

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 435

Introduced by Ebke, 32.

Read first time January 17, 2017

Committee: Judiciary

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

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

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

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

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

22 (a) The escape involved no substantial risk of harm to the person or
23 property of anyone other than the detainee; and

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

26 (4) Except as provided in subsections (5) and (6) of this section,
27 escape is a Class IV felony.

28 (5) Escape is a Class ~~IIA~~ ~~III~~ felony when:

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

31 (b) A public servant concerned in detention of persons convicted of

1 crime purposely facilitates or permits an escape from a detention
2 facility or from transportation thereto.

3 (6) Escape is a Class II ~~IIA~~ felony when the actor employs force,
4 threat, deadly weapon, or other dangerous instrumentality to effect the
5 escape.

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