

# MAINE STATE LEGISLATURE

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PART 3

PROBATION AND PAROLE

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CHAPTER 121

STATE PROBATION AND PAROLE BOARD

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GENERAL PROVISIONS

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**§ 1501. Definitions**

The listed terms as used in this chapter and chapter 123 are defined as follows, unless a different meaning is plainly required by the context:

**1. Correctional institution.** "Correctional institution" means the following state institutions: The State Reformatory for Men and the State Reformatory for Women.

1959, c. 312, § 1.

**2. Fine.** "Fine" includes court costs wherever applicable.

**3. Inmate.** "Inmate" means a person in execution of a sentence to a reformatory.

1959, c. 312, § 1.

**4. Juvenile.** "Juvenile" means a person under the age of 17 years or a person who is alleged to have committed, while under the age of 17 years, any acts or offenses covered by Title 15, chapters 401 to 409 regardless of whether, at the time of the proceeding, such person is of the age of 17 years or over.

1959, c. 342, § 8; c. 378, § 27.

**5. Parole.** "Parole" is a release procedure by which a person may be released from a state penal or correctional institution by the State Probation and Parole Board prior to the expiration of his maximum term.

1959, c. 312, § 1.

**6. Penal institution.** "Penal institution" means the State Prison.

**7. Prisoner.** "Prisoner" means a person in execution of a sentence to the State Prison.

1959, c. 312, § 1.

**8. Probation.** "Probation" means a procedure under which a person found guilty of an offense is released by the court without being committed to a state penal or correctional institution, subject to conditions imposed by the court.

1957, c. 387, § 1; 1959, c. 312, § 1; c. 342, § 8; c. 378, § 27.

## § 1502. Probation-parole officer; powers and duties

The general powers and duties of a probation-parole officer are:

**1. Duties prescribed.** To perform the duties which are prescribed for him;

**A.** Parole duties and special probation duties shall be prescribed by the State Director of Probation and Parole;

**B.** General probation duties shall be prescribed by the court having jurisdiction;

**2. Investigation.** To investigate any criminal case or matter concerning probation or parole referred to him for investigation and report the result of his investigation;

**3. Supervision.** To supervise the probation or parole of each person placed under his supervision;

1957, c. 428, § 1.

**4. Conduct and condition of person in custody.** To keep informed of the conduct and condition of each person placed under his supervision and to use suitable methods to encourage him to improve his conduct and condition;

1959, c. 312, § 4.

**5. Records and reports.** To keep records of each case and make reports as required;

**6. Collection and disbursement of money.** To collect and disburse money according to the order of the court having jurisdiction. He shall make a detailed account under oath of all fines received, and shall pay them to the appropriate county treasurer by the 15th day of the month following collection;

**7. Arrest violators.** To arrest and return probation and parole violators on warrants issued by the appropriate authorities.

1957, c. 387, § 1; c. 428, § 1; 1959, c. 312, § 4.

**§ 1503. Abetting violations**

Any person over the age of 17 who willfully obstructs, intimidates or otherwise abets a probationer or parolee under the supervision and control of the State Probation and Parole Board and thereby contributes or causes said probationer or parolee to violate the terms and conditions of his probation or parole, after having been warned in writing by the State Probation and Parole Board to cease and desist in said relationship or association with the probationer or parolee, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

This section shall apply in those instances where the probationer or parolee is under the supervision and control of the State Probation and Parole Board at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision.

1959, c. 312, § 14; 1963, c. 414, § 10.

**§ 1504. Pardons by Governor**

This chapter and chapter 123 do not deprive the Governor, with the advice and consent of the Council, of the power to grant a pardon or commutation to any person sentenced to a state penal or correctional institution.

1957, c. 387, § 1.

## SUBCHAPTER II

## PAROLE BOARD

Sec.

1551. Membership.

1552. Powers and duties.

**§ 1551. Membership**

A State Probation and Parole Board, as heretofore created within the Department of Mental Health and Corrections and in this chapter called the "board" shall consist of 3 members who are citizens and residents of the State. Two of the members shall be appointed by the Governor, with the advice and consent of the Council, from persons with special training or experience in law, sociology, psychology or related branches of social science. The Commissioner of Mental Health and Corrections shall be ex officio a member of the board, except that he may appoint any suitable person from his department to serve during his pleasure, in his absence, as a member of the board, but in no case longer than his term of office as commissioner. The term of the regularly appointed members of the board shall be 4 years and until their successors have been appointed and qualified, or during the pleasure of the Governor and Council. A vacancy shall be filled for the unexpired term in the same manner in which a regular appointment is made. The regularly appointed members of the board shall be paid \$25 per day and necessary expenses for each day actually spent in the work of the board. The members of the board shall elect a chairman who shall preside at all meetings of the board when present. The board shall meet at least once each month and in addition may meet as often as necessary, at such times and places as the chairman may designate. Any 2 members constitute a quorum for the exercise of all powers of the board. The Department of Health and Welfare, Department of Mental Health and Corrections, officers and staffs of the penal and correctional institutions, and law enforcement agencies in the State shall cooperate with the board in exercising its administration.

1957, c. 387, § 1; 1959, c. 312, § 2; c. 360, § 2.

**§ 1552. Powers and duties**

The general powers and duties of the board are:

1. **Administration.** To administer the probation and parole law. In administering its provisions, the board may formulate

policies, adopt regulations, establish organizational and operational procedures, and exercise general supervision. The board shall provide necessary specialized services and procedures for the constructive rehabilitation of juveniles;

**2. Prescribe duties of director.** To prescribe the duties and supervise the activities of the director;

**3. Obtain services.** To obtain psychiatric, psychological and other necessary services;

**4. Investigation.** To provide necessary investigation of any criminal case or matter including pre-sentence investigation when requested by the court having jurisdiction;

**5. Delegate powers.** To delegate powers to the director necessary to the administration of the probation and parole law. The board may authorize him to sign documents including warrants and extradition papers for the board;

**6. Recommendations.** To make recommendations to the Governor and Council in reference to the granting of reprieves, commutations and pardons when requested;

**7. Reports.** To report annually to the Governor facts and recommendations relating to the administration of probation and parole services.

1957, c. 387, § 1.

### SUBCHAPTER III

## DIRECTOR OF PROBATION AND PAROLE

Sec.

1591. Appointment and qualifications.

1592. Powers and duties.

### § 1591. Appointment and qualifications

The Commissioner of Mental Health and Corrections shall appoint, with the approval of the board, subject to the Personnel Law, a State Director of Probation and Parole, in this chapter called the "director", who shall be qualified by professional training for probation and parole work, and by experience in an executive or supervisory capacity in a probation or parole agency or a related correctional agency. The director is the executive officer and secretary of the board.

1957, c. 387, § 1; 1959, c. 360, § 2.

### § 1592. Powers and duties

The general powers and duties of the State Director of Probation and Parole are:

1. **Duties prescribed by board.** To perform the duties which are prescribed for him by the board;

2. **Administrative districts.** To divide the State into administrative districts;

3. **Probation-parole officers.** To appoint, with the approval of the board, all personnel, supervisory, probation-parole officers and clerical, subject to the Personnel Law, and assign such personnel to the established districts;

1959, c. 312, § 3.

4. **Direct and supervise work.** To direct and supervise the work of all personnel appointed by him;

1959, c. 312, § 3.

5. **Uniform methods and procedure.** To establish uniform methods and procedures in the administration of probation and parole, including investigation, supervision, casework, record keeping, making reports and accounting;

6. **Instruction and training courses.** To provide instruction and training courses for probation-parole officers.

1957, c. 387, § 1; 1959, c. 312, § 3.

## SUBCHAPTER IV

### PROBATION

Sec.

1631. Probation of person by court.

1632. Person on probation under jurisdiction of court.

1633. Violation of probation.

1634. Discharge from probation by court.

1635. Probation of juveniles in Cumberland County.

### § 1631. Probation of person by court

When a person is convicted of an offense which is not punishable by life imprisonment, the court may continue the case for sentence or impose sentence and suspend its execution.

1. **Continue for sentence.** The court may continue a case for sentence for not more than 2 years. While the case is con-

tinued for sentence, the court may place the respondent on probation.

**A.** When a person is convicted of an offense which caused damage to another of not more than \$100 for which civil liability has been established or admitted, the court may continue the case for sentence and place the respondent on probation for a definite time, and may order that the respondent make restitution to the person injured.

**2. Sentence imposed.** The court may impose a sentence, suspend its execution for not more than 2 years and place the respondent on probation.

**A.** When a person is convicted of an offense which is punishable by imprisonment and fine, the court may sentence him to a fine and a term of imprisonment, suspend execution of the imprisonment, and place him on probation as to the imprisonment on condition that he pay the fine within a definite time. In default of payment of the fine, the court may impose an additional sentence of not more than 6 months.

**B.** When the probationer pays the fine or part of it to a probation-parole officer, he shall give the probationer a receipt for it.

This section does not deprive a respondent of any existing right of appeal, review or retrial.

1957, c. 387, § 1; c. 428, § 2

### **§ 1632. Person on probation under jurisdiction of court**

A person on probation is under the sole jurisdiction of the court which ordered his probation. When a person is placed on probation, he shall be committed by the court to the custody and control of the State Probation and Parole Board. The board shall designate one or more probation-parole officers to supervise the probationer during the term of his probation.

A probation-parole officer has the same authority with respect to the probationer as if he were surety upon the recognizance of the probationer. Each probation-parole officer has authority to arrest and charge a probationer with violation of probation and take him into his custody in any place he may be found, to detain the probationer in any jail for a reasonable time in order to obtain an order from the court, or justice of the court in vacation, returning the probationer to court as provided in section 1633. In the event the court refuses to issue an

order returning the probationer as provided under section 1633, the court shall issue an order directing the immediate release of the probationer from arrest and detention. A probationer so arrested and detained shall have no right of action against the probation-parole officer or any other persons because of such arrest and detention. Any action required under sections 1633 and 1634 may be taken by any probation-parole officer.

The court shall fix the duration of the probation, which may not be more than 2 years. The court shall determine the conditions of the probation and shall give the probationer a written statement containing the conditions of his probation.

1957, c. 387, § 1; c. 428, § 3; 1959, c. 342, § 9.

### § 1633. Violation of probation

When the State Probation and Parole Board charges a probationer with violation of a condition of his probation the board shall forthwith report the alleged violation to the court, or to a justice of the court in vacation, which may order the probationer returned. After hearing, the court or justice may revoke the probation and impose sentence if the case has been continued for sentence or may order the probationer to serve the original sentence where its execution has been suspended or may order the probation continued if it appears just to do so.

1957, c. 387, § 1; c. 428, § 4.

### § 1634. Discharge from probation by court

A person on probation may be discharged by the court which placed him on probation.

**1. Probationer no longer needs supervision.** When it appears to the State Probation and Parole Board that a probationer is no longer in need of supervision, the board may so report to the court, or to a justice of the court in vacation, which may order the probationer returned. After hearing, the court or justice may terminate his probation and allow him to go without day.

1957, c. 428, § 5.

**2. Has fulfilled conditions.** When it appears to the court that a probationer under its jurisdiction has fulfilled the conditions of his probation, it shall terminate his probation and allow him to go without day.

1957, c. 387, § 1; c. 428, § 5.

**§ 1635. Probation of juveniles in Cumberland County**

The probation of a juvenile in Cumberland County is expressly exempted from the general law on juvenile probation and nothing in this chapter shall affect or modify any special law pertaining to the appointment of juvenile probation officers and their duties within and for Cumberland County.

1957, c. 387, § 1.

SUBCHAPTER V

**PAROLE**

Sec.

- 1671. Parole by board.
- 1672. Eligibility for hearing; State Prison.
- 1673. —Men's reformatory.
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- 1675. Violations of parole.
- 1676. Sentence for crime committed by parolee.
- 1677. Discharge from parole.
- 1678. Certificate of discharge.
- 1679. Records forwarded to State Police.

**§ 1671. Parole by board**

The board may grant a parole from any state penal or correctional institution when a prisoner or inmate becomes eligible for a hearing by the State Probation and Parole Board. It may revoke a parole when a condition of the parole is violated.

**1. Duration and conditions of parole.** When the board grants a parole, upon release, the parolee shall serve the unexpired portion of his sentence, less deductions for good behavior, unless otherwise discharged therefrom by the board.

1961, c. 292, § 1

**2. Custody and control.** While on parole, the parolee is under the custody of the warden or superintendent of the institution from which he was released but under the immediate supervision of and subject to the rules and regulations of the board or any special conditions of parole imposed by the board.

1957, c. 387, § 1; 1959, c. 312, § 5; 1961, c. 292, § 1.

### § 1672. Eligibility for hearing; State Prison

A prisoner at the Maine State Prison becomes eligible for a hearing by the board as follows:

**1. Expiration of minimum term in minimum-maximum sentence.** After the expiration of his minimum term of imprisonment less the deduction for good behavior, when the law provides for a minimum-maximum sentence;

**2. Expiration of  $\frac{1}{2}$  of term in certain cases.** After the expiration of  $\frac{1}{2}$  of the term of imprisonment imposed by the court less the deduction for good behavior, when he has been convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153. This subsection applies to a prisoner who has been convicted previously of an offense under Title 17, sections 1951, 3151, 3152 or 3153;

1959, c. 312, § 6.

**3. Expiration of 30-year term in life imprisonment cases.** After the expiration of a 30-year term of imprisonment, less deduction for good behavior, when he has been convicted of an offense punishable only by life imprisonment, provided he has never been convicted of another offense punishable only by life imprisonment. (1959, c. 312, § 6.)

1957, c. 387, § 1; 1959, c. 312, § 6; 1963, c. 414, § 7.

### § 1673. —Men's reformatory

An inmate at the Reformatory for Men becomes eligible for a hearing by the board as follows:

**1. Expiration of 6-month term in misdemeanors.** After the expiration of a 6-month term of commitment if convicted of a misdemeanor. After the expiration of a one-year term of commitment if convicted of a felony. At any time after date of commitment upon the recommendation of the superintendent, if adjudged a juvenile offender;

**A.** A deduction of 7 days for each month served from the date of commitment may be allowed by the superintendent when the conduct of the inmate justifies it; an additional day a month may be deducted from the sentence of those inmates who are assigned by the superintendent to work deemed to be of sufficient importance and responsibility to merit such deduction;

1959, c. 312, § 7; 1961, c. 292, § 2.

**2. Recommendation of superintendent.** Upon the recommendation of the superintendent to the board for parole of the inmate, when the conduct of the inmate justifies it;

**3. Suitable employment secured.** When some suitable employment or situation has been secured for him in advance.

1957, c. 387, § 1; 1959, c. 312, § 7; 1961, c. 292, § 2; 1963, c. 414, § 8.

### **§ 1674. —Women's reformatory**

An inmate at the Reformatory for Women becomes eligible for a hearing by the board as follows:

**1. Inmate reformed.** When it appears to the superintendent that the inmate has reformed;

**2. Suitable employment secured.** When some suitable employment or situation has been secured for her in advance.

If the superintendent does not recommend an inmate for a parole hearing during the first year after commitment, the reasons for not so doing shall be reported to the commissioner at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board.

1959, c. 312, § 8; 1963, c. 414, § 9.

### **§ 1675. Violations of parole**

When a parolee violates a condition of his parole or violates the law, a member of the board may authorize the director in writing to issue a warrant for his arrest. A probation-parole officer, or any other law enforcement officer within the State authorized to make arrests, may arrest the parolee on the warrant and return him to the institution from which he was paroled. At its next meeting at that institution, the board shall hold a hearing. The parolee is entitled to appear and be heard. If the board, after hearing, finds that the parolee has violated his parole or the law, it shall revoke his parole, set the length of time he shall serve of the unexpired portion of his sentence before he can again be eligible for hearing by the board, and remand him to the institution from which he was released; except, that when a parolee from the Reformatory for Men violates the law and is sentenced by the court to the Maine State Prison, any length of time set by the board to be served of the unexpired portion of his reformatory sentence may be served at the Maine State Prison.

**1. Forfeits deductions.** Upon revocation of parole by the board the prisoner or inmate forfeits any deductions for good behavior earned while on parole.

**2. May earn deductions.** While serving the unexpired portion of his sentence after parole has been revoked, the prisoner or inmate may earn deductions for good conduct.

1957, c. 387, § 1; 1959, c. 312, § 10; c. 342, § 12; c. 378, § 28; 1963, c. 228.

### **§ 1676. Sentence for crime committed by parolee**

Any parolee who commits an offense while on parole who is sentenced to the State Prison shall serve the 2nd sentence beginning on the date of termination of the first sentence, unless the first sentence is otherwise terminated by the board.

1957, c. 387, § 1; 1959, c. 312, § 11.

### **§ 1677. Discharge from parole**

Any parolee who faithfully performs all the conditions of parole and completes his sentence is entitled to a certificate of discharge to be issued by the warden or superintendent of the institution to which he was committed.

1957, c. 387, § 1; 1959, c. 312, § 12.

### **§ 1678. Certificate of discharge**

Whenever it appears to the board that a person on parole is no longer in need of supervision, it may order the superintendent or warden of the institution from which he was released to issue him a certificate of discharge, except that in the case of persons serving a life sentence who may not be discharged from parole in less than 10 years after release on parole.

1959, c. 312, § 13.

### **§ 1679. Records forwarded to State Police**

When a person who has been convicted under Title 17, sections 1951, 3151, 3152 or 3153 is paroled, the warden or superintendent of the institution shall forward to the State Police a copy of his record and a statement of facts necessary for full comprehension of the case. Whenever any prisoner, who has been convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153 is discharged in full execution of his sentence, the Warden of the State 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.

R.S.1954, c. 149, § 17; 1957, c. 387, §§ 1, 21.