

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 286

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO CORRECTIONS; REVISING THE ELEMENTS OF THE CRIMINAL  
OFFENSE KNOWN AS ESCAPE FROM PENITENTIARY; CREATING A NEW  
CRIMINAL OFFENSE KNOWN AS UNAUTHORIZED ABSENCE OR WALKING AWAY  
FROM AN INMATE-RELEASE PROGRAM; PRESCRIBING PENALTIES; AMENDING  
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-22-9 NMSA 1978 (being Laws 1963,  
Chapter 303, Section 22-9) is amended to read:

"30-22-9. ESCAPE FROM PENITENTIARY. --

A. Escape from penitentiary consists of any person  
who ~~[shall have]~~ has been lawfully committed to the state  
penitentiary:

~~[A.]~~ (1) escaping or attempting to escape from

1 such penitentiary; [~~or~~]

2 [~~B.~~] (2) escaping or attempting to escape from  
3 any other lawful place of custody or confinement and although  
4 not actually within the confines of the penitentiary; ~~or~~

5 (3) willfully failing to appear in person as  
6 directed by corrections department personnel when the person  
7 has been released early from custody or confinement to  
8 participate in a community corrections program as provided in  
9 Section 33-9-5 NMSA 1978 or an intensive supervision program as  
10 provided in Section 31-21-13.1 NMSA 1978, and the term of  
11 incarceration specified in the person's judgment and sentence  
12 or commitment has not yet expired.

13 B. Whoever commits escape from penitentiary as  
14 provided in Paragraph (1) or (2) of Subsection A of this  
15 section is guilty of a second degree felony.

16 C. Whoever commits escape from penitentiary as  
17 provided in Paragraph (3) of Subsection A of this section is  
18 guilty of a fourth degree felony."

19 Section 2. Section 33-2-46 NMSA 1978 (being Laws  
20 1969, Chapter 166, Section 4, as amended) is amended to read:

21 "33-2-46. ~~INMATE-RELEASE PROGRAM - ESCAPE- -~~ UNAUTHORIZED  
22 ABSENCE OR WALKING AWAY FROM AN INMATE-RELEASE PROGRAM - -

23 A. [~~Any~~] A prisoner whose limits of confinement  
24 have been extended or who has been granted a visitation

underscored material = new  
[bracketed material] = del etc

1 privilege under the inmate-release program, who willfully fails  
2 to return to the designated place of confinement within the  
3 time prescribed, with the intent not to return, is guilty of an  
4 escape.

5 B. A prisoner whose limits of confinement have been  
6 extended or who has been granted a visitation privilege under  
7 the inmate-release program who willfully and without  
8 authorization fails to report to or walks away from an approved  
9 inmate-release program location is guilty of unauthorized  
10 absence or walking away from an inmate-release program.

11 C. Whoever is convicted of an escape under the  
12 provisions of this section is guilty of a third degree felony  
13 and shall be sentenced pursuant to the provisions of Section  
14 31-18-15 NMSA 1978.

15 D. Whoever is convicted of unauthorized absence or  
16 walking away from an inmate-release program is guilty of a  
17 fourth degree felony and shall be sentenced pursuant to the  
18 provisions of Section 31-18-15 NMSA 1978. "

19 Section 3. EFFECTIVE DATE. --The effective date of the  
20 provisions of this act is July 1, 2001.