Introduced by Ebke, 32.

Read first time January 17, 2017

Committee: Judiciary

A BILL FOR AN ACT relating to probation; to amend section 28-912, Reissue Revised Statutes of Nebraska; to change penalty provisions relating to escape; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-912, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(5) Escape is a Class IIA felony when:

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

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

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

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