REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

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Sec. 194. Unwarranted hospitalization or denial of rights; penalties.—Any person who willfully causes, or conspires with or assists another to cause, the unwarranted hospitalization of any individual under sections 168 to 194, or the denial to any individual of any of the rights accorded to him under said sections, shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment for not less than one year nor more than 5 years, or by both. (1961, c. 303, § 1.)

Cited in Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Chapter 27-A.

Probation and Parole Law.

Editor's note.—P. L. 1957, c. 387, which inserted this chapter, provided in §§ 35 to 37 as follows:

"Sec. 35. Transfer of records and property to board. The parole board, the probation officers and each county shall transfer all books, papers, records and property connected with the functions, duties and powers exercised by the probation and parole board for the use of the state. The probation and parole board is authorized to take possession of this property for the state."

"Sec. 36. Tenure of present probation and parole officers. Each full-time probation or parole officer presently in office, if he desires, shall be continued in office as a probation-parole officer so long as he continues to perform his duties in a manner satisfactory to the director of probation and parole."

"Sec. 36-A. Tenure of present parole board. The present parole board shall assume the powers and duties prescribed in chapter 27-A of the Revised Statutes, and shall be known as the state probation and parole board. Appointed members shall continue in office until their present terms expire."

"Sec. 37. Appropriation. There is hereby appropriated from the general fund of the state to the department of institutional service to carry out the purposes of this act the sum of $212,874 for the fiscal year ending June 30, 1958 and $207,010 for the fiscal year ending June 30, 1959; the breakdown of which shall be as follows:

	1957-58	1958-59
Personal services	$156,174	$162,960
Capital expenditures	10,150	
All other	46,550	44,050
	$212,874	$207,010"

Definitions.

Sec. 1. Definitions.—The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by the context:

I. "Correctional institution" means the following state institutions: The state reformatory for men and the state reformatory for women.

II. "Fine" includes court costs wherever applicable.

III. "Inmate" means a person in execution of a sentence to a reformatory.

IV. "Juvenile" means a person under the age of 17 years or a person who is alleged to have committed, while under the age of 17 years, any acts or offenses covered by chapter 152-A regardless of whether, at the time of the proceeding, such person is of the age of 17 years or over.

V. "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.

VI. "Penal institution" means the state prison.

VII. "Prisoner" means a person in execution of a sentence to the state prison.

VIII. "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, subject to conditions imposed by the court. (1957, c. 387, § 1. 1959, c. 312, § 1; c. 342. § 8; c. 378, § 27.)

Effect of amendments.—P. L. 1959, c. 312, rewrote the section. P. L. 1959, c. 342, amended subsection IV by adding thereto all the language appearing after the word "years" in the first line thereof. P. L. 1959, c. 378, effective on its approval, January 29, 1960, repealed and re-enacted subsection IV without change.

State Probation and Parole Board.

Sec. 2. State probation and parole board.—There is created within the department of institutional service a state probation and parole board consisting of 3 members who are citizens and residents of the state. Two of the members shall be appointed by the governor, with the advice and consent of the council, from persons with special training or experience in law, sociology, psychology or related branches of social science. The commissioner of institutional service shall be ex officio a member of the board, except that he may appoint any suitable person from his department to serve during his pleasure, in his absence, as a member of the board, but in no case longer than his term of office as commissioner. The term of the regularly appointed members of the board shall be 4 years and until their successors have been appointed and qualified, or during the pleasure of the governor and council. A vacancy shall be filled for the unexpired term in the same manner in which a regular appointment is made. The regularly appointed members of the board shall be paid $25 per day and necessary expenses for each day actually spent in the work of the board. The members of the board shall elect a chairman who shall preside at all meetings of the board when present. The board shall meet at least once each month and in addition may meet as often as necessary, at such times and places as the chairman may designate. Any 2 members constitute a quorum for the exercise of all powers of the board. The department of health and welfare, department of institutional service, officers and staffs of the penal and correctional institutions, and law enforcement agencies in the state shall cooperate with the board in exercising its administration. (1957, c. 387, § 1. 1959, c. 312, § 2.)

Effect of amendment.—The 1959 amendment substituted "a" for "the 3rd" preceding "member" at two places in the third sentence and added "in his absence" in that sentence.

Sec. 3. Powers and duties of board.—The general powers and duties of the board are:

I. To administer the probation and parole law. In administering its provisions, the board may formulate policies, adopt regulations, establish organizational and operational procedures, and exercise general supervision. The board shall provide necessary specialized services and procedures for the constructive rehabilitation of juveniles.

II. To prescribe the duties and supervise the activities of the director.

III. To obtain psychiatric, psychological and other necessary services.

IV. To provide necessary investigation of any criminal case or matter including pre-sentence investigation when requested by the court having jurisdiction.

V. To delegate powers to the director necessary to the administration of the probation and parole law. The board may authorize him to sign documents including warrants and extradition papers for the board.

VI. To make recommendations to the governor and council in reference to the granting of reprieves, commutations and pardons when requested.

VII. To report annually to the governor facts and recommendations relating to the administration of probation and parole services. (1957, c. 387, § 1.)

Sec. 3-A. Appointment of director.—The commissioner of institutional service shall appoint, with the approval of the board, subject to the provisions of the personnel law, a state director of probation and parole who shall be qualified by professional training for probation and parole work, and by experience in an executive or supervisory capacity in a probation or parole agency or a related correctional agency. The director is the executive officer and secretary of the board. (1957, c. 387, § 1.)

Sec. 4. Powers and duties of director.—The general powers and duties of the state director of probation and parole are:

I. To perform the duties which are prescribed for him by the board.

II. To divide the state into administrative districts.

III. To appoint, with the approval of the board, all personnel, supervisory, probation-parole officers and clerical, subject to the provisions of the personnel law, and assign such personnel to the established districts.

IV. To direct and supervise the work of all personnel appointed by him.

V. To establish uniform methods and procedures in the administration of probation and parole, including investigation, supervision, casework, record keeping, making reports and accounting.

VI. To provide instruction and training courses for probation-parole officers. (1957, c. 387, § 1. 1959, c. 312, § 3.)

Effect of amendment.—The 1959 amendment rewrote subsections III and IV of this section.

Sec. 5. Powers and duties of probation-parole officer.—The general powers and duties of a probation-parole officer are:

I. To perform the duties which are prescribed for him.

A. Parole duties and special probation duties shall be prescribed by the director.

B. General probation duties shall be prescribed by the court having jurisdiction.

II. To investigate any criminal case or matter concerning probation or parole referred to him for investigation and report the result of his investigation.

III. To supervise the probation or parole of each person placed under his supervision.

IV. To keep informed of the conduct and condition of each person placed under his supervision and to use suitable methods to encourage him to improve his conduct and condition.

V. To keep records of each case and make reports as required.

VI. To collect and disburse money according to the order of the court having jurisdiction. He shall make a detailed account under oath of all fines received, and shall pay them to the appropriate county treasurer by the 15th day of the month following collection.

VII. To arrest and return probation and parole violators on warrants issued by the appropriate authorities. (1957, c. 387, § 1; c. 428, § 1. 1959, c. 312, § 4.)

Effect of amendments. — The 1957 amendment rewrote subsection III of this section.

The 1959 amendment rewrote subsection IV of this section.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Probation officer is a judicial officer. — The probation officer, in relation to convicted criminals who have been placed in his custody, is a judicial officer. State v. Blanchard, 156 Me. 30, 159 A. (2d) 304.

General Probation Provisions.

Sec. 6. Probation of person by court.—When a person is convicted of an offense which is not punishable by life imprisonment, the court may continue the case for sentence or impose sentence and suspend its execution.

I. The court may continue a case for sentence for not more than 2 years. While the case is continued for sentence, the court may place the respondent on probation.

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.

II. The court may impose a sentence, suspend its execution for not more than 2 years and place the respondent on probation.

A. When a person is convicted of an offense which is punishable by imprisonment and fine, the court may sentence him to a fine and a term of imprisonment, suspend execution of the imprisonment, and place him on probation as to the imprisonment on condition that he pay the fine within a definite time. In default of payment of the fine, the court may impose an additional sentence of not more than 6 months.

B. When the probationer pays the fine or part of it to a probation-parole officer, he shall give the probationer a receipt for it.

This section does not deprive a respondent of any existing right of appeal, review or retrial. (1957, c. 387, § 1; c. 428, § 2.)

Effect of amendment.—The 1957 amendment deleted "suspend the imposition of sentence" in the first paragraph, deleted former subsection II, also relating to suspension of imposition of sentence, and reduced the maximum period for suspending execution of sentence from 4 to 2 years.

Effective date.—P. L. 1957, c. 428, became effective on its approval, October 31, 1957.

Constitutionality. — Provisions of this section permitting suspension of the execution of a sentence do not conflict with any constitutional provision. State v. Blanchard, 156 Me. 30, 159 A. (2d) 304.

Jurisdiction of court over judgment. — A court has jurisdiction over its judgment within the term within which it was rendered, and such court has the power to alter or modify its sentence during the term within which it was imposed, except when the execution of the sentence has begun. State v. Blanchard, 156 Me. 30, 159 A. (2d) 304.

Sec. 7. Person on probation under jurisdiction of court.—A person on probation is under the sole jurisdiction of the court which ordered his probation. When a person is placed on probation, he shall be committed by the court to the custody and control of the state probation and parole board. The board shall designate one or more probation-parole officers to supervise the probationer during the term of his probation.

A probation-parole officer has the same authority with respect to the probationer as if he were surety upon the recognizance of the probationer. Each probation-parole officer has authority to arrest and charge a probationer with violation of probation and take him into his custody in any place he may be found, to detain the probationer in any jail for a reasonable time in order to obtain an order from the court, or justice of the court in vacation, returning the probationer to court as provided in section 8. In the event the court refuses to issue an order returning the probationer as provided under section 8, the court shall issue an order directing the immediate release of the probationer from arrest and detention. A probationer so arrested and detained shall have no right of action against the probation-parole officer or any other persons because of such arrest and detention. Any action required under sections 8 and 9 may be taken by any probation-parole officer.

The court shall fix the duration of the probation, which may not be more than

2 years. The court shall determine the conditions of the probation and shall give the probationer a written statement containing the conditions of his probation. (1957, c. 387, § 1; c. 428, § 3. 1959, c. 342, § 9.)

Effect of amendment.—The 1957 amendment rewrote this section.

The 1959 amendment substituted "sections 8 and 9" for "sections 8, 9 and 10" in the last sentence of the second paragraph.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Sec. 8. Person violating probation.—When the state probation and parole board charges a probationer with violation of a condition of his probation the board shall forthwith report the alleged violation to the court, or to a justice of the court in vacation, which may order the probationer returned. After hearing, the court or justice may revoke the probation and impose sentence if the case has been continued for sentence or may order the probationer to serve the original sentence where its execution has been suspended or may order the probation continued if it appears just to do so. (1957, c. 387, § 1; c. 428, § 4.)

Effect of amendment.—The 1957 amendment rewrote this section.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Sec. 9. Person discharged from probation by court. — A person on probation may be discharged by the court which placed him on probation.

I. When it appears to the state probation and parole board that a probationer is no longer in need of supervision, the board may so report to the court, or to a justice of the court in vacation, which may order the probationer returned. After hearing, the court or justice may terminate his probation and allow him to go without day.

II. When it appears to the court that a probationer under its jurisdiction has fulfilled the conditions of his probation, it shall terminate his probation and allow him to go without day. (1957, c. 387, § 1; c. 428, § 5.)

Effect of amendment.—Prior to the 1957 amendment, subsection I referred to a probation-parole officer rather than the state probation and parole board.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Sec. 10. Repealed by Public Laws 1959, c. 342, § 10.

Sec. 10-A. Probation of juveniles in Cumberland county.—The probation of a juvenile in Cumberland county is expressly exempted from the general law on juvenile probation and nothing in this chapter shall affect or modify any special law pertaining to the appointment of juvenile probation officers and their duties within and for Cumberland county. (1957, c. 387, § 1.)

Cross reference.—For statutory provisions relative to juvenile probation officer and probation department in Cumberland county, see Public Laws 1957, c. 387, §§ 24-A to 34-J.

General Parole Provisions.

Sec. 11. Parole of person by board.—The board may grant a parole from any state penal or correctional institution when a prisoner or inmate becomes eligible for a hearing by the state probation and parole board. It may revoke a parole when a condition of the parole is violated.

I. Duration and conditions of parole. When the board grants a parole, upon release, the parolee shall serve the unexpired portion of his sentence, less deductions for good behavior, unless otherwise discharged therefrom by the board.

II. 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 or any special conditions of parole imposed by the board. (1957, c. 387, § 1. 1959, c. 312, § 5. 1961, c. 292, § 1.)

Effect of amendments. — The 1959 amendment rewrote this section.

The 1961 amendment deleted "but no period of parole shall exceed 4 years except in the case of those persons serving a sentence of life imprisonment" at the end of subsection I.

Sec. 12. Persons eligible for a hearing by the board at the state prison.—A prisoner at the Maine state prison becomes eligible for a hearing by the board as follows:

I. After the expiration of his minimum term of imprisonment less the deduction for good behavior, when the law provides for a minimum-maximum sentence.

II. After the expiration of ½ of the term of imprisonment imposed by the court less the deduction for good behavior, when he has been convicted of an offense under chapter 130, sections 10, 11 or 12, or chapter 134, section 6. The provisions of this subsection also apply to a prisoner who has been convicted previously of an offense under chapter 130, sections 10, 11 or 12, or chapter 134, section 6.

III. After the expiration of a 30-year term of imprisonment, less deduction for good behavior, when he has been convicted of an offense punishable only by life imprisonment, provided he has never been convicted of another offense punishable only by life imprisonment. (1957, c. 387, § 1. 1959, c. 312, § 6. 1963, c. 414, § 7.)

Effect of amendments. — The 1959 amendment substituted "a hearing by the board" for "parole from state prison" near the beginning of the section, added "less deduction for good behavior" in subsection III and changed the form of statutory references in subsection II.

The 1963 amendment added "at the Maine state prison" near the beginning of the first sentence.

Sec. 13. Person eligible for a hearing by the board at the reformatory for men.—An inmate at the reformatory for men becomes eligible for a hearing by the board as follows:

I. Expiration of 6-month term in misdemeanors. After the expiration of a 6-month term of commitment if convicted of a misdemeanor. After the expiration of a 1-year term of commitment if convicted of a felony. At any time after the date of commitment upon the recommendation of the superintendent, if adjudged a juvenile offender.

A. A deduction of 7 days for each month served from the date of commitment may be allowed by the superintendent when the conduct of the inmate justifies it; an additional day a month may be deducted from the sentence of those inmates who are assigned by the superintendent to work deemed to be of sufficient importance and responsibility to merit such deduction.

II. Upon the recommendation of the superintendent to the board for parole of the inmate, when the conduct of the inmate justifies it.

III. When some suitable employment or situation has been secured for him in advance. (1957, c. 387, § 1. 1959, c. 312, § 7. 1961, c. 292, § 2. 1963, c. 414, § 8.)

Effect of amendments. — The 1959 amendment rewrote this section so as to provide for eligibility for a hearing by the board instead of eligibility for parole.

The 1961 amendment added the third sentence to subsection I and also added all of paragraph A of subsection I following the semicolon.

The 1963 amendment added "at the reformatory for men" near the beginning of the first sentence.

Sec. 13-A. Persons eligible for a hearing by the board at the reformatory for women.—An inmate at the reformatory for women becomes eligible for a hearing by the board as follows:

I. When it appears to the superintendent that the inmate has reformed.

II. When some suitable employment or situation has been secured for her 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 commissioner at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board. (1959, c. 312, § 8. 1963, c. 414, § 9.)

Effect of amendment.—The 1963 amendment added "at the reformatory for women" near the beginning of the first sentence.

Sec. 14. Repealed by Public Laws 1959, c. 312, § 9; c. 342, § 11.

Sec. 15. Person violating parole.—When a parolee violates a condition of his parole or violates the law, a member of the board may authorize the director in writing to issue a warrant for his arrest. A probation-parole officer, or any other law enforcement officer within the state authorized to make arrests, may arrest the parolee on the warrant and return him to the institution from which he was paroled. At its next meeting at that institution, the board shall hold a hearing. The parolee is entitled to appear and be heard. If the board, after hearing, finds that the parolee has violated his parole or the law, it shall revoke his parole, set the length of time he shall serve of the unexpired portion of his sentence before he can again be eligible for hearing by the board, and remand him to the institution from which he was released; except, that when a parolee from the reformatory for men violates the law and is sentenced by the court to the Maine state prison, any length of time set by the board to be served of the unexpired portion of his reformatory sentence may be served at the Maine state prison.

I. Forfeits deductions. Upon revocation of parole by the board the prisoner or inmate forfeits any deductions for good behavior earned while on parole.

II. 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. (1957, c. 387, § 1. 1959, c. 312, § 10; c. 342, § 12; c. 387, § 28. 1963, c. 228.)

Effect of amendments.—P. L. 1959, c. 312, rewrote the section, leaving only the first four sentences unchanged. P. L. 1959, c. 342, disregarding the first 1959 amendment, deleted "or state school" in former subsection II. P. L. 1959, c. 378, effective on its approval, January 29, 1960, repealed and re-enacted the section to read as it did after it was rewritten by c. 312.

The 1963 amendment added the exception as to parolees from the reformatory for men to the last sentence of the first paragraph.

Sec. 16. Sentence for crime committed by paroled person. — Any parolee who commits an offense while on parole who is sentenced to the state prison shall serve the second sentence beginning on the date of termination of the first sentence, unless the first sentence is otherwise terminated by the board. (1957, c. 387, § 1. 1959, c. 312, § 11.)

Effect of amendment.—The 1959 amendment rewrote this section.

Purpose and effect.—As to the purpose and effect of former § 21 of c. 149, which section was similar to the provisions of this section, see Lewis v. Robbins, 150 Me. 121, 104 A. (2d) 838.

Sec. 17. Final discharge of person from parole.—Any parolee who faithfully performs all the conditions of parole and completes his sentence is entitled to a certificate of discharge to be issued by the warden or superintendent of the institution to which he was committed. (1957, c. 387, § 1. 1959, c. 312, § 12.)

Effect of amendment.—The 1959 amendment repealed and replaced this section.

Sec. 17-A. Certificate of discharge.—Whenever it appears to the board that a person on parole is no longer in need of supervision, it may order the superintendent or warden of the institution from which he was released to issue him a certificate of discharge, except that in the case of persons serving a life sentence who may not be discharged from parole in less than 10 years after release on parole. (1959, c. 312, § 13.)

Sec. 17-B. Abetting violation of probation or parole. — Any person over the age of 17 who willfully obstructs, intimidates or otherwise abets a probationer or parolee under the supervision and control of the state probation and parole board and thereby contributes or causes said probationer or parolee to violate the terms and conditions of his probation or parole, after having been warned in writing by the state probation and parole board to cease and desist in said relationship or association with the probationer or parolee, shall be punished by a fine of not more than $500 or by imprisonment for not more than 11 months, or by both.

This section shall also apply in those instances where the probationer or parolee is under the supervision and control of the state probation and parole board at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision. (1959, c. 312, § 14. 1963, c. 414, § 10.)

Effect of amendment.—The 1963 amendment substituted "Parolee" for "Parole" near the end of the last sentence of the last paragraph.

Sec. 18. Record forwarded to state police when certain persons paroled.—When a person who has been convicted under sections 10, 11 or 12 of chapter 130 or section 6 of chapter 134 is paroled, the warden or superintendent of the institution shall forward to the state police a copy of his record and a statement of facts necessary for full comprehension of the case. (1957, c. 387, § 1.)

Sec. 19. Pardons granted by governor.—This chapter does not deprive the governor, with the advice and consent of the council, of the power to grant a pardon or commutation to any person sentenced to a state penal or correctional institution. (1957, c. 387, § 1.)

Uniform Act for Out-of-State Parolee Supervision.

Sec. 20. Governor to execute a compact; title.—The governor of this state is authorized and directed to execute a compact on behalf of the state with any of the states of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An Act Granting the Consent of Congress to any two or more States to enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for other purposes."

The contracting states solemnly agree:

I. That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state"), while on probation or parole, if

A. Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

B. Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than 1 year prior to his coming to the sending state and has not resided within the sending state more than 6 continuous months immediately preceding the commission of the offense for which he has been convicted.

II. That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

III. That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are expressly waived on the part of the states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

IV. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

V. That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

VI. That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

VII. That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending 6 months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

The word "state" in this section shall mean any state, territory or possession of the United States and the District of Columbia.

This section may be cited as the "Uniform Act for Out-of-State Parolee Supervision." (1957, c. 387, § 1; c. 429, § 38.)

Effect of amendment.—The 1957 amendment inserted a new paragraph before the last.

Editor's note.—P. L. 1957, c. 387, which inserted this chapter, also repealed § 8 of c. 27, of the Revised Statutes, as amended by P. L. 1957, c. 19, which section corresponds to this section of c. 27-A.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Uniform Interstate Compact on Juveniles.

Sec. 21. Authorization.—The governor of this state is authorized and directed to execute a compact on behalf of the state with any of the states of the

United States legally joining therein in the form substantially as follows. (1957, c. 387, § 1.)

Sec. 22. Interstate compact on juveniles.—The contracting states solemnly agree:

Article 1. Findings and purposes. That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

I. Cooperative supervision of delinquent juveniles on probation or parole;

II. The return, from one state to another, of delinquent juveniles who have escaped or absconded;

III. The return, from one state to another, of non-delinquent juveniles who have run away from home; and

IV. Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

Article 2. Existing rights and remedies. That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

Article 3. Definitions. That, for the purposes of this compact: "Court" means any court having jurisdiction over delinquent, neglected or dependent children;

"Delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of the compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court;

"Probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto;

"Residence" or any variant thereof means a place at which a home or regular place of abode is maintained; and

"State" means any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

Article 4. Return of runaways.

I. That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be exe-

cuted in duplicate and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervi-

sion for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

II. That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

III. That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Article 5. Return of escapees and absconders.

I. That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under

a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

II. That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

Article 6. Voluntary return procedure. That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of subsection I of article 4 or of subsection I of article 5, may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Article 7. Cooperative supervision of probationers and parolees.

I. That the duly constituted judicial and administrative authorities of a state party to this compact, herein called "sending state," may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called "receiving state," while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state

copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

II. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

III. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the indentity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

IV. That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Article 8. Responsibility for costs.

I. That the provisions of subsection II of article 4, subsection II of article 5 and subsection IV of article 7 of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

II. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to subsection II of article 4, subsection II of article 5 or subsection IV of article 7 of this compact.

Article 9. Detention practices. That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

Article 10. Supplementary agreements. That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be

provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall

I. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

II. Provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;

III. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

IV. Provide that the sending state shall at all times retain jurisdiction over delinquent juvenile sent to an institution in another state;

V. Provide for reasonable inspection of such institutions by the sending state;

VI. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and

VII. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

Article 11. Acceptance of federal and other aid. That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

Article 12. Compact administrators. That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 13. Execution of compact. That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Article 14. Renunciation. That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending 6 months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article 7 hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article 10 hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the 6 months' renunciation notice of the present article.

Article 15. Severability. That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (1957, c. 387, § 1.)