

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 744

H. P. 568

House of Representatives, February 10, 1971

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Lewin of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Revising the Laws Relating to Probation and Parole.

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

Sec. 1. R. S., T. 34, § 1501, sub-§§ 5 and 8, amended. Subsections 5 and 8 of section 1501 of Title 34 of the Revised Statutes are amended to read as follows:

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.

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, **or with or without commitment to jail or fine**, subject to conditions imposed by the court.

Sec. 2. R. S., T. 34, § 1502, subsection 1, ¶¶ A and B amended. Paragraphs A and B of subsection 1 of section 1502 of Title 34 of the Revised Statutes are amended to read as follows:

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

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

Sec. 3. R. S., T. 34, § 1551, amended. The first sentence of section 1551 of Title 34 of the Revised Statutes is amended to read as follows:

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.

Sec. 4. R. S., T. 34, § 1552, sub-§ 3, amended. Subsection 3 of section 1552 of Title 34 of the Revised Statutes, as repealed and replaced by section 2 of chapter 319 of the public laws of 1969, is amended to read as follows:

3. **Reports.** The secretary of the board shall annually, ~~on or before~~ after the 30th day of June, transmit to the Director of Corrections a detailed report of ~~its~~ the work of the State Parole Board and of the probation and parole activities of the Division of Probation and Parole for the preceding ~~calendar~~ fiscal year. The annual report shall be transmitted by the Director of Corrections to the Governor for submission to the Legislature.

Sec. 5. R. S., T. 34, § 1592, sub-§ 4, amended. The first sentence of subsection 4 of section 1592 of Title 34 of the Revised Statutes, as repealed and replaced by section 4 of chapter 319 of the public laws of 1969 and amended by section 66-C of chapter 590 of the public laws of 1969, is further amended to read as follows:

Make recommendations to the ~~division~~ board in cases of violation of the conditions of parole, issue warrants for the arrest of parole violators; notify the superintendents of the institutions of determinations made by the board.

Sec. 6. R. S., T. 34, § 1631, sub-§ 1, ¶ A, amended. Paragraph A of subsection 1 of section 1631 of Title 34 of the Revised Statutes is amended to read as follows:

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.

Sec. 7. R. S., T. 34, § 1632, amended. The 3rd sentence of section 1632 of Title 34 of the Revised Statutes is amended to read as follows:

The ~~board~~ Director of Probation and Parole shall designate one or more probation-parole officers to supervise the probationer during the term of his probation.

Sec. 8. R. S., T. 34, § 1633, amended. The 2nd and 3rd paragraphs of section 1633 of Title 34 of the Revised Statutes, as amended, are further amended to read as follows:

The Division of Probation and Parole may in its discretion report the alleged violation to any Superior Court or **District Court as applicable**. When such ~~Superior Court~~ court deems it to be convenient in the administration of justice to entertain a petition for violation of probation, such court shall request from the clerk of the court in which the probationer was sentenced attested copies of the sentence of the court and any other documents in the case. Upon receipt of such request, it shall be the duty of the clerk to send

forthwith the requested attested copies. The court may, after hearing, revoke or continue probation just as if it were the court that originally imposed sentence. The clerk shall thereupon forward to the clerk of the court that originally imposed sentence an attested copy of the petition for revocation and order pursuant thereto.

Whenever a probationer is charged by the ~~board~~ **division** with violation of probation under this section, the running of the probation period shall be interrupted from the date of such charge and shall remain interrupted until the probationer is returned to the court. In the event of the withdrawal of the charge by the ~~board~~ **division** or in the event that the court at the hearing on the alleged violation finds that the probationer did not violate the conditions of his probation, he shall be credited with the time lost by the interruption of the running of his probation period.

Sec. 9. R. S., T. 34, § 1671, sub-§ 2, amended. Subsection 2 of section 1671 of Title 34 of the Revised Statutes is amended to read as follows:

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~~ **division** or any special conditions of parole imposed by the board.

Sec. 10. R. S., T. 34, § 1673, repealed and replaced. Section 1673 of Title 34 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 1673. Men's Correctional Center

An inmate at the Men's Correctional Center 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 him 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 Director of Corrections at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board.

Sec. 11. R. S., T. 34, § 1674, amended. The last paragraph of section 1674 of Title 34 of the Revised Statutes is amended to read as follows:

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~~ **Director of Corrections** at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board.

Sec. 12. R. S., T. 34, § 1675, sub-§§ 1 and 2, amended. Subsections 1 and 2 of section 1675 of Title 34 of the Revised Statutes are amended to read as follows:

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.

Sec. 13. R. S., T. 34, § 1675, amended. The last paragraph of section 1675 of Title 34 of the Revised Statutes, as enacted by chapter 460 of the public laws of 1965, is amended to read as follows:

In the event of the withdrawal of the warrant by authority of the ~~board~~ **director**, or in the event that the board at the hearing on the alleged violation finds that the parolee did not violate the conditions of his parole, or the law, he shall be credited with the time lost by the interruption of the running of his sentence.

STATEMENT OF FACT

The purpose of this Act is to clarify and make consistent the statutes relative to probation and parole, specifically, in connection with the responsibility for administration of probation and to make consistent and uniform parole provisions relative to the Correctional Centers.