

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.

1 House BILL NO. 310
 2 INTRODUCED BY Hoffman Van Valkenburg
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
 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
 8 ESCAPE AN ESCAPE FROM 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
 13 SECTION 45-7-306, MCA."
 14

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
 20 charged with an offense, detention by a peace officer
 21 pursuant to arrest, detention for extradition or
 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

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 supervised
 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

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 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

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 from official detention, under circumstances other than (a)
16 and (b) of this subsection."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 310

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BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
CRIME OF ESCAPE INCLUDES ESCAPE WHILE IN TRANSIT TO OR FROM
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~~BY AN INDIAN TRIBE OR THE UNITED STATES GOVERNMENT;~~ TO LIMIT
TO CHARGED OR CONVICTED FELONS THE PENALTY FOR ESCAPE
WITHOUT FORCE OR THREAT OF FORCE FROM CERTAIN PLACES OR
WHILE IN TRANSIT TO OR FROM THOSE PLACES; AND AMENDING
SECTION 45-7-306, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-7-306, MCA, is amended to read:

"45-7-306. **Escape.** (1) "Official detention" means
imprisonment which resulted from a conviction for an
offense, confinement for an offense, confinement of a person
charged with an offense, detention by a peace officer
pursuant to arrest, detention for extradition or
deportation, supervision while under a supervised release
program, participation in a county jail work program under
7-32-2225 through 7-32-2227, or any lawful detention for the
purpose of the protection of the welfare of the person

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.

(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 program ~~7-32-2225 through 7-32-2227~~ or 7-32-2225 through 7-32-2227 ~~and he~~
~~knowingly or purposely fails to appear for work at a time~~ and he
~~and place scheduled for participation in the program.~~ knowingly or purposely fails to appear for work at a time
and place scheduled for participation in the program.
~~the use or threat of force, physical violence, weapon, or~~ the use or threat of force, physical violence, weapon, or
~~simulated weapon;~~ simulated weapon;

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

SECOND READING



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~~7-or7-while-subject-to-state~~
6 ~~jurisdiction7-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 from official detention, under circumstances other than (a)
16 and (b) of this subsection."

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 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

1 detained or for the protection of society. "Official
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 3 parole, constraint incidental to release on bail, or an
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6 (2) A person subject to official detention commits the
 7 offense of escape if he knowingly or purposely removes
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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 program ~~or while 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
 24 simulated weapon;

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

THIRD READING

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

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 from official detention, under circumstances other than (a)
16 and (b) of this subsection."

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~~jurisdiction, a place of official detention operated by an~~
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the use or threat of force, physical violence, weapon, or
simulated weapon;

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

REFERENCE BILL



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;

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9 (ii) escapes from or while in transit to or from another
10 official detention by the use or threat of force, physical
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13 county jail for a term not to exceed 6 months, or both, if
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15 from official detention, under circumstances other than (a)
16 and (b) of this subsection."

-End-