

CHAPTER 58
ESCAPE AND RELATED OFFENSES

- § 58.10. General Definitions.
- § 58.20. Felony Escape; Defined & Punished.
- § 58.25. Same: Punished.
- § 58.30. Ordinary Escape.
- § 58.40. Assisting in Escape by Public Servant; Defined & Punished.
- § 58.50. Providing Escape Implements; Defined & Punished.
- § 58.60. Promoting Prison Contraband.

§ 58.10. General Definitions.

As used in this Chapter:

(a) *Custody* means restraint by any public officer or employee pursuant to an order of a court other than an arrest warrant or restraint by a peace officer or other person concerned in detention:

(1) pursuant to an arrest, with or without an arrest warrant, during or subsequent to the official booking of the person arrested;
or

(2) in a detention facility.

(b) *Detention Facility* means:

(1) any place used for confinement, pursuant to an order of a court, of:

(A) persons charged with or convicted of an offense;

(B) persons against whom judicial proceedings leading to involuntary confinement have begun, are pending or have been concluded; or

(C) persons against whom extradition orders are sought or have been obtained.

(2) any place to which a person ordered to be confined to a detention facility pursuant to Paragraph (1) has been or is being lawfully taken for purposes of labor, court appearance, recreation, medical or hospital care, transit or similar purpose.

9 GCA CRIMES AND CORRECTIONS
CH. 58 ESCAPE AND RELATED OFFENSES

(c) Notwithstanding Subsections (a) and (b), neither *custody* nor *detention facility* includes release on parole, probation or other correctional supervision, or constraint incident to release, with bail or on one's own recognizance, by court order or by other lawful authority upon condition of subsequent personal appearance at a designated time and place.

(d) *Escape Implement* means any article or thing which is capable of such use as may endanger the security of a detention facility or facilitate the escape of any person confined therein.

(e) *Dangerous Instrument* means any firearm, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in a manner it is used or intended to be used is known to be capable of producing death or serious bodily injury.

(f) *Controlled Substance* means as it is defined in § 67.12(d) of this Code.

SOURCE: M.P.C. § 242.6(1); *Cal. § 1000(13) - (16) (T.D.3 1969); Cal. §§ 220, 236 (1971); Mass. ch. 268, § 13(d); N.J. § 2C:29-5(a). Subsections (e) and (f) added by P.L. 14-146, eff. 09/30/78.

CROSS-REFERENCES: The definition of *escape implements* contained in 9 GCA § 58.10(d) is not so vague as to render an indictment regarding the provision of "escape implements" by the defendant void. *People v. Joseph Tenorio, et al.*, Civil No. 114F-79, Superior Court of Guam, December 14, 1979

§ 58.20. Felony Escape; Defined & Punished.

A person is guilty of a felony of third degree if he:

(a) escapes from within a detention facility where he is in custody upon a felony charge or conviction; or

(b) escapes from custody with the use or threat of use of force or violence upon another person or by any means creating a substantial risk of physical injury to another person.

SOURCE: G.P.C. §§ 101, 105, 109; M.P.C. § 242.6; Cal. § 1300 (T.D.3 1969); Cal. §§ 1190, 1191 (1971); Mass. ch. 268, § 13; N.J. § 2C:29-5.

CROSS-REFERENCES: § 4.60 - Complicity, see §§ 58.40 and 58.50.

COMMENT: No definition of "escape" is provided in this Chapter. This should cause no problems because the Code does not differentiate in penalty between attempt and substantive offenses.

§ 58.25. Same: Punished.

A person who is guilty of an offense pursuant to § 58.20 of this Code shall be sentenced to a term of two (2) years but not more than five (5) years of imprisonment and a person who is guilty of an offense pursuant to § 58.40 of this Code shall be sentenced to a term of five (5) years of imprisonment. Imposition or execution of such sentences shall not be suspended and probation, parole or work release shall not be granted. The sentence imposed under this Section shall run consecutive to any sentence already imposed on the offender for any other offense at the time he is sentenced under this Section.

SOURCE: Added by P.L. 15-59:6, eff. 08/31/79

§ 58.30. Ordinary Escape.

A person is guilty of a misdemeanor if he escapes from custody.

SOURCE: G.P.C. § 105; M.P.C. § 242.6; Cal. § 1301 (T.D.3 1969); Cal. §§ 1190, 1191 (1971); Mass. ch. 268, § 13; N.J. § 2C:29-5.

CROSS-REFERENCES: §§ 80.66 and 80.68 -Probation Violation §§ 80.82-80.86 - Parole Violations § 165.90 Code of Cr. Proc. - Failure to appear § 58.10(a), (c).

§ 58.40. Assisting in Escape by Public Servant; Defined & Punished.

A public servant concerned in detention is guilty of a felony of the third degree if he knowingly assists an escape.

COMMENT: G.P.C. § 108; See M.P.C. § 242.6(4)(c); *Cal. § 1302 (T.D.3 1969); Mass. ch. 268, § 14(a)(2); See N.J. § 2C:29-5(b)(c).

CROSS-REFERENCES: § 4.60 - Complicity.

§ 58.50. Providing Escape Implements; Defined & Punished.

(a) A person is guilty of providing escape implements if he knowingly introduces any escape implement within a detention facility, with intent to cause or assist the escape of any person confined therein.

(b) A person confined within a detention facility is guilty of providing escape implements if he knowingly makes, obtains or possesses any escape implement with intent to effect an escape of himself or any other person.

(c) Providing escape implements is a felony of the third degree.

SOURCE: G.P.C. §§ 109, 110, See also § 171; M.P.C. § 242.7(1); *Cal. § 1303 (T.D.3 1969); Cal. § 1193 (1971); Mass. ch. 268, § 14(a)(1), (3) (b)(c); N.J. § 2C:29-6(a).

9 GCA CRIMES AND CORRECTIONS
CH. 58 ESCAPE AND RELATED OFFENSES

CROSS-REFERENCES: § 4.60 - Complicity; § 13.10 - Attempt; § 58.10(d) - "Escape implement" defined.

COMMENT: In many situations, the acts prohibited by this Section could be sufficiently far back or ambiguous, to make the complicity and attempt route difficult to prove. Accordingly, there is a sound basis for special provision treating the introduction of escape implements into a prison as a crime.

§ 58.60. Promoting Prison Contraband.

(a) As used in this Section:

(1) Contraband means any article or item that a person in custody who is confined in a correctional facility is prohibited by statute, rule, or policy from obtaining or possessing, and is not defined as "major contraband" in § 58.60(a)(2).

(2) Major contraband means:

(A) any controlled substance as defined by any provision of Guam law;

(B) any firearm or dangerous weapon, including explosives or combustibles, or any plans or materials that may be used in the making or manufacturing of such weapons, explosives or devices;

(C) any telecommunication or digital equipment prohibited by statute, rule, or policy that provides communication, either in written or verbal messages, or through the transmission of electronic data via the internet. Excluded from this definition is any device having communication capabilities that has been approved by the facility head for investigative or institutional security purposes, or for conducting other official business; and

(D) any object or instrument intended or reasonably likely to be used in the planning or aiding in an escape or attempted escape from a correctional facility.

(b) No person, including a person in custody as defined by this Chapter, except as authorized by law or with permission of the facility head, shall knowingly:

(1) introduce, or attempt to introduce, contraband into a detention facility or the grounds of a detention facility; or

9 GCA CRIMES AND CORRECTIONS
CH. 58 ESCAPE AND RELATED OFFENSES

(2) convey, or attempt to convey, contraband to a prisoner confined in a detention facility; or

(3) possess, or attempt to possess, contraband within a detention facility; or

(4) receive, obtain, or remove, or attempt to receive, obtain, or remove, contraband from a detention facility.

Any person, including a person in custody, who violates any provision of this Subsection (b) shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a sentence of imprisonment for a period of no less than thirty (30) days, or by a fine of no less than Five Hundred Dollars (\$500.00), or by both such minimum sentence of imprisonment and fine.

(c) No person, including a person in custody as defined by this Chapter, except as authorized by law or with permission of the facility head, shall knowingly:

(1) introduce, or attempt to introduce, major contraband into a correctional facility or the grounds of a detention facility; or

(2) convey, or attempt to convey, major contraband to a prisoner confined in a detention facility; or

(3) possess, or attempt to possess, major contraband within a detention facility; or

(4) receive, obtain, or remove, or attempt to receive, obtain, or remove, major contraband from a detention facility.

Any person, including a person in custody, who violates any provision of this Subsection (c) shall be guilty of a felony in the second degree, and upon conviction shall be punished by a sentence of imprisonment for a period of no less than three (3) years, or by a fine of no less than Five Thousand Dollars (\$5,000), or by both such minimum sentence of imprisonment and fine.

SOURCE: Added as § 58.60 of the Criminal and Correctional Code by P.L. 14-146:2 (Sept. 29, 1978). Repealed and reenacted by P.L. 33-008:3 (Apr. 1, 2015).
