

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1431

By: Stipe

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 431, 434, as amended by Section 189, Chapter 133, O.S.L. 1997, 436, as last amended by Section 105, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 437, as last amended by Section 106, Chapter 5, O.S.L. 1999, 438, as last amended by Section 107, Chapter 5, O.S.L. 1999, 439, 440, as last amended by Section 108, Chapter 5, O.S.L. 1999, 441, and 443, as last amended by Section 109, Chapter 5, O.S.L. 1999 (21 O.S. Supp. 1999, Section 434, 436, 437, 438, 440, and 443), which relate to rearrest of escaped prisoners, attempt to escape from penitentiary, attempt to escape from other prison, assisting prisoner to escape, carrying into prison things to aid escape, concealing escaped prisoner, harboring criminals and fugitives, escape from juvenile detention facility, city or county jail or custody of Department of Corrections; specifying places of confinement and custody; setting penalties; decreasing certain penalties; making escape from private correction facility an offense; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 431, is amended to read as follows:

Section 431. Every prisoner confined upon conviction for a criminal offense in any jail or prison, who escapes from ~~prison custody~~, may be pursued, retaken and imprisoned again, notwithstanding the term for which ~~he~~ the prisoner was sentenced to be imprisoned may have expired at the time when ~~he~~ the prisoner is retaken, and ~~he~~ the prisoner shall remain so imprisoned until tried for such escape, or discharged, on a failure to prosecute therefor.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 434, as amended by Section 189, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1999, Section 434), is amended to read as follows:

Section 434. Every prisoner confined in ~~the penitentiary~~ a prison facility for a felony offense for a term less than for life, who attempts by force or fraud, although unsuccessfully, to escape from such prison, shall, upon conviction, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not more than seven (7) years to commence from the expiration of the original term of imprisonment.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 436, as last amended by Section 105, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 436), is amended to read as follows:

Section 436. Any prisoner confined in any ~~other prison than the penitentiary~~ jail, who attempts by force or fraud, although unsuccessfully, to escape therefrom, is guilty of a felony punishable by imprisonment in a county jail not exceeding one (1) year, to commence from the expiration of the original term of ~~his~~ imprisonment.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 437, as last amended by Section 106, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 437), is amended to read as follows:

Section 437. Any person who willfully by any means whatever, assists any prisoner confined in any jail or prison to escape therefrom, is punishable as follows:

1. If such prisoner was confined upon a charge or conviction of a felony, such person shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding ~~ten (10)~~ seven (7) years.

2. If such prisoner was confined otherwise than upon a charge or conviction of a felony, by imprisonment in the county jail not exceeding one (1) year, or by fine, not exceeding Five Hundred Dollars (\$500.00), or both.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 438, as last amended by Section 107, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 438), is amended to read as follows:

Section 438. Any person who carries or sends into any prison anything useful to aid any prisoner in making ~~his~~ an escape, with intent thereby to facilitate the escape of any prisoner confined therein, is punishable as follows:

1. If such prisoner was confined upon any charge or conviction of felony, by imprisonment in the State Penitentiary not exceeding ~~ten (10)~~ seven (7) years.

2. If such prisoner was confined otherwise than upon a charge or conviction of felony, by imprisonment in the county jail not exceeding one (1) year, or by a fine of Five Hundred Dollars (\$500.00), or both.

SECTION 6. AMENDATORY 21 O.S. 1991, Section 439, is amended to read as follows:

Section 439. Every person who willfully and knowingly conceals any prisoner, who having been confined in any jail or prison upon a charge or conviction of misdemeanor, has escaped therefrom, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine of Five Hundred Dollars (\$500.00), or by both.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 440, as last amended by Section 108, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 440), is amended to read as follows:

Section 440. Any person who shall knowingly feed, lodge, clothe, arm, equip in whole or in part, harbor, aid, assist or conceal in any manner any person guilty of any felony, or outlaw, or fugitive from justice, or any person seeking to escape arrest for any felony committed within this state or any other state or territory, shall be guilty of a felony punishable by imprisonment at ~~hard labor~~ in the State Penitentiary for a period not exceeding ~~ten~~ ~~(10)~~ seven (7) years.

SECTION 8. AMENDATORY 21 O.S. 1991, Section 441, is amended to read as follows:

Section 441. Every person who willfully assists any prisoner in escaping or attempting to escape from the custody of any officer or person having the lawful charge of such prisoner under any process of law or under any lawful arrest, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine of Five Hundred Dollars (\$500.00), or by both.

SECTION 9. AMENDATORY 21 O.S. 1991, Section 443, as last amended by Section 109, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 443), is amended to read as follows:

Section 443. A. Any person having been imprisoned in a county or city jail or detained in a juvenile detention facility awaiting charges on a felony offense, or a prisoner awaiting trial, or a prisoner having been sentenced on a felony charge to the custody of the Department of Corrections, or a prisoner sentenced for a criminal offense to the custody of any other state or territory who is being transported to a private correction facility, who escapes from ~~a juvenile detention~~ such facility while actually confined therein or escapes ~~from a county or city jail, either while actually confined therein,~~ while permitted to be at large as a trusty or for work release, or while awaiting or during transportation to a ~~Department of Corrections~~ correctional facility for execution of

sentence, or who otherwise escapes from lawful custody, shall be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than seven (7) years.

B. Any person who is an inmate in the custody of the Department of Corrections, or an inmate of any other state or territory and imprisoned in a private corrections facility in this state, who escapes from said custody, either while actually confined in a correctional facility, while assigned to an alternative to incarceration authorized by law, ~~while assigned to the Preparole Conditional Supervision Program as authorized by Section 365 of Title 57 of the Oklahoma Statutes~~ or while permitted to be at large as a trusty or for work release, shall be guilty of a felony punishable by imprisonment of not less than two (2) years nor more than seven (7) years.

C. For the purposes of this section, an inmate assigned to an alternative to incarceration authorized by law ~~or to the Preparole Conditional Supervision Program~~ shall be considered to have escaped if the inmate cannot be located within a twenty-four-hour period or if ~~he~~ the inmate fails to report to a correctional facility or institution, as directed.

D. For the purposes of this section, if the individual who escapes has felony convictions for offenses other than the offense for which ~~he~~ the person was serving imprisonment at the time of ~~his~~ the escape, those previous felony convictions may be used for enhancement of punishment ~~pursuant to the provisions of Section 434 of this act~~. The fact that any such convictions may have been used to enhance punishment in the sentence for the offense for which ~~he~~ the person was imprisoned at the time of the escape shall not prevent such convictions from being used to enhance punishment for the escape.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

47-2-2346

NP

6/12/2015 1:42:20 AM