

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 884

H. P. 1319

House of Representatives, February 22, 1951

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

HARVEY R. PEASE, Clerk.

Presented by Mrs. Moffatt of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Establishing a State-wide Probation System.

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

Sec. 1. R. S., c. 136, § 28, repealed and replaced. Section 28 of chapter 136 of the revised statutes, as amended by chapter 139 of the public laws of 1945 and by chapter 317 of the public laws of 1947, is hereby repealed and the following enacted in place thereof:

'Sec. 28. Probation commission; appointment, compensation, term, expenses. There is hereby established a state probation commission which shall consist of 5 members to be appointed by and removed for cause by the governor, with the advice and consent of the council. Of the 1st commission, 1 member shall be appointed for 1 year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. All reappointments shall be for the term of 5 years. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Each member of the commission, unless already employed by the state, shall be paid \$15 per day for each day actually spent and all necessary expenses incurred in the performance of their duties. The commission shall elect a chairman and a clerk.'

Sec. 2. R. S., c. 136, § 29, repealed and replaced. Section 29 of chapter 136 of the revised statutes is hereby repealed and the following enacted in place thereof:

'Sec. 29. Duties of the commission. It shall be the duty of the commission:

I. To formulate policies and programs for the development and operation of a probation system providing specialized services for juvenile offenders; and

II. To report annually to the governor facts and recommendations relating to the administration of probation services.'

Sec. 3. R. S., c. 136, §§ 29-A - 29-N, additional. Chapter 136 of the revised statutes is hereby amended by adding thereto 14 new sections, to be numbered 29-A to 29-N, inclusive, to read as follows:

'Sec. 29-A. Director of probation; duties; salary; report. The commission shall appoint a director of probation, qualified by personality, professional training and executive or supervisory experience in a social agency using high professional standards, to direct an effective probation service. He shall perform such duties as may be required of him by the commission, including in-service training of staff, and shall receive from the state such salary as may be fixed by the commission, with the approval of the governor and council, and shall be allowed the necessary expenses incurred in the performance of his duties. He shall report annually to the commission. The director shall utilize all existing psychiatric and psychological services, and all other services offered by public and private agencies.

Sec. 29-B. Director's quarters and assistants. The director shall be provided with suitable office accommodations and may employ such office assistants as the commission shall deem necessary.

Sec. 29-C. Probation officers; appointment and assignment. Probation officers, qualified by personality, professional training and experience in a social agency having high professional standards, shall be appointed by the commission upon recommendation of the director from a list of persons found qualified by the state personnel board. Such officers shall be assigned to, and reside in, counties or districts of the state to be designated by the commission. The provisions of sections 28 to 29-N, inclusive, do not affect the right of courts to appoint special probation officers to serve without pay.

Sec. 29-D. Probation officers; compensation, quarters, expenses. The

salaries of the state probation officers shall be paid by the state. The commission shall secure such quarters and office facilities in the counties or districts to which the state probation officers are assigned as may be reasonably required. Expenses to be incurred by a state probation officer in going out of the state for purposes directed by a court shall be advanced upon the court's order and be accounted for by the officer upon his return. All such expenses shall be audited by the court and charged to funds appropriated by the state for carrying out the provisions of sections 28 to 29-N, inclusive.

Sec. 29-E. Bonds. Before performing any official duty, each state probation officer shall give a suitable bond at the expense of the state.

Sec. 29-F. Powers and duties of probation officers. It shall be the duty of state probation officers:

- I. To investigate at the request of any court any case, matter or question, whether pending or not, and report to a court the result of such investigation, with recommendations;
- II. To take charge of such persons before, at and after hearing of their cases as the court may direct and transport them to agencies or institutions to which they may be committed and to perform any duties as probation officers assigned to them by the commission or any court, and such probation officers shall be vested with all authority necessary therefor;
- III. To receive under supervision, upon request of any court, any person placed on probation or ordered to pay any sums for support in a judgment of divorce, legal separation, non-support or illegitimacy;
- IV. To keep informed concerning the conduct and condition of persons on probation and use all suitable methods to aid and encourage them to bring about improvement in their conduct and condition;
- V. To keep detailed records of each case, accounts of all money collected and disbursed, and to give and obtain receipts therefor, and to make such reports to the courts and to the commission as they may require. These reports or records shall not be open to public inspection except upon order of the court;
- VI. To perform all other duties within the general purview of this and other related laws, in the execution of which they shall have all the powers vested in police officers under the laws of this state.

Sec. 29-G. Investigations. No defendant shall be placed on probation until the report of the investigation by the probation officer shall have been presented to and considered by the court having jurisdiction. Whenever a petition for the adoption of or appointment of a guardian of a minor under 18 years of age is filed in any court of probate, the judge thereof may cause an investigation and report to be made by a probation officer for his consideration.

Sec. 29-H. Collections and disbursements. The collection and disbursement of fines and restitution payments and payments ordered in divorce, non-support and bastardy cases may be made by probation officers when so ordered by the court.

Sec. 29-I. Receipts. The probation officer shall give and take receipts upon forms, prescribed by the commission for all money received or expended by him. Receipts taken and duplicates of receipts given shall be filed with the clerk of the court in which the case is pending.

Sec. 29-J. Recognizance. The court, in releasing from custody on probation, may in its discretion require the defendant to enter into a recognizance with or without surety in such sum as the court may order.

Sec. 29-K. Violation and termination of probation. The court may at any time discharge a person from probation. If or when the probation officer has reason to believe that the probationer has violated any of the conditions of his probation, any probation officer, with or without a warrant, or any other officer with a warrant, may arrest him and bring him before the court forthwith for a hearing to determine whether or not the conditions of probation have been violated. The court, after a hearing, may make such further order or orders as justice requires or as he may be empowered to make under the statutes.

Sec. 29-L. Transfers. A court may, when justice or convenience requires, transfer a person on probation from the supervision of one probation officer to that of another probation officer within the jurisdiction of the probation commission.

Sec. 29-M. Authority limited. The provisions of sections 28 to 29-N, inclusive, shall not be construed as authorizing any public official, agent or representative in carrying out any of the provisions thereof to take charge of any child over the objection of either parent of the child or the person standing in loco parentis to such child, except pursuant to a court order.

Sec. 29-N. Exemptions. The counties of Androscoggin and Cumberland are expressly exempted from the provisions of sections 28 to 29-N, inclusive.

Nothing in said sections shall affect or modify any law pertaining to the appointment of probation officers and their duties within and for the county of Cumberland. The probation officer and assistant probation officer of the county of Cumberland shall be appointed by the judge of the municipal court for the city of Portland, and said appointments shall be approved by a justice of the superior court resident in Cumberland county or by the chief justice of the supreme judicial court.

The county of Androscoggin shall have 2 probation officers, one to be designated probation officer and one to be designated assistant probation officer; and the county commissioners for Androscoggin county shall pay the probation officer a salary of \$2,400 annually, and shall pay the assistant probation officer a salary of \$1,800 annually. The probation officer for Androscoggin county shall be entitled to select a clerk or stenographer for the probation office and the county commissioners shall appropriate the sum of \$1,456 annually for such clerk hire. The county commissioners for Androscoggin county shall provide suitable quarters in the county building for this office.

The county commissioners shall require the probation officer to give corporate surety bond to the county in such sum as the county commissioners shall approve, conditioned that he shall, during his term of office, faithfully perform all the duties of his office.'

Sec. 4. R. S., c. 136, § 30, amended. The 2nd sentence of section 30 of chapter 136 of the revised statutes is hereby amended to read as follows:

'The court at or before the time for sentence shall inquire into the circumstances of the respondent and of his offense, and if the matter is continued for sentence, the respondent shall be placed in the custody and under the control of the probation officer in the county or district where such respondent has been convicted.'

Sec. 5. R. S., c. 136, § 31, amended. The 1st paragraph of section 31 of chapter 136 of the revised statutes is hereby amended to read as follows:

'The court may in its discretion, if the offense is within the jurisdiction of the court trying the cause, continue for sentence, suspend sentence for a definite period of time, or for an indefinite time not exceeding \pm 5 years, and such respondent may be committed to the custody and control of the

probation officer. **Such time limitation of 5 years shall not apply in cases where the respondent is charged with failure to provide subsistence for dependents.'**

Sec. 6. R. S., c. 136, § 35, amended. The 2nd sentence of section 35 of chapter 136 of the revised statutes is hereby amended to read as follows: 'Such officer shall also notify a probation officer in his county **or district** of the fact of such arrest, and of the time and place of such trial.'

Sec. 7. R. S., c. 136, § 42, amended. Section 42 of chapter 136 of the revised statutes is hereby amended to read as follows:

'**Sec. 42. County of Cumberland excepted.** The county of Cumberland is expressly excepted from the provisions of ~~the 14 preceding~~ sections 28 **to 41, inclusive**; nor shall the provisions of chapter 346 of the special laws for the year 1905 and of chapter 336 of the special laws for the year 1907, and acts amendatory thereof, be in any way thereby affected.'

Sec. 8. R. S., c. 22, § 237, amended. The 1st sentence of section 237 of chapter 22 of the revised statutes is hereby amended to read as follows: 'All municipal boards, their agents and employees, all **state and county** ~~probation officers and associate~~ probation officers, and the department and its agents, so far as funds are available, shall investigate all cases of cruel or injurious treatment of children coming to their knowledge, and shall cause offenders against any law for the protection of children or prevention of cruelty to the same to be prosecuted.'

Sec. 9. Appropriation. There is hereby appropriated from the general fund of the state the sum of \$65,000 for the fiscal year ending June 30, 1952 and the sum of \$65,000 for the fiscal year ending June 30, 1953, to carry out the provisions of this act.