

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

**CHAPTER 58**  
**ESCAPE AND RELATED OFFENSES**

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**§ 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.

(c) Notwithstanding Subsections (a) and (b), neither *custody* nor *detention facility* includes release on parole, probation or other

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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

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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).

**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

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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) A person commits the offense of promoting prison contraband if:

(1) he intentionally conveys a dangerous instrument or a controlled substance to any person confined in a detention facility or in custody; or

(2) being a person confined in a detention facility or in custody, he intentionally makes, obtains or possesses a dangerous instrument or controlled substance.

(b) A controlled substance may be possessed by or conveyed to a person confined in a detention facility or in custody with the facility administrator's expressed [sic] approval and under medical supervision.

(c) Promoting prison contraband is a second degree felony.

**SOURCE:** Added by P.L. 14-146, eff. 09/30/78.

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