

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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cision by the supreme judicial court on exceptions, report, motion in arrest of judgment, writ of error, appeal or otherwise, or is committed to jail to await action of a grand jury after a finding of probable cause, the sheriff of the county in which such person is committed to jail may certify, in writing, to any justice of the superior or supreme judicial court, in term time or in vacation, that in his opinion such person is dangerous and liable to attempt to escape from such jail; thereupon such justice may order, after hearing, that said person be transferred and committed to the state prison for safekeeping to await the final decision from the supreme judicial court. The county committing such person to the state prison for safekeeping shall be liable to the state for each such person, a proportional amount of the over-all inmate per capita cost per day based on previous year. (R. S. c. 135, § 33. 1955, c. 247.)

**Effect of amendment.**—The 1955 amendment rewrote the last sentence.

### **State Jurisdiction after Federal Court Disposition.**

**Sec. 34. Court action after federal court has acted.**—Whenever any federal court finds that a prisoner in any penal institution in this state has been deprived of any of the rights guaranteed to him by the constitution of the United States before, at or after his trial, so that the judgment or sentence or both are erroneous and said court holds the case on its docket pending corrective action by the proper state official, the attorney general may act as follows. He may file a petition in the superior court of the county where the prisoner was tried and convicted in term time or with any justice of said court in vacation, setting forth the petition of the prisoner to the federal court and the decision of that court, and the superior court of conviction or any justice thereof in vacation shall then recall the judgment and sentence held erroneous and order it stricken from the records of said court and shall set the prisoner down for trial if in term time or bind him over to the next criminal term in said county if in vacation, after setting his bail. If the sentence only is erroneous, the superior court of the county of conviction in term time or any justice thereof in vacation, on presentation of the attorney general's petition as aforesaid, shall recall the erroneous sentence and order it stricken from the records and shall in term time or in vacation sentence the prisoner anew in accordance with the indictment against said prisoner. (1955, c. 121.)

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## **Chapter 149.**

### **Sentence. Probation Officers. Parole. Pardons.**

#### **Fugitives from Justice.**

#### **Sentences and Imposition.**

**Sec. 1. No person punished until convicted; costs.**—No person shall be punished for an offense until convicted thereof in a court having jurisdiction of the person and case. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution, except before a municipal or trial justice court in which courts he may be sentenced to pay a fine sufficient to cover said costs as provided by section 2-A of chapter 146; and except before trial justice and municipal courts, for violations of the provisions of sections 66, 68, 84 and 89 of chapter 61, and of sections 145 to 152, inclusive, of chapter 100, he shall be sentenced to pay such costs. (R. S. c. 136, § 1. 1957, c. 334, § 14; c. 387, § 19; c. 429, § 87.)

**Effect of amendments.**—The first 1957 amendment inserted the exception at the end of the first clause of the present second sentence and inserted the words "ex-

cept before trial justice and municipal courts" in the last clause of said second sentence. The second 1957 amendment deleted the former second and third sentences. The first 1957 amendment had made a

slight change in the former third sentence. The third 1957 amendment referred to both prior 1957 amendments and again deleted the former third sentence.

**Sec. 3. Punishment when convict previously sentenced to any state prison.**

**Prosecutions for taking indecent liberties.**—Defendant, who pleaded guilty to an indictment in two counts charging the offense of taking indecent liberties on June 20, 1945, and the conviction and sentence for a prior similar offense in 1936, was properly sentenced for 20 years pur-

suant to provisions of this section, since the provisions of § 11 of this chapter requiring sentence for minimum and maximum terms did not apply to prosecutions under ch. 134, § 6 for taking of indecent liberties (ch. 149, § 12). Carr v. State, 151 Me. 226, 117 A. (2d) 63.

**Sentences to State Prison.**

**Sec. 11. Maximum and minimum terms.**—When any person shall be convicted of crime, the punishment for which prescribed by law may be imprisonment in the state prison, the court imposing sentence shall not fix a definite term in said state prison but shall fix maximum and minimum terms. The maximum sentence shall not exceed the longest term fixed by law for the punishment of the offense of which the person sentenced is convicted, and the minimum sentence shall not exceed  $\frac{1}{2}$  of the maximum term of imprisonment fixed by statute. The justice, before or at the time of pronouncing such sentences, shall ascertain by examination of the prisoner, and by such other evidence as can be obtained, any facts tending to indicate briefly the causes of the criminal character or conduct of such prisoner, which facts, and such other facts as shall appear to be pertinent to the case, shall be caused by said justice to be entered upon the minutes of the court. (R. S. c. 136, § 11. 1951, c. 92. 1957, c. 253. 1959, c. 191.)

**Effect of amendments.**—The 1957 amendment deleted the words "and shall not be less than 6 months in any case" formerly appearing at the end of the present second sentence.

The 1959 amendment added a new sentence at the end of this section.

**Prosecutions for taking indecent liberties.**—Defendant, who pleaded guilty to an indictment in two counts charging the offense of taking indecent liberties on

June 20, 1945, and the conviction and sentence for a prior similar offense in 1936, was properly sentenced for 20 years pursuant to provisions of § 3 of this chapter, since provisions of this section requiring sentence for minimum and maximum terms did not apply to prosecutions under ch. 134, § 6 for taking of indecent liberties (ch. 149, § 12). Carr v. State, 151 Me. 226, 117 A. (2d) 63.

**Sec. 12. Repealed by Public Laws 1957, c. 387, § 20.**

**Sec. 13. Record forwarded to warden.**—Whenever a person shall be convicted of a crime and sentenced to imprisonment, the clerk of the court shall make and forward to the warden of the prison a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney and sheriff, and the names and post-office addresses of the jurors and the witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. Such record shall be delivered to the warden at the time the prisoner is received into the prison. Prisoners shall not be received until a copy of the record forwarded to the warden and a warrant of commitment is given to the receiving officer at the state prison. (R. S. c. 136, § 13. 1955, c. 176, § 2.)

**Effect of amendment.**—The 1955 amendment deleted the words "pursuant to the provisions of sections 11 to 22, inclusive"

formerly appearing after the word "imprisonment" in line two. It also added the last sentence.

**Secs. 14-16.** Repealed by Public Laws 1957, c. 387, § 20.

**Sec. 17. Discharged prisoners, record forwarded to state police.**

—Whenever any prisoner, who has been convicted of an offense under the provisions of sections 10, 11 or 12 of chapter 130 or under the provisions of section 6 of chapter 134, is discharged in full execution of his sentence, the warden of the prison shall make and forward to the state police a copy of the prison record of said prisoner together with a statement of any fact or facts which he may deem necessary for a full comprehension of the case. (1949, c. 138. 1957, c. 387, § 21.)

**Effect of amendment.** — The 1957 amendment deleted “released upon parole, or” which formerly appeared preceding the word “discharged”.

**Secs. 18-23.** Repealed by Public Laws, 1957, c. 387, § 22.

**Probation.**

**Secs. 24-38.** Repealed by Public Laws 1957, c. 387, § 22; c. 429, § 88.

**Cross reference.** — For present probation and parole law, see c. 27-A. by P. L. 1957, c. 265, approved May 10, 1957, and by P. L. 1957, c. 416, § 6, approved May 29, 1957. The section was again repealed by P. L. 1957, c. 429, § 88, effective on its approval, October 31, 1957.

**Editor’s note.**—Former § 24, which was first repealed by P. L. 1957, c. 387, § 22, approved May 29, 1957, was also amended

**Execution of Sentences.**

**Sec. 41. Removal of convicts to state prison; clothing for convict.**

—When a convict is sentenced to confinement in the state prison, such clerk of courts shall make out a warrant under seal of the court, directed to the sheriff of said county, requiring him to cause such convict, without needless delay, to be removed from the county jail to the state prison; all sheriffs and jailkeepers shall strictly obey its directions; and the clerk, as soon as may be, shall deliver such warrant to the sheriff of the county, and he shall forthwith deliver it and the convict to said warden. The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison. (R. S. c. 136, § 45. 1955, c. 405, § 52.)

**Effect of amendment.**—The 1955 amendment substituted “sheriff of said county” for “warden of the prison” in the first sentence. It also deleted the words “the warden and” before the words “all sheriffs” near the middle of the first sentence, and inserted the words “and the convict” near the end of the first sentence.

**Convicts.**

**Sec. 42. Convict, unable to pay fine or costs, liberated.**—Except when otherwise expressly provided, any convict sentenced to pay a fine or costs or both and committed for default thereof and for no other cause shall be given a credit of \$1 on such fine or costs or both for each day during which he shall be confined and shall be discharged at such time as the said credits or such credits as have been given and money paid in addition thereto shall equal the amount of the fine or costs or both, but no convict shall serve more than 11 months to discharge his liability under any single fine or costs or both, and in such case no further action shall be taken to enforce payment of said fine or costs or both. (1957, c. 439, § 1.)

**Editor’s note.**—Section 42, which was repealed by P. L. 1957, c. 254, § 1, was reenacted by P. L. 1957, c. 439, § 1. Former § 42 authorized, but did not require, liberation upon the giving of a note for the amount due, accompanied by a written schedule of property.

P. L. 1957, c. 439, § 2, provides as follows:

“Sec. 2. Application. The benefits of section 42 of chapter 149 of the Revised Statutes shall apply to all persons committed for nonpayment of fines or costs or both on and after August 28, 1957, and any confine-

ment between the effective date of this act and August 28, 1957, shall be computed in determining the eligibility of any convict now detained to be liberated."

**Secs. 43, 44.** Repealed by Public Laws 1957, c. 254, § 1.

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### Chapter 149-A.

#### Uniform Interstate Compact on Juveniles.

**Secs. 1, 2.** Repealed by Public Laws 1957, c. 387, § 23.

**Cross reference.**—For present provisions as to interstate compact on juveniles, see c. 27-A, § 22.

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### Chapter 150.

#### Collection and Disposal of Fines and Costs in Criminal Cases.

##### Duty of Trial Justices and Judges of Municipal Courts.

**Sec. 5. All fines, costs and forfeitures paid to county treasurer.**—Every clerk of a superior court, trial justice and judge or recorder of a municipal court shall render, under oath, a detailed account of all fines, costs and forfeitures upon convictions and sentences before him, on forms prescribed by the state department of audit, and shall pay them into the treasury of the county where the offense is prosecuted on or before the 15th day of the month following the collection of such fines, costs and forfeitures. The county treasurer, upon approval of the county commissioners, shall pay to the state, town, city or persons any portion of the fines, costs and forfeitures that may be due. Any person who fails to make such payments into the county treasury shall forfeit, in each instance, double the amount so neglected to be paid over, to be recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in default of payment, according to the sentence of the court, such person shall be punished by imprisonment for not more than 6 months. (R. S. c. 137, § 5. 1957, c. 334, § 15.)

**Effect of amendment.**—The 1957 amendment deleted the former second sentence which read "A certified bill of costs for each case heard in a municipal or trial justice court shall accompany such remittance."

##### Duty of Sheriffs and Other Officers.

**Sec. 10. Sheriff to deliver securities to treasurer.**—Each sheriff, as often as every 3 months, shall deliver to the treasurer of his county all securities by him taken for fines and costs, on the liberation of poor convicts from prison pursuant to law. (R. S. c. 137, § 10. 1957, c. 254, § 2.)

**Effect of amendment.**—The 1957 amendment deleted the words "notes or other" formerly appearing preceding the word "securities".

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### Chapter 152.

#### Uniform Criminal Extradition Act.

**Sec. 23. Application for issuance of requisition.**

**II.** When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken