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CRIMES AND OFFENSES

Offenses Against Public Administration: Increase the Possible Sentences for Prison Escape

CODE SECTION: O.C.G.A. § 16-10-52 (amended)

BILL NUMBER: HB 1403 ACT NUMBER: 1052

SUMMARY: The Act doubles the possible sentence for the

offense of escape by a person convicted of a felony or misdemeanor, while leaving in place

judges' discretion in sentencing.

EFFECTIVE DATE: July 1, 1994

History

Code section 16-10-52 describes the punishment for the offense of escape from state facilities.¹ Previously, the penalty for escape for an escapee who had been convicted of a felony or misdemeanor was not less than one year and not more than five years.² Any other person convicted of escape would have been sentenced for a misdemeanor, unless the escapee committed the escape while armed with a deadly weapon.³ In that case the punishment was confinement for not less than one nor more than ten years.⁴

There are approximately ninety escapes per year in Georgia, and they can be very costly.⁵ For example, the 1993 escape of a convicted felon from the Hayes Correctional Facility in Summerville required the use of dogs, dozens of state vehicles, and additional guards.⁶ Approximately 450 state employees were put on alert, costing thousands of dollars in state resources.⁷ In response to this escape, and other escapes by dangerous criminals, the Department of Corrections sought stronger penalties to discourage escape.⁸

^{1. 1989} Ga. Laws 329, § 1 (formerly found at O.C.G.A. § 16-10-52 (Supp. 1993)).

^{2.} Id.

^{3.} Id.

^{4.} Id.

^{5.} Telephone Interview with Rep. Tim Perry, House District No. 11 (Mar. 26, 1994) [hereinafter Perry Interview]. Rep. Perry was the main sponsor of HB 1403. Id.

^{6.} *Id*.

^{7.} Id.

^{8.} Id.

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The Act amends Code section 16-10-52 by doubling the possible sentences for a convicted escapee. The bill, as introduced in the House, provided for a mandatory term of ten years for a person who escaped while serving a sentence for a felony or misdemeanor. Any other escapee would be punished for a misdemeanor.

The House Committee on State Institutions and Property amended the Bill by striking the mandatory ten-year sentence and increasing the sentence that could be given at the reviewing judge's discretion. ¹² Under this amendment, a person serving time for a felony or misdemeanor would receive a sentence of "not less than one nor more than ten years." This amendment responded to concerns expressed by members of the Committee who felt a mandatory ten-year sentence was too harsh. ¹⁴ The Committee amendment leaves sentencing to the judge's discretion by eliminating the suggested mandatory sentence. ¹⁵

The Committee further amended the bill by adding a provision that a person who escapes while armed with a dangerous weapon shall be sentenced to imprisonment for "not less than one nor more than twenty years." The intent of this provision was to afford judicial discretion in sentencing while providing a strong incentive to escapees not to use dangerous weapons in their escape attempts. This version of the bill as amended was passed by the House and Senate. 18

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^{9.} O.C.G.A. § 16-10-52(b) (Supp. 1994).

^{10.} HB 1403, as introduced, 1994 Ga. Gen. Assem.

^{11.} Id.

^{12.} HB 1403 (HCA), 1994 Ga. Gen. Assem.

^{13.} Id.

^{14.} Perry Interview, supra note 5.

^{15.} See HB 1403 (HCA), 1994 Ga. Gen. Assem.

^{16.} Id.

^{17.} Perry Interview, supra note 5.

^{18.} See O.C.G.A. § 16-10-52 (Supp. 1994).