

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 275

Introduced by Fulton, 29; Avery, 28; Coash, 27; Haar, 21; McGill,
26; Wallman, 30.

Read first time January 11, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to crimes and offenses; to amend section 28-912,
- 2 Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to escape; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-912, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-912 (1) A person commits escape if he or she
4 unlawfully removes himself or herself from official detention or
5 fails to return to official detention following temporary leave
6 granted for a specific purpose or limited period. Official detention
7 ~~shall mean means~~ arrest, detention in or transportation to any
8 facility for custody of persons under charge or conviction of crime
9 or contempt or for persons alleged or found to be delinquent,
10 detention for extradition or deportation, court-ordered commitment to
11 a regional center, or any other detention for law enforcement
12 purposes. Official ; ~~but official~~ detention does not include
13 supervision of probation or parole or constraint incidental to
14 release on bail.

15 (2) A public servant concerned in detention commits an
16 offense if he or she knowingly permits an escape. Any person who
17 knowingly causes or facilitates an escape commits a Class IV felony.

18 (3) Irregularity in bringing about or maintaining
19 detention, or lack of jurisdiction of the committing or detaining
20 authority shall not be a defense to prosecution under this section if
21 the escape is from a prison or other custodial facility or from
22 detention pursuant to commitment by official proceedings. In the case
23 of other detentions, irregularity or lack of jurisdiction shall be a
24 defense only if:

25 (a) The escape involved no substantial risk of harm to

1 the person or property of anyone other than the detainee; and

2 (b) The detaining authority did not act in good faith
3 under color of law.

4 (4) Except as provided in subsection (5) of this section,
5 escape is a Class IV felony.

6 (5) Escape is a Class III felony ~~where:~~ when:

7 (a) The detainee was under arrest for or detained on a
8 felony charge or following conviction for the commission of an
9 offense; or

10 (b) The actor employs force, threat, deadly weapon, or
11 other dangerous instrumentality to effect the escape; or

12 (c) A public servant concerned in detention of persons
13 convicted of crime purposely facilitates or permits an escape from a
14 detention facility or from transportation thereto.

15 Sec. 2. Original section 28-912, Reissue Revised Statutes
16 of Nebraska, is repealed.