

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 101

In Senate, Jan. 27, 1913.

Presented by Senator Bailey of Penobscot, and on motion by same Senator laid on the table for printing, pending reference to a Committee.

W. E. LAWRY, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT to provide for the indeterminate sentence as a punishment for crime, upon the conviction thereof, and for the detention and release of persons in prison or detained on such sentence, and for the expense attending the same.

Be it enacted by the People of the State of Maine, as follows:

Section 1. That when any person shall hereafter be convicted of crime committed after this act takes effect, the punishment for which prescribed by law, may be imprisonment in the State Prison at Thomaston, or the State School for Boys at South Portland, the court imposing sentence, shall not fix a definite term of imprisonment in said State Prison, and may not fix a definite term in said State School

8 for Boys, but shall or may fix a minimum term of imprison-
9 ment which shall not be less than six months in any case.
10 The maximum penalty provided by law shall be the maxi-
11 mum sentence in all cases except as herein provided and
12 shall be stated by the judge in passing sentence. The judge
13 shall at the time of pronouncing such sentence recommend
14 and state therein what, in his judgment, would be a proper
15 maximum penalty in the case at bar not exceeding the
16 maximum penalty provided by law. He shall before or at
17 the time of passing such sentence ascertain by examination
18 of such prisoner on oath, or otherwise, and in addition to
19 such oath, by such other evidence as can be obtained tending
20 to indicate briefly the causes of the criminal character or
21 conduct of such prisoner, which facts, and such other facts
22 as shall appear to be pertinent in the case, he shall cause to
23 be entered upon the minutes of the court.

Sect. 2. The maximum term of imprisonment shall not
2 exceed the longest term fixed by law for the punishment of
3 the offense of which the person sentenced is convicted, and
4 the minimum term of imprisonment fixed by the court shall
5 not exceed one-half of the maximum term of imprisonment
6 fixed by statute: Provided, that where the law prescribing
7 the punishment for the offense of which the prisoner stands
8 convicted, fixes the minimum term of imprisonment,
9 then the minimum term fixed by law shall be the minimum
10 term of imprisonment.

Sect. 3. The provisions of this act shall not apply to any

2 person convicted of an offense the only punishment for
3 which prescribed by law is imprisonment in one of the penal
4 institutions named for life: Provided, that in all cases
5 where the maximum sentence, in the discretion of the court,
6 may be for life or any number of years, the court imposing
7 sentence shall fix both the minimum and maximum sen-
8 tence. The minimum term of imprisonment thus fixed by
9 the court shall not exceed one-half of the maximum term
10 so fixed.

Sect. 4. Whenever a person shall be convicted of crime
2 and sentenced to imprisonment pursuant to the provisions
3 of this act, the clerk of the court shall make and forward
4 to the warden or superintendent of the institution to which
5 the convict is sentenced, and also to the governor, a record
6 containing a copy of the information or complaint, the sen-
7 tence pronounced by the court, the name and residence of
8 the judge presiding at the trial, prosecuting attorney and
9 sheriff, and the names and postoffice addresses of the jurors
10 and the witnesses sworn on the trial, together with a state-
11 ment of any fact or facts which the presiding judge may
12 deem important or necessary for a full comprehension of
13 the case, and a reference to the statute under which the
14 sentence was imposed. One copy of the said record shall
15 be delivered to the warden or superintendent at the time
16 the prisoner is received into the institution and one copy
17 shall be forwarded to the governor within ten days there-
18 after. In each case in which he shall perform the duties
19 required by this act, the clerk of the court shall be entitled

20 to such compensation as shall be certified to be just by the
21 presiding judge at the trial not to exceed three dollars for
22 any one case, which shall be paid by the county in which the
23 trial is had as a part of the expenses of such trial.

Sect. 5. The governor shall appoint a committee of three
2 from the executive council to act as an advisory board in
3 the matter of parols. The three members of the executive
4 council constituting the advisory board in the matter of
5 parols shall have authority and power to hire a secretary
6 who shall be clerk of said advisory board in the matter of
7 parols. He shall be sworn to keep a true copy of the rec-
8 ords of said board and to the faithful and impartial per-
9 formance of his duties. The governor and executive coun-
10 cil shall have authority to fix the compensation of said clerk.
11 The three members of the executive council acting as the
12 advisory board in the matter of parols shall receive for
13 their services five dollars per day for each day employed
14 in the work of said board and necessary expenses.

Sect. 6. Authority to grant parole under the provisions
2 of this act is hereby conferred exclusively upon the gov-
3 ernor in all cases of manslaughter, actual forcible rape, for
4 offenses by public officers in violation of their duties as
5 such officers, and to all persons convicted and serving sen-
6 tence for conspiracy to defraud public municipalities, or the
7 bribing of, or attempting to bribe public officers. In all
8 other cases such authority is hereby conferred upon the ad-
9 visory board in the matter of parols. The governor and

10 the advisory board in the matter of parols acting jointly,
11 shall have authority to adopt such rules as may, by them,
12 be deemed wise or necessary to properly carry out the pro-
13 visions of this act, and to amend such rules at pleasure:
14 Provided, prisoners, under the provisions of this act, shall
15 be eligible to parole only after the expiration of their mini-
16 mum term of imprisonment, and prisoners who have been
17 twice previously convicted of a felony shall not be eligible
18 to parole.

Sect. 7. Application shall be made to the governor, or to
2 the advisory board in the matter of parols upon uniform
3 blanks prescribed by the governor and the advisory board
4 in the matter of parols acting jointly, and supplied by the
5 secretary of the advisory board in the matter of parols to
6 the wardens or superintendents of the penal institutions
7 named in section 1 of this act. It shall be the duty of the
8 warden or superintendent when requested by a prisoner
9 whose minimum term of imprisonment has expired and is
10 eligible to parole, to furnish such prisoner with a blank
11 application for parole. The application shall be filled out
12 and delivered to the warden or superintendent who shall
13 immediately forward the same to the governor or to the
14 advisory board in the matter of parols with his recom-
15 mendation endorsed thereon. Upon receipt of such appli-
16 cation and recommendation, the governor or the advisory
17 board in the matter of parols, shall make such investigation
18 in the matter as they may deem advisable and necessary and

19 may, in their discretion, grant such application and issue a
20 parole or permit to such applicant to go at large without the
21 enclosures of the prison. The prisoner so paroled, while
22 at large by virtue of such parole, shall be deemed to be still
23 serving the sentence imposed upon him, and shall be en-
24 titled to good time the same as if confined in prison: Pro-
25 vided, that whenever the prisoner so paroled shall have been
26 committed to or confined in any such prison or reformatory
27 from a county other than the county in which the prison
28 or reformatory in which he has been last confined is situ-
29 ated, it shall be made a condition of his parole that he shall
30 not live or remain in the county in which the prison or re-
31 formatory in which he was last confined is situated, without
32 the express consent of the officers or board granting such
33 parole, which consent may be granted or revoked by such
34 officer or board, for cause shown at any time before such
35 convict is finally discharged.

Sect. 8. No prisoner shall be released on parole until the
2 governor or advisory board in the matter of parols shall
3 have satisfactory evidence that arrangements have been
4 made for such honorable and useful employment of the
5 prisoner as he is capable of performing, and some respon-
6 sible person (not a relative) shall agree to act as his "first
7 friend and adviser" who shall execute an agreement to em-
8 ploy the prisoner, or use his best efforts to secure suitable
9 employment for him. Said "first friend and adviser" may,
10 in the discretion of the governor or the advisory board in
11 the matter of parols, be required to furnish a bond, or other

12 satisfactory security to the governor for the faithful per-
13 formance of his obligation as such "first friend and adviser."
14 All moneys collected upon such bond or security shall be
15 turned over to the state treasurer and credited by him to
16 the general fund of the state.

Sect. 9. Every such prisoner, while on parole, shall re-
2 main in the legal custody and under the control of the war-
3 den or superintendent of the prison from which he is pa-
4 roled and shall be subject at any time to be taken back
5 within the enclosure of said prison for any reason that may
6 be satisfactory to the warden or superintendent, and full
7 power to retake and return any such paroled prisoner to
8 the prison from which he was allowed to go at large is
9 hereby expressly conferred upon the warden or superin-
10 tendent of such prison, whose written order shall be a suffi-
11 cient warrant authorizing all officers named therein to re-
12 turn such paroled prisoner to actual custody in the prison
13 from which he was permitted to go at large. When the
14 warden or superintendent shall return to prison any paroled
15 prisoner, he shall at once report the fact, and his reasons
16 therefor, to the advisory board in the matter of parols and
17 his action shall stand approved unless reversed by a major-
18 ity vote of said board.

Sect. 10. A prisoner violating the provisions of his parole
2 and for whose return a warrant has been issued by the
3 warden or superintendent shall, after the issuance of such
4 warrant be treated as an escaped prisoner owing service to

5 the state, and shall be liable, when arrested, to serve out
6 the unexpired portion of his maximum imprisonment, and
7 the time from the date of his declared delinquency to the
8 date of his arrest shall not be counted as any part or por-
9 tion of the time to be served.

Sect. 11. Any prisoner committing a crime while at large
2 upon parole or conditional release and being convicted and
3 sentenced therefor shall serve the second sentence to com-
4 mence from the date of the termination of the first sentence
5 after the first sentence is served or annulled.

Sect. 12. At the time of granting parole to any prisoner
2 either by the governor or the advisory board in the matter
3 of parols they shall each respectively determine the length
4 of time the prisoner shall remain on parole, which shall not
5 be more than four years in any case. After any prisoner
6 has faithfully performed all of the obligations of his parole
7 for the period of time so fixed, and has regularly made his
8 monthly reports as required by the rules providing for his
9 parole, he shall be deemed to have fully served his entire
10 sentence, and shall then receive a certificate of final dis-
11 charge from the warden or superintendent in whose custody
12 he is. A duplicate copy of such final discharge shall at
13 once be sent to the secretary of the advisory board in the
14 matter of parols who shall file the same in the office of the
15 governor.

Sect. 13. On the last day of each month, each paroled
2 prisoner shall make a written report to the warden of the

3 prison, or superintendent of the institution from which he
4 was released, showing his conduct during the current month,
5 his employment, earnings and expenditures, his probable
6 postoffice address and place of employment for the coming
7 month, and the warden or superintendent in charge of each
8 institution of this state named in section one of this act,
9 shall, not later than the fifteenth day of each month, tabu-
10 late and report to the advisory board in the matter of parols,
11 in writing, the information thus received, and he shall com-
12 municate to the advisory board in the matter of parols im-
13 mediately all violations and infractions of the rules govern-
14 ing such paroled prisoners. In their annual report to the
15 governor, the advisory board in the matter of parols shall
16 include a summary of the paroles and releases under this
17 act, the names of all prisoners who have violated their pa-
18 roles, the nature of such violations, together with such other
19 information concerning the operations under the law as may
20 be deemed to be of public interest.

Sect. 14. There shall be kept in the prison or institution
2 named in section one of this act, by the warden or super-
3 intendent thereof, a book containing a full and accurate
4 record of each and every transaction had under the pro-
5 visions of this act. A summary of such record shall be filed
6 with the advisory board in the matter of parols, to be by
7 said board compiled and included in the annual report of
8 the advisory board, which report shall be submitted in writ-
9 ing to the governor on or before the first day of December
10 in the year nineteen hundred and thirteen, and on or before

11 December first of each year thereafter, and said report shall
12 be accompanied by such recommendations as the board may
13 see fit to make.

Sect. 15. The secretary of the advisory board in the mat-
2 ter of parols is hereby authorized to provide all blanks re-
3 quired for the proper execution of the provisions of this
4 act after the forms for such blanks have been approved by
5 the governor and the advisory board in the matter of parols.

Sect. 16. Whenever any prisoner is released upon parole
2 he shall receive from the state, clothing not exceeding ten
3 dollars in cost and a nontransferable ticket at his own ex-
4 pense to the county where his "first friend" resides. The
5 warden may, in his discretion, at the risk of the state, ad-
6 vance to any paroled prisoner the cost of a ticket as above
7 provided and expenses not to exceed two dollars, and fail-
8 ure on the part of the paroled prisoner to return the money
9 so advanced within sixty days may be declared a violation
10 of parole warranting the return of the violator to prison.

Sect. 17. Whenever the parole of any prisoner shall be
2 ordered by the advisory board in the matter of parols, or
3 the governor, the clerk of said board shall at once notify
4 the sheriff of the county or the chief of police of the city
5 to which he is paroled of the issuance of such parole, naming
6 the county where convicted, the crime for which convicted,
7 the name and address of "first friend," and the length of
8 time which said prisoner shall be required to report before
9 receiving final discharge.

Sect. 18. Any sheriff, chief of police, or truant officer, shall upon request of the governor or the advisory board in the matter of parols, act as "first friend" and adviser for paroled prisoners while on parole from any prison or reformatory in the state, and shall, upon the approval of the secretary of the advisory board in the matter of parols, be paid from the general fund of the State not otherwise appropriated, one dollar per month for each paroled prisoner for such services. Whenever the term of office of any such officer, acting as "first friend," shall expire while any such parole is in force, the duties of such first friend shall be assumed by the successor in office of such officer.

Sect. 19. Nothing in this act shall be construed to interfere or impair the power of the governor to grant pardons or commutations of sentence; nor shall anything herein contained be construed to interfere with the right of any person who may be serving out a term of imprisonment in any penal institution in this state by virtue of a sentence imposed under any law heretofore or now in force.

Sect. 20. All laws, acts or parts of acts in conflict with the provisions of this act are hereby repealed.