

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 65

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND NINE.

AN ACT to authorize courts to suspend or continue for sen-
tence on probation, and to provide for the appointment of
Probation Officers, relating to State Detectives.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows:*

Section 1. The governor, by and with the consent of the
2 council, shall appoint in each county one probation officer,
3 who shall be a male citizen of the county in which he is
4 appointed and of good moral character, who shall hold
5 office during the pleasure of such governor and council,
6 and who shall receive as his compensation such sum as the
7 county commissioners of his county shall fix, which shall
8 be paid out of the county treasury in equal monthly install-

9 ments. The county commissioners in each county shall at
10 their next session after such appointment by the governor,
11 determine and fix the amount of such compensation, which
12 shall not be diminished during the term of office of a pro-
13 bation officer, but may be increased if it seems just to the
14 county commissioners so to do. In addition to such com-
15 pensation, each probation officer shall receive monthly such
16 sums as he has reasonably and properly paid for his ex-
17 penses incurred in the performance of his duty, and each
18 probation officer shall on or before the last day of each
19 month submit under oath to the county commissioners in
20 his county an itemized statement of such expenditures. Each
21 probation officer shall have the authority to perform the
22 duties prescribed in this act, and for the purpose of per-
23 forming such duties is hereby invested with all the authority
24 necessary therefor. If in any county it seems to the gov-
25 ernor and council necessary to have more than one pro-
26 bation officer, the governor, by and with the consent of the
27 council, may appoint one or more associates, who shall have
28 all the authority under the direction of the probation officer
29 which such probation officer has, and who shall receive for
30 compensation and expenses such sum as the county com-
31 missioners in his county shall deem just and proper. Such
32 probation officers in each county shall attend the supreme
33 or superior court during the times when persons convicted
34 of crime are sentenced, and shall give to the court upon

35 request such information with reference to any individual
36 accused or convicted of crime as shall be in his possession.
37 Such probation officer shall attend the sessions of other
38 courts within his county having criminal jurisdiction as
39 often and as continuously as the performance of his duties
40 shall permit, and shall give to such other courts the same
41 information last above mentioned.

Sect. 2. When any person by plea of guilty, or upon
2 trial, is convicted of any offense other than a capital offense
3 before any court having criminal jurisdiction, such court
4 is invested with authority in its discretion to continue the
5 matter for sentence, suspend sentence, or suspend the exe-
6 cution of any sentence, to be done under the provisions of
7 this act, but nothing herein contained shall be held to take
8 away the right of appeal from any respondent, or any right
9 to have his case reviewed or re-tried under the provisions
10 of law as they now exist. The court at or before the time
11 for sentence shall inquire into the circumstances of the
12 respondent and of his offense, and if the matter is continued
13 for sentence, the respondent shall be placed in the custody
14 and under the control of the probation officer in the county
15 where such respondent has been convicted. Such sentence
16 may be continued by the court indefinitely, or to a definite
17 time, and in every instance the court may order the re-
18 spondent to report to the probation officer at such times
19 and places as the court shall designate, and shall cause to

20 be given to the respondent a writing signed by the clerk
21 or by the court, showing such continuance for sentence, the
22 time during which the same is continued, and the times
23 and places when the respondent is to report to such pro-
24 bation officer.

If the offense of which the respondent is convicted is
26 within the jurisdiction of the court trying the same, the
27 court may in its discretion impose a fine, or an alternative
28 sentence of imprisonment, and release respondent into the
29 custody of the probation officer, with an opportunity to
30 pay such fine and costs to the probation officer within a
31 definite time. When such respondent pays such fine and
32 costs, or any part thereof, to the probation officer, such
33 officer shall give the respondent a receipt therefor.

The court may in its discretion, if the offense is within
35 the jurisdiction of the court trying the cause, suspend sen-
36 tence for a definite period of time, or for an indefinite time
37 not exceeding one year, and such respondent may be com-
38 mitted to the custody and control of the probation officer.
39 In all cases where the respondent is committed to the cus-
40 tody or control of the probation officer, the court shall give
41 to each respondent a writing showing the terms of his pro-
42 bation and the times and places when and where such re-
43 spondent is to report to such probation officer. And if at
44 any time any such respondent violates the terms of his
45 probation, it shall be the duty of the probation officer to

46 forthwith report the same to the court which finally tried
47 the cause, and the court shall have authority thereupon to
48 decree said probation ended, and either impose the sentence,
49 if the cause has been continued for sentence, or in all other
50 cases order the respondent to forthwith comply with the
51 original sentence, and in all cases where sentence has not
52 been imposed, the court may forthwith impose sentence.

Sect. 3. Whenever a child under the age of sixteen years
2 is arrested and charged with an offense other than a felony,
3 or a crime which if committed by an adult would be a
4 felony, the officer making such arrest may accept in lieu
5 of bail, and without committing such child to any jail or
6 police station, the personal recognizance in writing, without
7 security, of the parent, guardian or other lawful custodian
8 of such child, to produce such child before the proper court
9 or magistrate on the following day at a time and place to
10 be specified in said recognizance; and thereupon such offi-
11 cer shall place such child in the care and custody of the
12 person executing such recognizance, who on failure to so
13 produce such child, pursuant to the terms of such recog-
14 nizance, shall be liable to punishment by the court or magis-
15 trate as for criminal contempt. And similar recognizance
16 may be taken by the court or magistrate for the subsequent
17 production of such child at a time and place to be specified
18 therein pending the final termination of the proceedings,
19 and non-compliance therewith shall subject the person giving
20 the same to the same punishment.

When any such child has been convicted of any offense
22 other than a capital offense, the court or magistrate having
23 jurisdiction, instead of committing such child to confine-
24 ment in any institution, or the ordering of payment of fine
25 and costs, may place such child in the custody of the pro-
26 bation officer under suspension of such sentence, or a con-
27 tinuance of the same for a period not exceeding one year.
28 At any time within such year, if it appears to the court that
29 justice requires it, said court or magistrate may cause such
30 child to be brought into court and either impose sentence,
31 if the case has been continued for sentence, or order such
32 child to enter upon the execution of his sentence, if the
33 execution of the same has been suspended.

Whenever any child under the age of sixteen years has
35 been arrested for any offense and is confined in any jail
36 or police station, it shall be the duty of the officer making
37 such arrest forthwith to notify the parent, guardian or legal
38 custodian of such child of the fact of such arrest, and of
39 the time and place where his trial is to be held. Such offi-
40 cer shall also notify a probation officer in his county of the
41 fact of such arrest, and of the time and place of such trial.
42 And any court having jurisdiction of the offense may upon
43 application of such probation officer, by an order in writing,
44 cause such child to be forthwith placed in the custody of
45 such probation officer pending the trial and final determina-
46 tion of said cause.

When any child under the age of sixteen years is brought
48 before any court or magistrate for trial charged with any
49 offense other than a capital offense, the court may in its
50 discretion continue such cause without trial from time to
51 time, not exceeding thirty days at any one time, and release
52 such child into the custody and control of the probation
53 officer, who shall have authority to permit such child to
54 remain in the home of such child if the same seems to him
55 proper, or he may retain such child in his own custody if
56 the same can be done without expense to the county or the
57 State. If at any time it seems to the court just and proper
58 to discharge any such respondent without trial, the same
59 may be done, and no child so discharged, or any other
60 person, shall have any right of action against any officer
61 or other person on account of any of the proceedings in
62 such case.

In case of the absence of the probation officer at the time
64 and place when any such child is so arrested or to be tried,
65 the court having jurisdiction may appoint some discreet
66 male citizen of the county a probation officer pro tempore
67 for the purpose of that particular case, who shall perform
68 his duties without compensation or expense, and such pro-
69 bation officer shall have all the authority to perform all of
70 the duties of the probation officer under this act; but the
71 authority of such probation officer shall cease when he
72 shall have performed the duties with reference to that par-
73 ticular cause.

Whenever any such child has been committed to the custody and control of any probation officer, the court or magistrate shall cause to be entered upon the records of such court the fact of such commitment and the terms thereof, and the court shall have authority to order such probationer to report to the probation officer at such times and places as the court in its order shall direct. If at any time it appears to the court that such probationer has violated the terms of his probation, or that justice requires it, the court may order such child brought before it and may summarily deal with such child as the law provides.

Any probation officer having committed to his custody any child or other person, shall have the same authority with reference to the person of such child or other person as he would have were he surety upon the recognizance of such child or other person.

Sect. 4. If any person commits an offense against another for which that other would have a civil action for damages, which damages in amount would not exceed the sum of twenty dollars, the court trying such offender may in its discretion, if such offender is found guilty, continue the matter for sentence and commit the respondent to the custody of the probation officer for a definite period, within which time such offender may make restitution to the person offended against. And if within such period such offender has made such restitution, the court at the expira-

11 tion of such period may make such legal disposition of the
12 case as seems proper to the court.

Sect. 5. It shall be the duty of all probation officers to
2 investigate as fully as may be and order the attendance at
3 some school all children between the ages of five and six-
4 teen, and for this purpose such probation officer shall have
5 all authority of truant officers.

Sect. 6. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE,

January 27, 1909.

Presented by Mr. HAMILTON of York and on his motion
tabled for printing pending reference to Committee on Legal
Affairs.

F. G. FARRINGTON, *Secretary.*