

## **BILL ANALYSIS**

Senate Research Center

H.B. 975  
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Criminal Justice  
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Engrossed

### **DIGEST**

Currently, the Penal Code contains two different definitions of the term "escape." The definition of escape in Chapter 38 is more comprehensive than the definition in Chapter 9, and includes unauthorized departure from a secure correctional facility when the person is in the facility as a condition of community supervision or parole. Problems have arisen with these conflicting meanings, particularly as regards Section 9.52 of the Penal Code, which provides that a guard employed by a correctional facility or a peace officer is justified in using any force that he or she reasonably believes to be necessary to prevent a person's escape. H.B. 975 matches the definitions in Chapters 9 and 38 to ensure that a correctional officer may use force to prevent the escape from a secure correctional facility by an inmate who is imprisoned as a condition of parole or community supervision.

### **PURPOSE**

As proposed, H.B. 975 establishes provisions for preventing and prosecuting the criminal offense of escape.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 9.01(1) and (2), Penal Code, to redefine "custody" and "escape" to have the meanings assigned by Section 38.01.

SECTION 2. Amends Section 38.01(1), Penal Code, to redefine "custody" to mean under arrest by a peace officer or under restraint by a public servant pursuant to an order of a court of this state or another state of the United States; or under restraint by an agent or employee of a facility that is operated by or under contract with the United States and that confines persons arrested for, charged with, or convicted of criminal offenses.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 1997.

SECTION 5. Emergency clause.