 19 offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer 20 21 arrest, detention for extradition or pursuant to 22 deportation, supervision while under a supervised release 23 program, participation in a county jail work program under 24 7-32-2225 through 7-32-2227, or any lawful detention for the 25 purpose of the protection of the welfare of the person

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detained or for the protection of society. "Official detention" does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

6 (2) A person subject to official detention commits the 7 offense of escape if he knowingly or purposely removes 8 himself from official detention or fails to return to 9 official detention following temporary leave granted for a 10 specific purpose or limited time. A person also commits the 11 offense of escape if he is participating in a county jail 12 work program under 7-32-2225 through 7-32-2227 and he 13 knowingly or purposely fails to appear for work at a time 14 and place scheduled for participation in the program.

15 (3) A person convicted of the offense of escape shall 16 be:

17 (a) imprisoned in the state prison for a term not to 18 exceed 20 years if he escapes from or while in transit to or from a state prison, county jail, city jail, or supervised 19 20 release program, or, while subject to state jurisdiction, a 21 place of official detention operated by an Indian tribe or 22 an agency of the United States government by the use or 23 threat of force, physical violence, weapon, or simulated 24 weapon;

25 (b) imprisoned in the state prison for a term not to

2- INTRODUCED BILL *HB 310*  LC 1116/01

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1 exceed 10 years if he:

2 (i) has been charged with or convicted of a felony and escapes from or while in transit to or from a state prison, 3 county jail, city jail, halfway house, life skills center, 4 or supervised release program, or, while subject to state 5 6 jurisdiction, a place of official detention operated by an 7 Indian tribe or an agency of the United States government; 8 οε 9 (ii) escapes from or while in transit to or from another

10 official detention by the use or threat of force, physical 11 violence, weapon, or simulated weapon; or

12 (c) fined not to exceed \$500 or imprisoned in the 13 county jail for a term not to exceed 6 months, or both, if 14 he commits escape, including escape while in transit to or 15 <u>from official detention</u>, under circumstances other than (a) 16 and (b) of this subsection."

-End-

#### 52nd Legislature

HB 0310/02

#### APPROVED BY COMMITTEE ON JUDICIARY

1	HOUSE BILL NO. 310
2	INTRODUCED BY HOFFMAN, VAN VALKENBURG
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE 6 CRIME OF ESCAPE INCLUDES ESCAPE WHILE IN TRANSIT TO OR FROM 7 A PLACE OF OFFICIAL DETENTION: TO-INCOUDE-IN--THE--CRIME--OF 8 ESCAPE-AN-ESCAPE-PROM-A-PLACE-OF-OFFICIAL-DETENTION-OPERATED 9 BY-AN-INDIAN-TRIBE-OR-THE-UNITED-STATES-GOVERNMENT: TO LIMIT 10 TO CHARGED OR CONVICTED FELONS THE PENALTY FOR ESCAPE 11 WITHOUT FORCE OR THREAT OF FORCE FROM CERTAIN PLACES OR 12 WHILE IN TRANSIT TO OR FROM THOSE PLACES: AND AMENDING SECTION 45-7-306, MCA." 13

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4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 16 Section 1. Section 45-7-306, MCA, is amended to read: 17 "45-7-306. Escape. (1) "Official detention" means imprisonment which resulted from a conviction for an 18 19 offense, confinement for an offense, confinement of a person 20 charged with an offense, detention by a peace officer 21 pursuant to arrest, detention for extradition or deportation, supervision while under a supervised release 22 23 program, participation in a county jail work program under 24 7-32-2225 through 7-32-2227, or any lawful detention for the 25 purpose of the protection of the welfare of the person

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1 detained or for the protection of society. "Official 2 detention" does not include supervision of probation or 3 parole, constraint incidental to release on bail, or an 4 unlawful arrest unless the person arrested employed physical 5 force, a threat of physical force, or a weapon to escape.

6 (2) A person subject to official detention commits the 7 offense of escape if he knowingly or purposely removes 8 himself from official detention or fails to return to 9 official detention following temporary leave granted for a 10 specific purpose or limited time. A person also commits the 11 offense of escape if he is participating in a county jail 12 work program under 7-32-2225 through 7-32-2227 and he 13 knowingly or purposely fails to appear for work at a time 14 and place scheduled for participation in the program.

15 (3) A person convicted of the offense of escape shall 16 be:

17 (a) imprisoned in the state prison for a term not to 18 exceed 20 years if he escapes from or while in transit to or 19 from a state prison, county jail, city jail, or OR 20 supervised release program7--or7--white--subject--to-state 21 jurisdiction-a-place-of-official-detention-operated--by--an 22 Indian-tribe-or-an-agency-of-the-United-States-government by 23 the use or threat of force, physical violence, weapon, or 2.4 simulated weapon;

25 (b) imprisoned in the state prison for a term not to SECOND READING

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1 exceed 10 years if he:

2 (i) has been charged with or convicted of a felony and 3 escapes from or while in transit to or from a state prison, 4 county jail, city jail, halfway house, life skills center, 5 or OR supervised release program7-or7-while-subject-to-state 6 jurisdiction,-a-place-of-official-detention-operated-by--an 7 indian--tribe--or-an-agency-of-the-United-States-government; 8 ٥٢ 9 (ii) escapes from or while in transit to or from another 10 official detention by the use or threat of force, physical 11 violence, weapon, or simulated weapon; or 12 (c) fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both, if 13 he commits escape, including escape while in transit to or 14 15 from official detention, under circumstances other than (a) 16 and (b) of this subsection."

-End-

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### 52nd Legislature

HB 0310/02

1 HOUSE BILL NO. 310 1 2 INTRODUCED BY HOFFMAN, VAN VALKENBURG 2 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE 3 4 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE 5 6 CRIME OF ESCAPE INCLUDES ESCAPE WHILE IN TRANSIT TO OR FROM 6 7 A PLACE OF OFFICIAL DETENTION: TO-INCLUBE-IN-THE--CRIME--OF 7 8 ESCAPE-AN-ESCAPE-PROM-A-PLACE-OF-OFFICIAL-DETENTION-OPERATED 8 9 BY-AN-INDIAN-TRIBE-OR-THE-UNITED-STATES-GOVERNMENT: TO LIMIT 9 10 TO CHARGED OR CONVICTED FELONS THE PENALTY FOR ESCAPE 10 11 WITHOUT FORCE OR THREAT OF FORCE FROM CERTAIN PLACES OR 11 12 WHILE IN TRANSIT TO OR FROM THOSE PLACES; AND AMENDING 12 13 SECTION 45-7-306, MCA." 13 14 14 15 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 16 Section 1. Section 45-7-306, MCA, is amended to read: 17 17 "45-7-306. Escape. (1) "Official detention" means 18 18 imprisonment which resulted from a conviction for an 19 19 offense, confinement for an offense, confinement of a person 20 20 charged with an offense, detention by a peace officer 21 21 pursuant to arrest, detention for extradition or 22 22 deportation, supervision while under a supervised release 23 23 program, participation in a county jail work program under 24 24 7-32-2225 through 7-32-2227, or any lawful detention for the 25 25 purpose of the protection of the welfare of the person

detention" does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape. (2) A person subject to official detention commits the offense of escape if he knowingly or purposely removes himself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited time. A person also commits the offense of escape if he is participating in a county jail work program under 7-32-2225 through 7-32-2227 and he knowingly or purposely fails to appear for work at a time and place scheduled for participation in the program. (3) A person convicted of the offense of escape shall be: (a) imprisoned in the state prison for a term not to exceed 20 years if he escapes from or while in transit to or from a state prison, county jail, city jail, or OR supervised release program7--or7--while--subject--to-state jurisdiction,-a-place-of-official-detention-operated--by--an Indian-tribe-or-an-agency-of-the-United-States-government by the use or threat of force, physical violence, weapon, or simulated weapon;

detained or for the protection of society. "Official

25 (b) imprisoned in the state prison for a term not to THIRD READING -2- HB 310

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1 exceed 10 years if he:

2 (i) has been charged with or convicted of a felony and 3 escapes from or while in transit to or from a state prison, county jail, city jail, halfway house, life skills center, 4 5 or OR supervised release program7-or7-while-subject-to-state 6 jurisdictiony-a-place-of-official-detention-operated--by--an 7 indian--tribe--or-an-agency-of-the-United-States-government; 8 or 9 (ii) escapes from or while in transit to or from another

10 official detention by the use or threat of force, physical 11 violence, weapon, or simulated weapon; or

12 (c) fined not to exceed \$500 or imprisoned in the 13 county jail for a term not to exceed 6 months, or both, if 14 he commits escape, including escape while in transit to or 15 <u>from official detention</u>, under circumstances other than (a) 16 and (b) of this subsection."

-End-

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 $(x_1, y_2) \in \mathbb{R}^{n}$  ,  $(x_1, y_2) \in \mathbb{R$ 

1	HOUSE BILL NO. 310	1	detained or for the protection of society. "Official
2	INTRODUCED BY HOFFMAN, VAN VALKENBURG	2	detention" does not include supervision of probation or
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	parole, constraint incidental to release on bail, or an
4		4	unlawful arrest unless the person arrested employed physical
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE	5	force, a threat of physical force, or a weapon to escape.
6	CRIME OF ESCAPE INCLUDES ESCAPE WHILE IN TRANSIT TO OR FROM	6	(2) A person subject to official detention commits the
7	A PLACE OF OFFICIAL DETENTION; TO-INCLUBE-INTHECRIMEOF	7	offense of escape if he knowingly or purposely removes
8	escape-an-escape-prom-a-place-of-oppicial-detention-operated	8	himself from official detention or fails to return to
9	BY-AN-INDIAN-TRIBE-OR-THE-UNITED-STATES-GOVERNMENT; TO LIMIT	9	official detention following temporary leave granted for a
10	TO CHARGED OR CONVICTED FELONS THE PENALTY FOR ESCAPE	10	specific purpose or limited time. A person also commits the
11	WITHOUT FORCE OR THREAT OF FORCE FROM CERTAIN PLACES OR	11	offense of escape if he is participating in a county jail
12	WHILE IN TRANSIT TO OR FROM THOSE PLACES; AND AMENDING	1 <b>2</b>	work program under 7-32-2225 through 7-32-2227 and he
13	SECTION 45-7-306, MCA."	13	knowingly or purposely fails to appear for work at a time
14		14	and place scheduled for participation in the program.
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	15	(3) A person convicted of the offense of escape shall
16	Section 1. Section 45-7-306, MCA, is amended to read:	16	be:
17	<b>*45-7-306. Escape.</b> (1) "Official detention" means	17	(a) imprisoned in the state prison for a term not to
18	imprisonment which resulted from a conviction for an	18	exceed 20 years if he escapes from or while in transit to or
19	offense, confinement for an offense, confinement of a person	19	<u>from</u> a state prison, county jail, city jail, <del>or</del> <u>OR</u>
20	charged with an offense, detention by a peace officer	20	supervised release program <u>7077whilesubjectto-state</u>
21	pursuant to arrest, detention for extradition or	21	jurisdiction-a-place-of-official-detention-operatedbyan
22	deportation, supervision while under a supervised release	22	Indian-tribe-or-an-agency-of-the-United-States-government by
23	program, participation in a county jail work program under	23	the use or threat of force, physical violence, weapon, or
24	7-32-2225 through $7-32-2227$ , or any lawful detention for the	24	simulated weapon;
25	purpose of the protection of the welfare of the person	25	(b) imprisoned in the state prison for a term not to REFERENCE BILL
	<b>A</b>		-2- HB 310



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1 exceed 10 years if he: 2 (i) has been charged with or convicted of a felony and 3 escapes from or while in transit to or from a state prison, 4 county jail, city jail, halfway house, life skills center, 5 or OR supervised release program, or, while-subject-to-state 6 jurisdiction;-a-place-of-official-detention-operated--by--an 7 indian--tribe--or-an-agency-of-the-United-States-government; 8 or (ii) escapes from or while in transit to or from another 9 official detention by the use or threat of force, physical 10 11 violence, weapon, or simulated weapon; or (c) fined not to exceed \$500 or imprisoned in the 12 county jail for a term not to exceed 6 months, or both, if 13 14 he commits escape, including escape while in transit to or 15 from official detention, under circumstances other than (a) and (b) of this subsection." 16

-End-

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