

MAINE STATE LEGISLATURE

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Perry D. Hayden, Commissioner

Mental Health and Corrections

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Mental Health and Corrections

Status of Parolees Who Commit Offenses While on Parole from the Reformatory for Men and are Sentenced to the Maine State Prison.

QUESTION PRESENTED: When a parolee commits an offense while on parole from the Reformatory for Men and is sentenced to the Maine State Prison, where should the parole violation time be served and when does the sentence for the new offense commence?

Under Section 16 of Chapter 27A of the Revised Statutes of Maine, 1954, a parolee who is sentenced to the Maine State Prison after conviction for an offense committed while on parole shall commence serving the second sentence upon natural termination or termination by the Probation - Parole Board of the first. The basic problem appears to be in what institution and under what authority is the parolee from the Reformatory for Men held before commencing his new sentence when he has been delivered directly from the sentencing court to the State Prison. In such a situation, there is no authority in the Warden of the State Prison for holding the inmate in the prison while still under sentence to the Reformatory for Men. There is one all-inclusive available solution through the Probation - Parole Board and two other solutions, one of which depends upon the nature of the original sentence.

1. The Probation - Parole Board, within its discretion, may discharge any parolee, misdemeanant or felon, thus making it possible for the new sentence to commence immediately.

2. Procedures when Original Sentence to the Reformatory for Men was for a Misdemeanor:

The misdemeanant on parole from the Reformatory for Men when sentenced and delivered to the State Prison on a new offense should be transferred to the Reformatory under the warrant issued for his arrest as a parole violator. Such a warrant under Section 15 of Chapter 27A is authority for arresting and transporting to the institution from which he was released on parole. If the Probation - Parole Board has

held a parole violation hearing and has revoked the parole of such inmate, the order of the Board to remand such inmate to the institution from which he was released is authority for the transfer of the inmate from the State Prison back to the Reformatory for Men to complete the original sentence in accordance with the terms of such order. After such inmate has completed his original sentence or it has been otherwise terminated by the Board, the commitment order of the court is authority to transfer such inmate to the prison to commence serving sentence for the offense committed while on parole.

1. Procedure when Original Reformatory Sentence was for a Felony:

The procedure for transferring the inmate back to the Reformatory shall be as described in (2) above. The fact that the parolee committed a new offense while on parole may not properly be considered by the Superintendent of the Reformatory for Men or by the Board of Transfer as determinative of incorrigibility under Section 75 of Chapter 27 of the Revised Statutes of Maine, 1954. In the yet unreported case of *Green v. Robbing*, the court discussed in passing the import of this Section and set forth that incorrigibility should be determined upon a consideration of a course of conduct within the institution and not upon any one isolated act. It becomes apparent from the reading of the Statute, along with the *Green v. Robbing* case, that the course of conduct forming the basis of a determination of incorrigibility must be consistent with the confinement in the institution.

It would be well, however, to keep in mind that a course of conduct followed in the institution before parole may be considered along with a course of conduct followed upon recommitment after parole violation; and may, as to felons, form a basis for a determination of incorrigibility and transfer may be ordered by the Board of Transfer.

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