

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date Sept. 16, 1964

To John J. Shea, Director Dept. Division--Probation and Parole
From: Courtland D. Perry, Asst. Atty. Genl. Dept. Attorney General
Subject Parole of Reformatory Inmates to Halfway House

Although, in an opinion of this office dated July 16, 1963 it was stated that the Superintendent of the Reformatory for Women, operating under the rules and regulations provision of R.S. 1954, c. 27, §52 could place inmates in a halfway house program, several cases have arisen wherein reformatory inmates have appeared before the State Probation and Parole Board, parole hearings conducted and certificates of parole issued. It is our opinion that, although, an alternative method was available, i.e., administrative placement, the State Probation and Parole Board acted within its jurisdiction by granting such parole, despite the fact, that the residence in which such girls live is on property forming a part of the grounds of the Reformatory for Women. By exercising its powers of parole within its jurisdiction the Probation and Parole Board effected the following relationships between the inmates, the institution and the Board: Said parolees are now under the custody of the Superintendent of the Reformatory for Women; however, subject to the immediate supervision of the Probation and Parole Board and subject to its rules and regulations and conditions of parole. If any of said parolees should leave the halfway house and travel to another part of the state, against the conditions of her parole, such departure would not be an escape from the Reformatory for Women, but would be a violation of parole, and her return would be the responsibility of the Probation and Parole Board. Parole, in the cases in question, may not be revoked by the Board; except, upon violation of parole: ". . . It may revoke a parole when a condition of the parole is violated . . ." R.S. 1954, c. 27 A, §11. The procedure to be followed in effecting the revocation of parole is set out in R.S. 1954, c. 27 A, §15, which section provides the only authority for the revocation of parole.

This office has been advised that the girls in the halfway house program, paroled as above indicated, are not considered by the Probation and Parole Board to be subject, at this time, to special conditions of parole, and not under the supervision of parole officers. These facts do not alter the legal effect of the action of the board in these cases. The board is in error in its ideas as to the legal effect of its parole action.

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There are dissimilarities between the parole certificates in the cases in question, and parole certificates issued in instances of parole resulting in release into the community. The signatures of the parolees in question do not appear on the certificates, no parole officer is designated thereon, and the parole is not indicated to be effective as of a particular date. The effect of the action of the board is unaltered by these dissimilarities, since, the order of parole by the terms of the parole certificate precedes the acceptance of the conditions of parole, viz., "I, Bonnie Burwood, having been granted parole by the State Probation and Parole Board, agree that I will keep the following conditions of my parole:"

The inclusion of the name of an assigned parole officer, similarly, follows the granting of parole. This item appears on the certificate in the conditions to be accepted by the parolee. Since the effective date of the parole was not entered on the certificate, and since a date does appear after the signatures of the Board Members and Secretary, the parole must be said to be effective as of the date of signing by the board.

Several girls transferred from the Stevens Training Center to the Reformatory for Women, as incorrigible, have also appeared before the Probation and Parole Board, in which cases, parole certificates have also issued. The legal procedure to be followed in cases where conditional release is contemplated is set forth in the opinion of this office of November 26, 1963. The parole certificates in these cases are void and without effect.



Courtland D. Perry
Assistant Attorney General

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