

Assembly Bill No. 531

Passed the Assembly July 16, 1998

Chief Clerk of the Assembly

Passed the Senate July 6, 1998

Secretary of the Senate

This bill was received by the Governor this ___ day
of _____, 1998, at ___ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Section 4532 of the Penal Code, relating to home detention.

LEGISLATIVE COUNSEL'S DIGEST

AB 531, Knox. Home detention: escape.

(1) Existing law prohibits any person who is booked for, charged with, or convicted of a misdemeanor or felony, and confined in a county or state correctional facility as specified, from escaping from that confinement, or failing to return to confinement subsequent to an authorized temporary release. Escape from confinement pursuant to a misdemeanor conviction is defined to include escape from a home detention program. Existing law punishes escape from confinement pursuant to a charge or conviction for a misdemeanor by imprisonment in the state prison for one year and one day, or in a county jail not exceeding one year, and imposes increased penalties if the escape or attempt to escape is by force or violence. A conviction for escape from confinement pursuant to a charge or conviction for a felony is punishable by imprisonment in the state prison for 16 months, 2 or 3 years, to be served consecutively, or in a county jail not to exceed one year, and increased penalties are imposed if the escape or attempt to escape is by force or violence.

This bill would make it a crime for any person convicted of a felony and placed in a home detention program, to escape from home detention. This bill would also clarify that the failure to return to confinement subsequent to an authorized temporary release is an escape, subject to the above penalties. By changing the definition and scope of an existing crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 4532 of the Penal Code is amended to read:

4532. (a) (1) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail, prison, industrial farm, or industrial road camp, is engaged on any county road or other county work, is in the lawful custody of any officer or person, is employed or continuing in his or her regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Cobey Work Furlough Law (Section 1208), is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or is a participant in a home detention program pursuant to Section 1203.016, and who thereafter escapes or attempts to escape from the county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, or from the place of confinement in a home detention program pursuant to Section 1203.016, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in a county jail not exceeding one year.

(2) If the escape or attempt to escape described in paragraph (1) is committed by force or violence, the person is guilty of a felony, punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in a county jail not exceeding one year.



When the second term of imprisonment is to be served in a county jail, it shall commence from the time the prisoner otherwise would have been discharged from jail.

(3) A conviction of a violation of this subdivision, or a violation of subdivision (b) involving a participant of a home detention program pursuant to Section 1203.016, that is not committed by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) (1) Every prisoner arrested and booked for, charged with, or convicted of a felony, and every person committed by order of the juvenile court, who is confined in any county or city jail, prison, industrial farm, or industrial road camp, is engaged on any county road or other county work, is in the lawful custody of any officer or person, or is confined pursuant to Section 4011.9, is a participant in a home detention program pursuant to Section 1203.016, who escapes or attempts to escape from a county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, or from confinement pursuant to Section 4011.9, or from the place of confinement in a home detention program pursuant to Section 1203.016, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, two years, or three years, to be served consecutively, or in a county jail not exceeding one year.

(2) If the escape or attempt to escape described in paragraph (1) is committed by force or violence, the person is guilty of a felony, punishable by imprisonment in the state prison for a full term of two, four, or six years to be served consecutively to any other term of imprisonment, commencing from the time the person otherwise would have been released from imprisonment and the term shall not be subject to reduction pursuant to subdivision (a) of Section 1170.1, or in a county jail for



a consecutive term not to exceed one year, that term to commence from the time the prisoner otherwise would have been discharged from jail.

(c) (1) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building, or while being transported between the court building and the jail facility.

(2) In any case in which a person is convicted of a violation of this section designated as a misdemeanor, he or she shall be confined in a county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation.

(3) For the purposes of this subdivision, “main jail facility” means the facility used for the detention of persons pending arraignment, after arraignment, during trial, and upon sentence or commitment. The facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision, “secure” means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

(4) If the court grants probation under this subdivision, it shall specify the reason or reasons for that order on the court record.

(5) Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

(d) The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, to return to his or her place of confinement no later than the expiration of the period that he or she was authorized to be away from that place of confinement, is an escape from that place of



confinement. This subdivision applies to a prisoner who is employed or continuing in his or her regular educational program, authorized to secure employment or education pursuant to the Cobey Work Furlough Law (Section 1208), authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or permitted to participate in a home detention program pursuant to Section 1203.016. A prisoner convicted of a misdemeanor who willfully fails to return to his or her place of confinement under this subdivision shall be punished as provided in paragraph (1) of subdivision (a). A prisoner convicted of a felony who willfully fails to return to his or her place of confinement shall be punished as provided in paragraph (1) of subdivision (b).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

