

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 425

In Senate, March 3, 1913.

Reported by Senator Bailey from Committee on Legal Affairs, and ordered printed under joint rules.

W. E. LAWRY, Secretary.

STATE OF MAINE

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

AN ACT to provide for the indeterminate sentence as a punishment for crime, upon the conviction thereof, and for the detention and release of persons in prison or detained on such sentence, and for the expense attending the same.

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

Section 1. That when any person shall be convicted of
2 crime the punishment for which prescribed by law, may be
3 imprisonment in the State Prison at Thomaston, or the State
4 School for Boys at South Portland, the court imposing sen-
5 tence, shall not fix a definite term of imprisonment in said
6 State Prison, and may not fix a definite term in said State

7 School for Boys, but shall or may fix a minimum term of
8 imprisonment which shall not be less than six months in
9 any case. The maximum penalty provided by law shall
10 be the maximum sentence in all cases except as herein pro-
11 vided and shall be stated by the judge in passing sentence.
12 The judge shall at the time of pronouncing such sentence
13 recommend and state therein what, in his judgment, would
14 be a proper maximum penalty in the case at bar not ex-
15 ceeding the maximum penalty provided by law. Every per-
16 son confined in the State Prison on the date of the passage
17 of this act under sentence for a definite term for a felony,
18 unless the term be for life, who has never before been con-
19 victed of a crime punishable by imprisonment in a state
20 prison, shall be subject to the jurisdiction of the Governor
21 and Advisory Board in the Matter of Parols and may be
22 paroled in the same manner and subject to the same con-
23 ditions and penalties as prisoners confined under indeter-
24 minate sentences under the provisions of this act. The min-
25 imum and maximum terms of the sentences of said prisoners
26 are hereby fixed and determined to be as follows: The defi-
27 nite term for which each person is sentenced shall be the
28 maximum limit of his term and if the definite term for
29 which the person is sentenced is two years or less the min-
30 imum limit of his term shall be one year. If the definite
31 term for which the person is sentenced is more than two
32 years, one-half of the definite term of his sentence shall
33 be the minimum limit of his term. He shall before or at

34 the time of passing such sentence ascertain by examination
35 of such prisoner on oath, or otherwise, and in addition to
36 such oath, by such other evidence as can be obtained tend-
37 ing to indicate briefly the causes of the criminal character
38 or conduct of such prisoner, which facts, and such other
39 facts as shall appear to be pertinent in the case, he shall
40 cause to be entered upon the minutes of the court.

Sect. 2. The maximum term of imprisonment shall not
2 exceed the longest term fixed by law for the punishment of
3 the offense of which the person sentenced is convicted, and
4 the minimum term of imprisonment fixed by the court shall
5 not exceed one-half of the maximum term of imprisonment
6 fixed by statute: Provided, that where the law prescribing
7 the punishment for the offense of which the prisoner stands
8 convicted, fixes the minimum term of imprisonment, then
9 the minimum term fixed by law shall be the minimum term
10 of imprisonment.

Sect. 3. The provisions of this act shall not apply to any
2 person convicted of an offense the only punishment for
3 which prescribed by law is imprisonment for life: Pro-
4 vided, that in all cases where the maximum sentence, in the
5 discretion of the court, may be for life or any number of
6 years, the court imposing sentence shall fix both the mini-
7 mum and maximum sentence. The minimum term of im-
8 prisonment thus fixed by the court shall not exceed one-
9 half of the maximum term so fixed.

Sect. 4. Whenever a person shall be convicted of a crime

2 and sentenced to imprisonment pursuant to the provisions
3 of this act, the clerk of the court shall make and forward
4 to the warden or superintendent of the institution to which
5 the convict is sentenced, and also to the governor, a record
6 containing a copy of the information or complaint, the sen-
7 tence pronounced by the court, the name and residence of
8 the judge presiding at the trial, prosecuting attorney and
9 sheriff, and the names and postoffice addresses of the jurors
10 and the witnesses sworn on the trial, together with a state-
11 ment of any fact or facts which the presiding judge may
12 deem important or necessary for a full comprehension of
13 the case, and a reference to the statute under which the
14 sentence was imposed. One copy of the said record shall
15 be delivered to the warden or superintendent at the time the
16 prisoner is received into the institution and one copy shall
17 be forwarded to the governor within ten days thereafter.
18 In each case in which he shall perform the duties required
19 by this act, the clerk of the court shall be entitled to such
20 compensation as shall be certified to be just by the presid-
21 ing judge at the trial not to exceed three dollars for any
22 one case, which shall be paid by the county in which the
22 trial is had as a part of the expenses of such trial.

Sect. 5. The governor shall appoint a committee of three
2 from the executive council to act as Advisory Board in the
3 Matter of Parols. The three members of the executive
4 council constituting the Advisory Board in the Matter of
5 Parols shall have authority and power to hire a secretary

6 who shall be clerk of said Advisory Board in the Matter
7 of Parols. He shall be sworn to keep a true copy of the
8 records of said board and to the faithful and impartial per-
9 formance of his duties. The governor and executive coun-
10 cil shall have authority to fix the compensation of said clerk.
11 The three members of the executive council acting as the
12 Advisory Board in the Matter of Parols shall receive for
13 their services five dollars per day for each day employed
14 in the work of said board and necessary expenses.

Sect. 6. Authority to grant parole under the provisions
2 of this act is hereby conferred exclusively upon the gov-
3 ernor in all cases of manslaughter, actual forcible rape, for
4 offenses by public officers in violation of their duties as
5 such officers, and to all persons convicted and serving sen-
6 tence for conspiracy to defraud public municipalities, or
7 the bribing of, or attempting to bribe public officers. In all
8 other cases such authority is hereby conferred upon the
9 Advisory Board in the Matter of Parols. The Governor
10 and the Advisory Board in the Matter of Parols acting
11 jointly, shall have authority to adopt such rules as may, by
12 them, be deemed wise or necessary to properly carry out
13 the provisions of this act, and to amend such rules at pleas-
14 ure: Provided, prisoners, under the provisions of this act,
15 shall be eligible to parole only after the expiration of their
16 minimum term of imprisonment, and prisoners who have
17 been twice previously convicted of a felony shall not be
18 eligible to parole.

Sect. 7. Application shall be made to the Governor, or
2 to the Advisory Board in the Matter of Parols upon uni-
3 form blanks prescribed by the Governor and the Advisory
4 Board in the Matter of Parols to the wardens or superin-
5 tendents of the penal institutions named in section one of
6 this act. It shall be the duty of the warden or superintend-
7 ent when requested by a prisoner whose minimum term of
8 imprisonment has expired and is eligible to parole, to fur-
9 nish such prisoner with a blank application for parole. The
10 application shall be filled out and delivered to the warden
11 or superintendent who shall immediately forward the same
12 to the Governor or to the Advisory Board in the Matter
13 of Parols with his recommendation endorsed thereon. Upon
14 receipt of such application and recommendation, the Gov-
15 ernor or the Advisory Board in the Matter of Parols, shall
16 make such investigation in the matter as they may deem
17 advisable and necessary and may, in their discretion, grant
18 such application and issue a parole or permit to such appli-
19 cant to go at large without the enclosures of the prison.
20 The prisoner so paroled, while at large by virtue of such
21 parole, shall be deemed to be still serving the sentence im-
22 posed upon him, and shall be entitled to good time the same
23 as if confined in prison: Provided, that whenever the pris-
24 oner so paroled shall have been committed to or confined
25 in any such prison or reformatory from a county other than
26 the county in which the prison or reformatory in which he
27 has been last confined is situated, it shall be made a con-

dition of his parole that he shall not live or remain in the county in which the prison or reformatory in which he was last confined is situated, without the express consent of the officers or board granting such parole, which consent may be granted or revoked by such officer or board, for cause shown at any time before such convict is finally discharged.

Sect. 8. No prisoner shall be released on parole until the Governor or Advisory Board in the Matter of Parols shall have satisfactory evidence that arrangements have been made for such honorable and useful employment of the prisoner as he is capable of performing, and some responsible person (not a relative) shall agree to act as his "first friend and adviser," who shall execute an agreement to employ the prisoner, or use his best efforts to secure suitable employment for him. Said "first friend and adviser" may, in the discretion of the Governor or the Advisory Board in the Matter of Parols, be required to furnish a bond, or other satisfactory security to the governor for the faithful performance of his obligation as such "first friend and adviser." All moneys collected upon such bond or security shall be turned over to the state treasurer and credited by him to the general fund of the state.

Sect. 9. Every such prisoner, while on parole, shall remain in the legal custody and under the control of the warden or superintendent of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison for any reason that may

6 be satisfactory to the warden or superintendent, and full
7 power to retake and return any such paroled prisoner to
8 the prison from which he was allowed to go at large is
9 hereby expressly conferred upon the warden or superin-
10 tendent of such prison, whose written order shall be a suffi-
11 cient warrant authorizing all officers named therein to re-
12 turn such paroled prisoner to actual custody in the prison
13 from which he was permitted to go at large. When the
14 warden or superintendent shall return to prison any paroled
15 prisoner, he shall at once report the fact, and his reasons
16 therefor, to the Advisory Board in the Matter of Parols
17 and his action shall stand approved unless reversed by a
18 majority vote of said board, but no prisoner shall be re-
19 turned twice for the same offence.

Sect. 10. A prisoner violating the provisions of his parole
2 and for whose return a warrant has been issued by the
3 warden or superintendent shall, after the issuance of such
4 warrant be treated as an escaped prisoner owing service to
5 the state, and shall be liable, when arrested, to serve out the
6 unexpired portion of his maximum imprisonment, and the
7 time from the date of his declared delinquency to the date
8 of his arrest shall not be counted as any part or portion of
9 the time to be served.

Sect. 11. Any prisoner committing a crime while at large
2 upon parole or conditional release and being convicted and
3 sentenced therefor shall serve the second sentence to com-
4 mence from the date of the termination of the first sentence

5 after the sentence is served or annulled.

Sect. 12. At the time of granting parole to any prisoner
2 either by the Governor or the Advisory Board in the Matter
3 of Parols they shall each respectively determine the length
4 of time the prisoner shall remain on parole, which shall not
5 be more than four years in any case. After any prisoner
6 has faithfully performed all of the obligations of his parole
7 for the period of time fixed, and has regularly made his
8 monthly reports as required by the rules providing for his
9 parole, he shall be deemed to have fully served his entire
10 sentence, and shall then receive a certificate of final dis-
11 charge from the warden or superintendent in whose cus-
12 tody he is. A duplicate copy of such final discharge shall
13 at once be sent to the secretary of the Advisory Board in
14 the Matter of Parols who shall file the same in the office
15 of the governor.

Sect. 13. On the last day of each month, each paroled
2 prisoner shall make a written report to the warden of the
3 prison, or superintendent of the institution from which he
4 was released, showing his conduct during the current month,
5 his employment, earnings and expenditures, his probable
6 postoffice address and place of employment for the coming
7 month, and the warden or superintendent in charge of each
8 institution of this state named in section one of this act,
9 shall, not later than the fifteenth day of each month, tabu-
10 late and report to the Advisory Board in the Matter of
11 Parols, in writing, the information thus received, and he

12 shall communicate to the Advisory Board in the Matter of
13 Parols immediately all violations and infractions of the rules
14 governing such paroled prisoners. In their annual report
15 to the Governor, the Advisory Board in the Matter of Pa-
16 rols shall include a summary of the parols and releases
17 under this act, the names of all prisoners who have violated
18 their parols, the nature of such violations, together with
19 such other information concerning the operations under the
20 law as may be deemed to be of public interest.

Sect. 14. There shall be kept in the prison or institution
2 named in section one of this act, by the warden or superin-
3 tendent thereof, a book containing a full and accurate rec-
4 ord of each and every transaction had under the provisions
5 of this act. A summary of such record shall be filed with
6 the Advisory Board in the Matter of Parols, to be by said
7 board compiled and included in the annual report of the
8 Advisory Board, which report shall be submitted in writing
9 to the Governor on or before the first day of December in
10 the year nineteen hundred and thirteen, and on or before
11 December first of each year thereafter, and said report shall
12 be accompanied by such recommendations as the board may
13 see fit to make.

Sect. 15. The secretary of the Advisory Board in the
2 Matter of Parols is hereby authorized to provide all blanks
3 required for the proper execution of the provisions of this
4 act after the forms for such blanks have been approved by

5 the Governor and the Advisory Board in the Matter of
6 Parols.

Sect. 16. Whenever any prisoner is released upon parole
2 he shall receive from the state, clothing^s not exceeding ten
3 dollars in cost and a non-transferable ticket at his own ex-
4 pense to the county where his "first friend" resides. The
5 warden may, in his discretion, at the risk of the state, ad-
6 vance to any paroled prisoner the cost of a ticket as above
7 provided and expenses not to exceed two dollars, and fail-
8 ure on the part of the paroled prisoner to return the money
9 so advanced within sixty days may be declared a violation
10 of parole warranting the return of the violator to prison.

Sect. 17. Whenever the parole of any prisoner shall be
2 ordered by the Advisory Board in the Matter of Parols, or
3 the Governor, the clerk of said board shall at once notify
4 the sheriff of the county or the chief of police of the city
5 to which he is paroled of the issuance of such parole, nam-
6 ing the county where convicted, the crime for which con-
7 victed, the name and address of "first friend," and the length
8 of time which said prisoner shall be required to report be-
9 fore receiving final discharge.

Sect. 18. Any sheriff, chief of police, or probation officer,
2 shall upon request of the Governor or the Advisory Board
3 in the Matter of Parols, act as "first friend" and adviser
4 for paroled prisoners while on parole from any prison or
5 reformatory in the state, and shall, upon the approval of
6 the secretary of the Advisory Board in the Matter of Pa-

7 rols, be paid from the general fund of the state not other-
8 wise appropriated, one dollar per month for each paroled
9 prisoner for such service. Whenever the term of office
10 of any such officer, acting as "first friend," shall expire
11 while any such parole is in force, the duties of such "first
12 friend" shall be assumed by the successor in office of such
13 officer.

Sect. 19. Nothing in this act shall be construed to inter-
2 fere or impair the power of the governor to grant pardons
3 or commutations of sentence; nor shall anything herein con-
4 tained be construed to interfere with the rights of any per-
5 son who may be serving out a term of imprisonment in any
6 penal institution in this state by virtue of a sentence im-
7 posed under any law heretofore or now in force.

Sect. 20. All laws, acts or parts of acts in conflict with
2 the provisions of this act are hereby repealed.