

AMENDED IN SENATE APRIL 26, 1999

AMENDED IN SENATE MARCH 18, 1999

**SENATE BILL**

**No. 116**

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**Introduced by Senator Johnson  
(Coauthor: Senator Rainey)**

December 17, 1998

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An act to amend Section 836.6 of, and to add ~~Section 4532.5~~ ~~to Article 3 (commencing with Section 4560) to Chapter 2 of Title 5 of Part 3 of,~~ the Penal Code, relating to escape from custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 116, as amended, Johnson. Crimes: escape from custody.

~~(1) Existing law prohibits any person who is arrested and booked for, charged with, or convicted of, a misdemeanor or felony, and confined in a county or state correctional facility as specified, or in the lawful custody of any officer or person, or authorized for temporary release as specified, from escaping from that confinement or custody. 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, or 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 provide that any person charged with the commission of a felony or a misdemeanor, who, prior to being remanded into custody, and while attending a proceeding at which he or she is ordered to be remanded into custody, escapes, or attempts to escape, from being remanded into custody, shall be punished by imprisonment in the state prison for one year and one day, or in a county jail not exceeding one year. If the escape or attempt to escape is committed by force or violence, the person shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail not exceeding one year. By creating a new crime, this bill would impose a state-mandated local program.~~

~~(2) Under existing law,~~

~~*Existing law also provides that any person who is remanded by a magistrate or judge of any court in this state to the custody of a sheriff, marshal, or other police agency, who thereafter escapes or attempts to escape from that custody is guilty of a misdemeanor, or when the escape or attempted escape is by force or violence and the person proximately causes a peace officer serious bodily injury, a felony or a misdemeanor.*~~

~~This bill would repeat *delete* this provision, but would declare that the Legislature recognizes that the conduct punished under this provision is punished under the provisions of existing law and of this bill described in (1).~~

~~(3) 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 *concerning escape from custody of a sheriff, marshal, or police agency from its current placement in the Penal Code, and would enact an identical provision in proximity to the other escape provisions in the Penal Code.*~~

~~Vote: majority. Appropriation: no. Fiscal committee: *yes no*. State-mandated local program: *yes no*.~~



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

1 SECTION 1. Section 836.6 of the Penal Code is  
2 amended to read:

3 836.6. (a) It is unlawful for any person who has been  
4 lawfully arrested by any peace officer and who knows, or  
5 by the exercise of reasonable care should have known,  
6 that he or she has been so arrested, to thereafter escape  
7 or attempt to escape from that peace officer.

8 (b) Any person who violates subdivision (a) is guilty of  
9 a misdemeanor, punishable by imprisonment in a county  
10 jail not to exceed one year. However, if the escape or  
11 attempted escape is by force or violence, and the person  
12 proximately causes a peace officer serious bodily injury,  
13 the person shall be punished by imprisonment in the state  
14 prison for two, three, or four years, or by imprisonment  
15 in a county jail not to exceed one year.

16 ~~SEC. 2. Section 4532.5 is added to the Penal Code, to~~  
17 ~~read:~~

18 ~~4532.5. (a) Except as provided in subdivision (b),~~  
19 ~~every person charged with the commission of a felony or~~  
20 ~~a misdemeanor, who, prior to being remanded into~~  
21 ~~eustody, and while attending a proceeding at which he or~~  
22 ~~she is ordered by the court to be remanded into custody,~~  
23 ~~escapes, or attempts to escape, from being remanded into~~  
24 ~~eustody, shall be punished by imprisonment in the state~~  
25 ~~prison for a determinate term of one year and one day, or~~  
26 ~~in a county jail not exceeding one year.~~

27 ~~(b) If the escape or attempt to escape described in~~  
28 ~~subdivision (a) is committed by force or violence, the~~  
29 ~~person shall be punished by imprisonment in the state~~  
30 ~~prison for two, four, or six years or in a county jail not~~  
31 ~~exceeding one year.~~

32 ~~(c) When the term of confinement for the escape or~~  
33 ~~attempted escape is served in the state prison, it shall be~~  
34 ~~served consecutively to any other term of imprisonment.~~  
35 ~~When the term of confinement for the escape or~~  
36 ~~attempted escape is to be served in a county jail, it shall~~  
37 ~~commence from the time the prisoner otherwise would~~  
38 ~~have been discharged from jail.~~



1 SEC. 2. Article 3 (commencing with Section 4560) is  
2 added to Chapter 2 of Title 5 of Part 3 of the Penal Code,  
3 to read:

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Article 3. Escape from Custody

7 4560. It is unlawful for any person who is remanded by  
8 a magistrate or judge of any court in this state to the  
9 custody of a sheriff, marshal, or other police agency, to  
10 thereafter escape or attempt to escape from that custody.  
11 Any person who violates this section is guilty of a  
12 misdemeanor, punishable by imprisonment in a county  
13 jail not to exceed one year. However, if the escape or  
14 attempted escape is by force or violence, and the person  
15 proximately causes a peace officer serious bodily injury,  
16 the person shall be punished by imprisonment in the state  
17 prison for two, three, or four years, or by imprisonment  
18 in a county jail not to exceed one year.

19 SEC. 3. In deleting subdivision (a) of Section 836.6 of  
20 the Penal Code, in Section 1 of this act, the Legislature  
21 recognizes that the conduct punished under that  
22 provision is punishable under Section 4532 or 4532.5 of the  
23 Penal Code. The deletion of subdivision (a) of Section  
24 836.6 of the Penal Code shall not be given any retroactive  
25 application, and shall not be construed to benefit any  
26 person who committed or was convicted of, a violation of  
27 that section.

28 ~~SEC. 4. No reimbursement is required by this act~~  
29 ~~pursuant to Section 6 of Article XIII B of the California~~  
30 ~~Constitution because the only costs that may be incurred~~  
31 ~~by a local agency or school district will be incurred~~  
32 ~~because this act creates a new crime or infraction,~~  
33 ~~eliminates a crime or infraction, or changes the penalty~~  
34 ~~for a crime or infraction, within the meaning of Section~~  
35 ~~17556 of the Government Code, or changes the definition~~  
36 ~~of a crime within the meaning of Section 6 of Article~~  
37 ~~XIII B of the California Constitution.~~

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