



# State of Maine

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## Department of State

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*I, Paul A. MacDonald, Secretary of State, certify, that in pursuance of the authority vested in me by the 1964 Act which enacted the Revised Statutes to be effective December 31, 1964, the copies of the laws contained in this volume are correct transcripts of the text of the original laws, and are entitled to be read in evidence.*



IN TESTIMONY WHEREOF I have caused the Great Seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this thirtieth day of September in the year of our Lord one thousand nine hundred and sixty-four and in the one hundred and eighty-ninth year of the Independence of the United States of America.

*Paul A. MacDonald*

Secretary of State

*Maine*  
**REVISED STATUTES ANNOTATED**  
**1964**

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TITLE 34  
PUBLIC INSTITUTIONS AND  
CORRECTIONS

Part	Chap.
1. General Provisions .....	1
2. Jails and Prisoners .....	61
3. Probation and Parole .....	121
4. Mental Health and Hospitals .....	181
5. Homes, Schools and Sanatoriums .....	251

PART 1  
GENERAL PROVISIONS

Chap.	Sec.
1. Department of Mental Health and Corrections .....	1
3. Board of Visitors .....	41
5. Public Ways and Parking Areas at State Institutions .....	91
7. Escape, Removal, Examination and Transfer of Inmates ...	131
9. Uniform Interstate Compact on Juveniles .....	181

CHAPTER 1  
DEPARTMENT OF MENTAL HEALTH  
AND CORRECTIONS

- Sec.
1. Administration; personnel.
  2. General powers.
  3. Inspection of county jails; standards; transfer of prisoners.
  4. Industrial and vocational training.
  5. Employment on public works or service; escapes.
  6. Improper conduct of officers of institutions.
  7. Rules and regulations; training of nurses.
  8. Institutional officials may sue for State.

**§ 1. Administration; personnel**

The Department of Mental Health and Corrections, as heretofore established, hereinafter in this Title called the "department," shall have general supervision, management and control of

the research and planning, grounds, buildings and property, officers and employees, and patients and inmates of all of the following state institutions: The hospitals for the mentally ill, Pine-land Hospital and Training Center, the State Prison, the Reformatories for Men and Women, the juvenile institutions, the Governor Baxter State School for the Deaf, the Military and Naval Children's Home and such other charitable and correctional state institutions as may be created from time to time. All orders of commitment, medical and administrative records in the department are held to be confidential. Such records may be subpoenaed by a court of record.

The department shall be under the control and supervision of a Commissioner of Mental Health and Corrections, as heretofore appointed and hereinafter in this Title called the "commissioner," who shall be appointed by the Governor with the advice and consent of the Council; said appointment shall be for 3 years and until his successor is appointed and qualified, or during the pleasure of the Governor and Council. Any vacancy shall be filled by appointment for a like term. He shall receive such salary as shall be fixed by the Governor and Council. The commissioner shall be a person experienced in institutional administration, either as a superintendent, chief medical officer or business manager, or who has had other satisfactory experience in the direction of work of a comparable nature. Said commissioner shall have the power to appoint institutional heads as shall be necessary for the proper performance of the duties of said department, subject to the Personnel Law. He may appoint such other employees as may be necessary, subject to the Personnel Law. The heads or superintendents of the several said institutions under the department shall report directly to the said commissioner. Each institutional head shall be experienced in the management of the particular type of institution to which he is assigned.

The department shall be charged with the enforcement of all laws concerning the aforesaid institutions, except in such cases where specific duties are given elsewhere.

The commissioner shall appoint, subject to the Personnel Law, a departmental farm supervisor. The salary and the expenses incurred by the departmental farm supervisor shall be prorated among the accounts set up for the several institutional farms.

Wherever in this Title powers and duties are given to the department these may be and shall be assumed and carried out by

such of the institutional or bureau heads as the commissioner may designate from time to time, and these powers and duties so delegated may in turn be delegated by the said institutional or bureau heads with the approval of the commissioner.

In the case of a sudden death of any patient or inmate in any institution under the control of the department, under circumstances of reasonable suspicion, an examination and inquest shall be held as in other cases, and the superintendent or department shall cause a medical examiner to be immediately notified for that purpose.

The department is authorized and empowered to accept for the State any federal funds appropriated under federal law relating to mental health, mental illness or mental retardation or the juvenile offender, and to do such acts as are necessary for the purpose of carrying out such federal law; and to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out the provisions contained herein. The department is authorized to apply for and receive federal funds under the Housing Act of 1954, Public Law 560, Title 7.

R.S.1954, c. 27, § 1; 1957, c. 21, § 2, c. 313, c. 373, § 1, c. 379; 1959, c. 242, §§ 1, 8, c. 360, § 2, c. 363, § 17; 1961, c. 304, §§ 1-3, c. 417, § 73; P.&S.L.1963, c. 168, § 2, c. 183, § 9.

#### Historical Note

**References in text:** The Housing Act of 1954, P.L. 560, Title 7, referred to in this section, Aug. 2, 1954, P.L. 83-560, c. 649, Title VII, §§ 701-703, 68 Stat. 640, 641, as amended Aug. 11, 1955, P.L. 84-345, c. 783, Title I, § 112, 69 Stat. 641; Aug. 7, 1956, P.L. 84-1020, c. 1029, Title III, §§ 307(d), 308, 70 Stat. 1102; July 12, 1957, P.L. 85-104, Title VI, § 606, 71 Stat. 305; Sept. 23, 1959, P.L. 86-372, Title IV, § 419, Title VIII, § 801, 73 Stat. 678, 686; May 1, 1961, P.L. 87-27, § 15, 75 Stat. 58; June 30, 1961, P.L. 87-70, Title III, § 310, Title V, § 502, 75 Stat. 170, 175; Sept. 14, 1962, P.L. 87-658, § 6, 76 Stat. 544; Sept. 2, 1964, P.L. 88-560, Title III, §§ 314-317, Title VI, § 602, 78 Stat. 792, 793, 799 is classified to 40 U.S.C.A. §§ 460-462.

**Amendment of words:** P.L.1959, c. 242, § 8, provided "Wherever in the

Revised Statutes, or public laws or private and special laws the words 'insane' or 'insanity' appear, they shall be amended to the words 'mentally ill' and 'mental illness' except in all instances where the word 'insane' is in reference to the word criminal."

**Change of name:** P.L.1959, c. 360, § 2 changed the reference "Department of Institutional Service" to "Department of Mental Health and Corrections" and changed the name "Commissioner of Institutional Service" to "Commissioner of Mental Health and Corrections" wherever they appeared "in the Revised Statutes or in the public laws".

P.L.1957, c. 21, § 2 changed the name "Pownal State School" to "Pine-land Hospital and Training Center"

wherever it appeared "in the Revised Statutes or public laws or private and special laws". P.L.1957, c. 379 changed the name of "Maine State School for the Deaf" to "Governor Baxter State School for the Deaf".

#### Cross References

Aliens committed to state institutions, see § 501 of this Title.

#### Federal laws—

Community Mental Health Centers Act, see 42 U.S.C.A. § 2681 et seq.

Mental Health Study Act of 1955, see 42 U.S.C.A. § 242b et seq.

Mental Retardation Facilities Construction Act, see 42 U.S.C.A. §§ 295 et seq., 2671 et seq.

Master plan for development and utilization of institutions, see § 451 of Title 10.

Medical examiners, see § 511 et seq. of Title 22.

Nomination and appointment of officers, see Maine Const. Art. V, Pt. 1st, § 8. Personnel Law, see § 551 et seq. of Title 5.

#### Public institutions—

Governor Baxter State School for the Deaf, see § 2901 et seq. of this Title.

Hospitals for mentally ill, see § 2101 et seq. of this Title.

Juvenile institutions, see § 2711 et seq. of Title 15.

Military and Naval Children's Home, see § 2951 et seq. of this Title.

Pineland Hospital and Training Center, see § 2151 et seq. of this Title.

Reformatory for men, see § 801 et seq. of this Title.

Reformatory for women, see § 851 et seq. of this Title.

State Prison, see § 551 et seq. of this Title.

Removal by impeachment or address, see Maine Const. Art. IX, § 5.

State officers, appointment, tenure, etc., see § 1 et seq. of Title 5.

Unclassified service, see § 711 of Title 5.

#### Notes of Decisions

#### Library references

Mental Health ⇨20.

States ⇨45.

C.J.S. Insane Persons § 3.

C.J.S. States §§ 52, 66.

#### 1. Removal of commissioner

It was the intention of the Legislature to place the removal of the commissioner mentioned in this section in the Governor with the advice and consent of the Council. Opinion of the Justices (1881) 72 Me. 542.

## § 2. General powers

The department shall have authority to perform such acts, relating to the care, custody, treatment, relief and improvement of the inmates of the institutions under its control, as are not contrary to law.

R.S.1954, c. 27, § 2; 1961, c. 354, § 1.



**Notes of Decisions****Library references**States  $\Leftrightarrow$ 67.

C.J.S. States §§ 58, 66.

give the commissioner or superintendent powers granted by law to guardians in the handling of their personal estates. 1949-50 Atty.Gen. Rep. 152.

**1. Limits of power**

All inmates of the institutions are wards of the State but that does not

**§ 3. Inspection of county jails; standards; transfer of prisoners**

The department may make frequent inspections of all county jails and shall inspect all county jails at least twice in each year and report annually, before December 1st, to the Governor and Executive Council in respect to the conditions of said jails.

The department, in cooperation with the several county commissioners, shall establish mutually agreed upon standards for each county jail in particular and for all county jails generally. Such standards shall approximate, insofar as possible, those established by the Inspector of Jails, Federal Bureau of Prisons.

The department, upon request of the sending sheriff and approval of the county commissioners, may transfer any prisoner serving a sentence in his jail to any other county jail to serve the balance of his sentence, or any part thereof, upon the approval of the sheriff and county commissioners of the receiving county. Cost of transfer or return of such prisoner shall be paid by the sending county. The amount to be paid for the support of the prisoner in the receiving county shall be at a rate agreed upon by the county commissioners party to the transfer, and shall be paid by the sending county.

1961, c. 354, § 2.

**Library references:** Prisons  $\Leftrightarrow$ 9, 13; C.J.S. Prisons §§ 11, 18, 19.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 2-A, as enacted by 1961, c. 354, § 2.

**Provision for transition of rules:** Rules and regulations in effect on December 30, 1964, "are hereby de-

clared to be lawful and in effect", according to section 2 of the Revision Act of September 30, 1964, set out following Title 39.

**§ 4. Industrial and vocational training**

The department shall establish and maintain suitable courses for vocational trades and industrial training in the Boys Training Center at South Portland and the State Reformatory at South

Windham, and to install such equipment as may be necessary, and employ such suitable and qualified instructors subject to the approval of the State Vocational Director as may be necessary to carry out the purposes of this section. The expenses of carrying out this section shall be paid from the appropriations for the above-named institutions.

R.S.1954, c. 27, § 3; 1961, c. 395, § 18.

Library references: Reformatories ⇨7; C.J.S. Reformatories §§ 10, 11.

### § 5. Employment on public works or service; escapes

The department may authorize the employment of able-bodied prisoners in the State Prison or inmates of the Reformatory for Men in the construction and improvement of highways or other public works within the State under such arrangements as may be made with the State Highway Commission or other department or commission of the State having such public works in charge, and said department may prescribe such rules and conditions as it deems expedient to insure the proper care and treatment of the prisoners or inmates while so employed and their safekeeping and return. The department may further authorize the training and use of able-bodied prisoners in the State Prison or inmates in the Reformatory for Men by the State Forestry Department or the Department of Civil Defense and Public Safety to fight fires or provide assistance during or after any civilian disaster. Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the State Prison or off the grounds of the Reformatory for Men shall be guilty of escape under this Title or Title 17, section 1405.

1959, c. 242, § 2.

#### Historical Note

Derivation: R.S.1954, c. 27, § 3-A, as enacted by 1959, c. 242, § 2.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

Use of inmates for forest rehabilitation programs, see § 506 of Title 12.

#### Notes of Decisions

##### Library references

Convicts ⇨7.

Escape ⇨1.

C.J.S. Convicts § 13.

C.J.S. Escape § 1 et seq.

##### 1. Public works

The use of able-bodied prisoners can only be in conjunction with work carried on by a department or commissioner of the State and would not include improving a town park. 1959-60 Atty.Gen.Rep. 135.

## § 6. Improper conduct of officers of institutions

The department may inquire into any improper conduct imputed to its officers in relation to the concerns of their institutions, and for that purpose may issue subpoenas for witnesses and compel their attendance and the production of papers and writings by punishment for contempt in case of willful failure, neglect or refusal, may examine witnesses under oath administered by the commissioner and may adjudicate on such alleged improper conduct in like cases and with like effect as in cases of arbitration.

R.S.1954, c. 27, § 4.

**Library references:** Mental Health ↻20; Prisons ↻10; Reformatories ↻3; C.J.S. Insane Persons § 3; C.J.S. Prisons §§ 12, 13, 15, 16; C.J.S. Reformatories §§ 6-8.

## § 7. Rules and regulations; training of nurses

The department shall establish such rules and regulations not inconsistent with law as it may deem expedient for the care and management and the custody and preservation of the property of all state institutions and for the government and discipline of the various patients and inmates of the said institutions; and for the production and distribution of farm, dairy and industrial products of the said institutions.

It shall establish such rules and regulations for the instruction and employment of the patients and inmates of the various institutions having due regard to their age, sex, strength and disposition for the purpose of securing their improvement and future welfare.

It shall provide for the training of nurses in state hospitals.

R.S.1954, c. 27, § 5; 1959, c. 378, § 22; 1961, c. 304, §§ 4, 5; 1963, c. 19, § 1.

### Cross References

Nurses and nursing, see § 2101 et seq. of Title 32.

### Notes of Decisions

#### Library references

Administrative Law and Procedure  
↻386.  
Hospitals ↻4.  
States ↻67.  
C.J.S. Hospitals § 9.  
C.J.S. Public Administrative Bodies  
and Procedure § 94.  
C.J.S. States §§ 58, 66.

#### 1. Lease of equipment

There is no authority in this section to lease a state-owned rock crusher to a private construction company. 1959-60 Atty.Gen.Rep. 70.

**§ 8. Institutional officials may sue for State**

Actions, founded on any contract made with the State Purchasing Agent or any official of the department under the authority granted by the said agent on behalf of any of the state institutions enumerated in section 1, may be brought by the official making the contract or his successor in office. Actions for injuries done or occasioned to the real and personal property of the State and appropriated to the use of any state institution and under the management of any officer thereof may be prosecuted in his name. No such action shall abate by the retirement, removal or death of such officer, but his successor, upon notice, shall assume its prosecution.

R.S.1954, c. 27, § 6.

Library references: States  $\Leftrightarrow$ 192; C.J.S. States § 217.

CHAPTER 3  
BOARD OF VISITORS

Sec.

41. Membership; rights and recommendations.

**§ 41. Membership; rights and recommendations**

A board of 5 visitors, as heretofore established, at least 2 of whom shall be members of the minority party, may be appointed by the Governor, in connection with each state institution under the department. These visitors shall be appointed for a term of one year and shall be eligible for reappointment. No member of the Legislature or the Governor's Council shall serve on any Board of Visitors. The members of the Boards of Visitors shall receive no compensation. Each Board of Visitors shall have the right to inspect the institution to which it is assigned and to make recommendations relative to the management of said institution to the commissioner.

R.S.1954, c. 27, § 17.

**Library references:** States ~~6~~45, 60(1); C.J.S. States §§ 52, 66, 89 et seq.

## CHAPTER 5

PUBLIC WAYS AND PARKING AREAS AT  
STATE INSTITUTIONS

Sec.

91. Definitions.
92. Rules and regulations.
93. Special police; powers and duties; cooperation.
94. Jurisdiction.
95. Fines.
96. Offenses not covered by rules and regulations.

**§ 91. Definitions**

The words "public way" or "public ways," when used in this chapter, shall be held to mean all roads and driveways on lands maintained by the State at the state institutions under the jurisdiction of the department.

The words "parking area" or "parking areas," when used in this chapter, shall be held to mean all lands maintained by the State at the state institutions under the jurisdiction of the department which may be designated as parking areas by the superintendents of the state institutions.

1961, c. 164.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-A, as enacted by 1961, c. 164.

**§ 92. Rules and regulations**

The superintendents of the state institutions are authorized and empowered to make and enforce rules and regulations, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the State at the state institutions. Said rules and regulations shall become effective upon deposit of a copy thereof with the Secretary of State, who shall forward a copy thereof attested under the Great Seal of the State to the District Court in the area of jurisdiction.

1961, c. 164; 1963, c. 402, § 40.

**Library references:** States ⇄88; C.J.S. States § 105.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-B, as enacted by 1961, c. 164. 1963, c. 402, § 40.

**Provision for transition of rules:** Rules and regulations in effect on December 30, 1964, "are hereby declared to be lawful and in effect", according to section 2 of the Revision Act of September 30, 1964, set out following Title 39.

**§ 93. Special police; powers and duties; cooperation**

The superintendents of the state institutions are authorized and empowered to appoint and employ, subject to the Personnel Law, special police officers for the purpose of enforcing rules and regulations made pursuant to section 92.

The powers and duties of the special police officers so appointed and employed shall be to patrol all of the public ways and parking areas subject to this chapter, enforce rules and regulations made under section 92, arrest any violator thereof and prosecute any offender against the same.

The State Police, sheriffs and deputy sheriffs, constables and police officers within the area of jurisdiction shall, so far as possible, cooperate with the special police officers appointed and employed under this section in the enforcement of rules and regulations made pursuant to section 92.

1961, c. 164.

**Library references:** States ⇨46, 69, 73; C.J.S. States §§ 49, 52, 58, 60 et seq., 66, 68 et seq.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-C, as enacted by 1961, c. 164.

**§ 94. Jurisdiction**

The District Court within the areas in which the state institutions are located shall have jurisdiction in all proceedings brought under this chapter, which court shall take judicial notice of all rules and regulations adopted pursuant to section 92. In any prosecution for violation of any rules and regulations, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule or regulation.

1961, c. 164; 1963, c. 402, § 41.

**Library references:** Evidence ⇨47; C.J.S. Evidence §§ 36, 39.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-D, as enacted by 1961, c. 164.

**Cross References**

District Court, sec § 151 et seq. of Title 4.

**§ 95. Fines**

Any person found guilty of violating any rule or regulation made pursuant to section 92 shall, upon conviction, pay a fine as follows:

**1. First offense.** For the first offense in any calendar year, a fine of \$1;

**2. Second offense.** For the second offense in any calendar year, a fine of \$2;

**3. Subsequent offense.** For each offense in excess of 2 in any calendar year, a fine of \$5.

Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the municipality in which the proceedings take place.

1961, c. 164.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-E, as enacted by 1961, c. 164.

**§ 96. Offenses not covered by rules and regulations**

Offenses not covered by the rules and regulations made under section 92 shall be dealt with as otherwise provided by law.

1961, c. 164.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 7-F, as enacted by 1961, c. 164.



## CHAPTER 7

### ESCAPE, REMOVAL, EXAMINATION AND TRANSFER OF INMATES

Sec.

- 131. Rewards; department.
- 132. —Governor.
- 133. Aiding escape.
- 134. Removal for contagious disease.
- 135. Physical and mental examination of inmates.
- 136. Transfer to other institution; original sentence continues.
- 137. Tubercular inmates to sanatoriums.
- 138. Cost of transportation.

#### § 131. Rewards; department

The department shall take all proper measures for the apprehension and return of any prisoner or inmate of a state penal or correctional institution and may offer a reward of not more than \$100 for the apprehension and return of any such prisoner or inmate who has escaped from the control of the department. Upon satisfactory proof that the terms of the offer have been complied with, the reward shall be paid by the State.

R.S.1954, c. 27, § 9; 1957, c. 387, § 3.

#### Cross References

Reward offered by Attorney General, see § 202 of Title 5.

#### Notes of Decisions

##### Library references

- Prisons ⇐16.
- Rewards ⇐4.
- C.J.S. Prisons § 23.
- C.J.S. Rewards § 5 et seq.

##### 1. Persons eligible

One who assists a prisoner to escape cannot recover a reward offered for information of the prisoner's hiding place, if he conceals the fact of his own aiding. *Hassan v. Doe* (1854) 38 Me. 45.

#### § 132. —Governor

Whenever a prisoner convicted of or charged with a capital crime or other high offense escapes from prison; or there is reasonable cause to believe that a person who is charged with such offense and has not been apprehended therefor cannot be arrested and secured in the ordinary course of proceedings, the Governor may, upon application in writing of the Attorney General or coun-

ty attorney for the county in which such offense was committed, and upon such terms and conditions as he deems expedient and proper, offer a suitable reward, not exceeding \$1,000, for the arrest, return and delivery into custody of such escaped prisoner or fugitive from justice; and upon satisfactory proof that the terms and conditions of such offer have been complied with, he may, with the advice and consent of the Council, draw his warrant upon the Treasurer of State for the payment thereof.

R.S.1954, c. 149, § 51.

**Library references:** Rewards ⇨4, 13; C.J.S. Rewards §§ 5 et seq., 38-40.

### § 133. Aiding escape

Whoever induces, aids or abets anyone committed to any state institution in escaping therefrom or from the custody of the Department of Mental Health and Corrections or the Department of Health and Welfare or who knowingly aids, harbors or conceals in any way anyone who has escaped therefrom, or who elopes with or marries a female committed to the custody of the said departments or any state institution without the consent of the department in custody of the person shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

It shall be the duty of any sheriff, deputy sheriff, constable, police officer or other person finding any fugitive from any of said institutions at large to apprehend them without a warrant and return said fugitive to the institution from which the escape was made or to any officer or agent of the department. Such officer shall be paid a reasonable compensation by the State for his services.

R.S.1954, c. 27, § 10; 1959, c. 360, § 2.

**Library references:** Escape ⇨7; C.J.S. Escape §§ 3, 5.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

### § 134. Removal for contagious disease

If a pestilence or contagious disease breaks out among the inmates of any state institution or county jail, the department may cause any of the said inmates to be removed to some suitable place of security where they shall receive all necessary care and medical attention and be returned as soon as may be to the

place from whence they were removed, to be there confined according to their sentences if unexpired.

R.S.1954, c. 27, § 11.

**Library references:** Prisons ↻13; Reformatories ↻9; C.J.S. Prisons §§ 18, 19; C.J.S. Reformatories § 16.

### § 135. Physical and mental examination of inmates

The department may require a physical and mental examination of persons committed to any state penal or correctional institution or training center for juvenile offenders. It shall designate competent examiners employed by the department or who may be employed by the department to conduct such examinations.

The department, upon the recommendation of the warden of the Maine State Prison, or the superintendents of the state correctional institutions and training centers for juvenile offenders, may transfer any person in any of the said institutions to either of the hospitals for the mentally ill in the department for observation and study of his mental condition if his conduct in any of the said institutions indicates such need. Children in the training centers for juvenile offenders under the age of 16 at time of need for such transfer shall be transferred to the Pineland Hospital and Training Center. Such transfers can be for any period of time up to 30 days and shall not exceed 30 days without a request for an extension for a further 30-day period. Thereafter, the person must be returned to the institution from which he was transferred, or transferred under section 136 to said hospital for treatment.

R.S.1954, c. 27, § 12; 1961, c. 304, § 6.

**Library references:** Prisons ↻12; Reformatories ↻7; C.J.S. Prisons § 17; C.J.S. Reformatories §§ 10, 11.

### § 136. Transfer to other institution; original sentence continues

Any person who is committed to a state penal or correctional institution or to a training center for juvenile offenders and is under the control of the department, who in the opinion of the head thereof becomes mentally ill, or who is found to be mentally ill by the examination authorized by section 135, shall be transferred to either of the state hospitals, except those children in the training centers who are under 16 years of age who shall be transferred to the Pineland Hospital and Training Center, and

any person who is committed to a state penal or correctional institution or to a training center for juvenile offenders and is under the control of the department, who in the opinion of the head thereof is in such condition that he or she is a fit subject for the Pineland Hospital and Training Center, shall be transferred to the Pineland Hospital and Training Center whenever, in the judgment of the commissioner, the welfare of the patients and inmates, or of either institution, or of the person will be promoted thereby. A copy of the certificate of original commitment certified by the head of the institution in which said person is confined and a certificate from a regular practicing physician in the State certifying that the person committed is feeble-minded or mentally ill as the case might be, with an order of transfer signed by the commissioner shall authorize the superintendent of the institution to receive and detain the said person.

Such patient shall be there detained in custody in the same manner as if he or she had been committed thereto originally. The transfers authorized in this section and section 135 shall have no effect on the original sentences which shall continue to run, and if the original sentence has not expired when the patient has been declared ready for discharge or release, the patient shall be returned to the institution to which he or she was originally committed. If prior to the expiration of the original sentence it is the opinion of the head of the institution which has charge of the patient that the patient should remain in the custody of the institution after the expiration of such sentence, the patient may be recommitted to either of the state hospitals upon complaint of the head of the institution which has charge of the patient under sections 2291, 2331, 2332 or 2334; or to the Pineland Hospital and Training Center under section 2152.

The expense attending such transfers shall be paid from funds available for the use of the institution from which or to which such person is transferred.

R.S.1954, c. 27, § 13; 1957, c. 21, § 2; 1959, c. 242, § 8; 1961, c. 303, § 5, c. 304, § 7; 1963, c. 351, § 9.

#### Notes of Decisions

##### Library references

Prisons ☞13.  
Reformatories ☞9.  
C.J.S. Prisons §§ 18, 19.  
C.J.S. Reformatories § 16.

##### I. Transfer of patients

Patients may be transferred between the mental institutions and Pineland Hospital and between Pineland Hospital and the mental institutions under this section. 1959-60 Atty.Gen.Rep. 97.

**§ 137. Tubercular inmates to sanatoriums**

Inmates of the State Prison or any other state institution afflicted with tuberculosis may be transferred to state sanatoriums. Whenever any inmate of the State Prison or of any other state institution shall become afflicted with tuberculosis so that the welfare of such inmate or the safety of the other inmates of such institution shall require removal therefrom, the department, with the approval of the Governor, may cause him or her to be removed to one of the state sanatoriums, to be there kept and treated until he or she may safely be returned to said prison or other institution. In the admission of new patients the officers of such sanatoriums shall give preference to persons transferred under this section.

R.S.1954, c. 27, § 14.

Library references: Prisons ↔13; C.J.S. Prisons §§ 18, 19.

**§ 138. Cost of transportation**

The cost of committing and transporting a girl to or from the Stevens Training Center, or a boy to or from the Boys Training Center, or of a person to or from the Pineland Hospital and Training Center, or of a woman to or from the Reformatory for Women, or of a man to or from the Reformatory for Men, shall, when not otherwise provided for, be paid from the treasury of the county from which such person is committed as the costs of conveying prisoners to the jails are paid. The county commissioners of such county shall examine and allow all such reasonable costs.

In cases where a woman attendant is required or used the fees to be paid shall be the same as those provided for aids in criminal cases and when not otherwise provided for shall be audited by the county commissioners and paid from the county treasury.

R.S.1954, c. 27, § 16; 1957, c. 21, § 2; 1961, c. 395, § 19.

Library references: Prisons ↔18(6); Reformatories ↔11; C.J.S. Prisons § 26; C.J.S. Reformatories §§ 14, 15.

CHAPTER 9  
UNIFORM INTERSTATE COMPACT  
ON JUVENILES

Subch.	Sec.
I. Compact .....	181
II. Administrative Provisions .....	231

SUBCHAPTER I

COMPACT

Sec.
181. Findings and purposes—Article I.
182. Existing rights and remedies—Article II.
183. Definitions—Article III.
184. Return of runaways—Article IV.
185. Return of escapees and absconders—Article V.
186. Voluntary return procedure—Article VI.
187. Cooperative supervision of probationers and parolees—Article VII.
188. Responsibility for costs—Article VIII.
189. Detention practices—Article IX.
190. Supplementary agreements—Article X.
191. Acceptance of federal and other aid—Article XI.
192. Compact administrators—Article XII.
193. Execution of compact—Article XIII.
194. Renunciation—Article XIV.
195. Severability—Article XV.

**§ 181. Findings and purposes—Article I**

The contracting states solemnly agree:

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

**1. Cooperative supervision.** Cooperative supervision of delinquent juveniles on probation or parole;

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

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

**4. Additional measures undertaken cooperatively.** Additional measures for the protection of juveniles and of the public, which any 2 or more of the party states may find desirable to undertake cooperatively. In carrying out this compact the party states shall be guided by the non-criminal, reformatory 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 this compact. This compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

1957, c. 387, § 1.

**Library references:** Infants ⇨16 et seq.; States ⇨6; C.J.S. Infants § 93 et seq.; C.J.S. States § 10.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**Consent of Congress:** Section 111 (a) of Title 4, U.S.C. provides: "The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance

in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts."

#### Cross References

Juvenile offenders, see § 2501 et seq. of Title 15.

## § 182. Existing rights and remedies—Article II

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.

1957, c. 387, § 1.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

### § 183. Definitions—Article III

For the purposes of this compact:

**1. Court.** “Court” means any court having jurisdiction over delinquent, neglected or dependent children;

**2. Delinquent juvenile.** “Delinquent juvenile” means any juvenile who has been adjudged delinquent and who, at the time the provisions of this 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;

**3. Probation or parole.** “Probation or parole” means any kind of conditional release of juveniles authorized under the laws of the states party hereto;

**4. Residence.** “Residence” or any variant thereof means a place at which a home or regular place of abode is maintained; and

**5. State.** “State” means any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

1957, c. 387, § 1.

**Library references:** Infants ⇄16.2; C.J.S. Infants § 93 et seq.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

### § 184. Return of runaways—Article IV

**1. Requisition for return of juvenile.** 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 executed in duplicate and shall be accompanied by 2 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 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 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 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.

**2. Transportation costs.** The state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

**3. Juvenile defined.** "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.

1957, c. 387, § 1.

#### Historical Note

Derivation: R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**Cross References**

Jurisdiction over petitions, see § 2553 of Title 15.

**§ 185. Return of escapees and absconders—Article V**

**1. Requisition for return of delinquent juvenile.** 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 2 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 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 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. 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.

**2. Transportation costs.** The state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 186. Voluntary return procedure—Article VI**

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 Article IV, subsection 1, or Article V, subsection 1, may consent to his immediate return to the state from which he absconded, escaped or run 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, 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, 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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 187. Cooperative supervision of probationers and parolees  
—Article VII**

**1. Permission for delinquent juvenile to reside in receiving state.** 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 com-

pact, 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.

**2. Duties of receiving state.** 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.

**3. Returning delinquent juvenile.** 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 identity 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 juve-

niles being so returned through any and all states party to this compact, without interference.

**4. Transportation costs.** 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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 188. Responsibility for costs—Article VIII**

**1. Internal relationships not affected.** Article IV, subsection 2, Article V, subsection 2 and Article VII, subsection 4 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.

**2. Asserting rights for costs.** 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 Article IV, subsection 2, Article V, subsection 2 or Article VII, subsection 4 of this compact.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 189. Detention practices—Article IX**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 190. Supplementary agreements—Article X**

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

1. **Rates.** 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;
2. **Court hearing.** Provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;
3. **Receiving state agent of sending state.** 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;
4. **Sending state to retain jurisdiction.** Provide that the sending state shall at all times retain jurisdiction over delinquent juvenile sent to an institution in another state;
5. **Inspection.** Provide for reasonable inspection of such institutions by the sending state;
6. **Consent of parent, guardian or custodian.** 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
7. **Other matters and details.** 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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.



**§ 191. Acceptance of federal and other aid—Article XI**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 192. Compact administrators—Article XII**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 193. Execution of compact—Article XIII**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 194. Renunciation—Article XIV**

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 VII shall con-

tinue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X 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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**§ 195. Severability—Article XV**

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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 22, as enacted by 1957, c. 387, § 1.

**SUBCHAPTER II**

**ADMINISTRATIVE PROVISIONS**

Sec.

231. Action by Governor.

**§ 231. Action by Governor**

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 provided in this chapter.

1957, c. 387, § 1.

**Library references:** States  $\S$  41; C.J.S. States  $\S\S$  60, 74.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 21, as enacted by 1957, c. 387, § 1.

PART 2  
JAILS AND PRISONERS

Chap.	Sec.
61. General Provisions .....	501
63. State Prison .....	551
65. Men's Reformatory .....	801
67. Women's Reformatory .....	851
69. County Jails and Jailers .....	901
71. Town Jails and Jailers .....	1091
73. New England Interstate Corrections Compact .....	1291
75. Disposition of Detainers .....	1391

CHAPTER 61

GENERAL PROVISIONS

- Sec.
- 501. Aliens; report to immigration officer.
  - 502. —Certified copy of record to immigration officer.
  - 503. Sale of out-of-state prison-made goods prohibited.
  - 504. Convicts to labor; keeper; profits.
  - 505. Infected prisoners.
  - 506. —Order for removal.

**§ 501. Aliens; report to immigration officer**

Whenever any person shall be admitted or committed to the State Prison, the State Reformatories for Men and Women, the county jail, or any other state, county, city or private institution which is supported wholly or in part by public funds, it shall be the duty of the warden, superintendent, sheriff or other officer in charge of such institution to inquire at once into the nationality of such person and, if it shall appear that such person is an alien, to notify immediately the United States immigration officer in charge of the district in which such prison, reformatory, jail or other institution is located, of the date of and the reason for such alien's admission or commitment, the length of time for which admitted or committed, the country of which he is a citizen and the date on which and the port at which he last entered the United States.

R.S.1954, c. 2, § 1.

Library references: Aliens ↻17; C.J.S. Aliens § 10; C.J.S. Weapons § 2.

**§ 502. —Certified copy of record to immigration officer**

Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien to any state, county or private institution which is supported wholly or in part by public funds, it shall be the duty of the clerk of such court to furnish without charge a certified copy of the complaint, information or indictment, and the judgment and sentence, and any other record pertaining to the case of the said alien.

R.S.1954, c. 2, § 2.

**§ 503. Sale of out-of-state prison-made goods prohibited**

No goods, wares or merchandise manufactured, produced or mined, wholly or in part, by convicts or prisoners, except paroled convicts or prisoners, or in any penal or reformatory institutions and transported into the State shall be used, consumed, sold or stored within the State. The purpose and intent of this section is to declare the policy of the State in taking advantage of the so-called Hawes-Cooper bill enacted by Federal Congress and being entitled, "An Act to Divest Goods, Wares, and Merchandise Manufactured, Produced, or Mined by Convicts or Prisoners of Their Interstate Character in Certain Cases," to be a policy of prohibiting the sale or use within the State, of any goods, wares or merchandise produced in penal institutions outside of the State and transported into this State.

R.S.1954, c. 27, § 18.

**Historical Note**

**References in text:** The Federal Stat. 1084 is classified to 49 U.S.C.A. Act, referred to in this section, Jan. § 60. 29, 1929, P.L. 70-669, c. 79, §§ 1, 2, 45

**Notes of Decisions**

<p><b>Constitutionality 1</b>  <b>Constitutionality of Federal Act 2</b></p> <hr style="width: 10%; margin: 10px auto;"/> <p><b>Library references</b></p> <p>Convicts ⇨13.  C.J.S. Convicts § 26.</p> <p><b>1. Constitutionality</b></p> <p>State law prohibiting sale of prison-made goods from other states did not unconstitutionally interfere with interstate commerce, in view of Hawes-</p>	<p>Cooper Act, removing impediment to state control presented by unbroken-package doctrine. <i>Whitfield v. State of Ohio</i> (1936) 56 S.Ct. 532, 297 U.S. 431, 80 L.Ed. 778.</p> <p><b>2. Constitutionality of Federal Act</b></p> <p>Hawes-Cooper Act removing unbroken-package doctrine, as impediment to state control of prison-made goods did not constitute delegation of congressional power to states. <i>Whitfield v. State of Ohio</i> (1936) 56 S.Ct. 532, 297 U.S. 431, 80 L.Ed. 778.</p>
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**§ 504. Convicts to labor; keeper; profits**

The keeper of the jail, workhouse, house of correction, or, in case of a sentence to any town farm or almshouse, the overseers of the poor of such town or the keeper or agent of such town farm or almshouse may require a convict committed thereto to labor at any lawful work within the town where such institution is situated, and may appoint any suitable person keeper over him, and may collect and receive the wages, compensation or profits of his labor, and at the expiration of his sentence pay to the convict such reasonable compensation as in their judgment the profits of his labor will warrant, deducting therefrom the costs of commitment and any fine imposed under Title 17, section 3757.

R.S.1954, c. 137, § 40.

**Library references:** Convicts ⇔10(1); C.J.S. Convicts § 16.

**§ 505. Infected prisoners**

When any person in a jail, house of correction or workhouse is attacked with a disease which the local health officer of his town, by medical advice, considers dangerous to the safety and health of other prisoners or of the inhabitants of the town, he shall, by his order in writing, direct his removal to some place of safety, there to be securely kept and provided for until his further order. If he recovers from such disease, he shall be returned to his place of confinement.

R.S.1954, c. 25, § 84.

**Library references:** Convicts ⇔2; C.J.S. Convicts § 9 et seq.

**§ 506. —Order for removal**

If any person was committed under section 505 by an order of court or judicial process, the order for his removal, or a copy thereof attested by the local health officer, shall be returned by him with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape.

R.S.1954, c. 25, § 85.

## CHAPTER 63

## STATE PRISON

Subch.	Sec.
I. Prison Officials and Personnel .....	551
II. Prisoners and Their Conduct .....	701
III. Miscellaneous Provisions .....	751

## SUBCHAPTER I

## PRISON OFFICIALS AND PERSONNEL

## ARTICLE 1. WARDENS

- Sec.
551. Warden; duties; deputy wardens.
552. Control of prison.
553. Service of process; command of guard; service of replevin writ; fees.
554. Warden may convey real estate.
555. Sale of prison articles; security.
556. Transport of prisoners to induction centers.
557. Warden exempt from arrest; procedure of creditor with execution.
558. Warden to keep arms and ammunition.
559. Warden cares for convict's property.

## ARTICLE 2. OFFICIALS GENERALLY

591. Power of officers; uniforms.
592. Overseers.
593. Neglect of subordinate officers.
594. Officers suffering an escape or allowing convict to go at large.
595. If resisted, officers shall use force.

## ARTICLE 3. PHYSICIAN

631. Appointment and duties.

## ARTICLE 4. CHAPLAIN

661. Duties.

## ARTICLE 1. WARDENS

## § 551. Warden; duties; deputy wardens

The head of the State Prison shall be called the warden. He shall have deputies, to be appointed by him subject to the Personnel Law, who, when the office of warden is vacant or the warden

is absent from the prison or unable to perform the duties of his office, shall have the powers, perform the duties and be subject to all the obligations and liabilities of the warden. The warden shall not carry on or be concerned in trade or commerce during his continuance in office. He shall reside constantly within the precincts of the prison and have the care, custody and charge thereof, and of the convicts therein, in conformity to their sentences, and of the lands, buildings, machines, tools, stock, provisions and every other kind of property belonging to or within its precincts, under the direction and control of the department.

R.S.1954, c. 27, § 26; 1959, c. 242, § 4.

#### Notes of Decisions

##### Library references

Prisons ⇨6, 7, 9.  
C.J.S. Prisons §§ 6 et seq., 9, 11.

##### 1. Deputy warden

Deputy warden is an officer of the State, as much as the warden, for

though the warden appoints him and is responsible for his acts, both derive their authority from same source; neither acts as agent of the other, both act as agents of the State. *Hix v. Sumner* (1862) 50 Me. 290.

## § 552. Control of prison

The warden shall inspect and oversee the conduct of the convicts, and cause all the rules of the prison to be strictly and promptly enforced. He shall give the department immediate information of any officer who refuses or neglects to enforce the discipline established, and it shall forthwith remove any officer guilty of such neglect. Said warden may punish any convict for disobedience, disorderly behavior or indolence, as directed by the department or prescribed in the rules, and shall keep a register of all such punishments and the causes for which they are inflicted.

R.S.1954, c. 27, § 27.

#### Cross References

Death of inmate, see § 2883 of Title 22.

#### Notes of Decisions

Examination of records 5  
Mail of convicts 3  
Powers and duties, generally 1  
Sentence expired 2  
Visiting privileges 4

##### Library references

Prisons ⇨13.  
C.J.S. Prisons §§ 18, 19.

**1. Powers and duties, generally**

With the approval of the warden a life prisoner may enter into a marriage ceremony within the confines of the prison. 1959-60 Atty.Gen.Rep. 134.

The warden has the right to withhold the confession of one prisoner from another who is implicated. 1955-56 Atty.Gen.Rep. 31.

**2. Sentence expired**

Punishment of refractory convicts is matter within discretion of warden within reasonable limits, but warden has no authority to detain or punish convict after his sentence has expired. Gross v. Rice (1880) 71 Me. 241.

**3. Mail of convicts**

District Court, upon prisoner's motion, did not have jurisdiction to hale director of bureau of prisons before it for purpose of determining whether he had been within his jurisdiction in delaying normal service of mail from penal institutions under his supervision and control, even though

prisoner's prior motion for reduction of sentence had not been received by court until after expiration of 60-day period allowed for such motions because it had been held by penitentiary authorities. Dodge v. Bennett (C.A. Me.1964) 335 F.2d 657.

**4. Visiting privileges**

Visiting privileges extended an inmate of a state penal institution is entirely an administrative concession within discretion of officer in charge, and no constitutional question is involved in loss of such privilege. Duncan v. Ulmer (1963) 159 Me. 266, 191 A.2d 617.

**5. Examination of records**

The public records, those required by law to be kept, relating to a prisoner in a state institution, are open to examination by the attorney for such prisoner but he will not be allowed to make a general examination of all the papers or memoranda of the warden even though some might have reference to the particular prisoner. 1943-44 Atty.Gen.Rep. 111.

## § 553. Service of process; command of guard; service of replevin writ; fees

The warden or his deputy shall serve, execute and return all processes within the exterior walls of the prison yard, and they shall be directed to him or his deputy accordingly, and for the doings of his deputy, both the warden and the deputy shall be answerable. The warden shall have command of all the force for guarding the prison, and of all officers and persons employed under him in overseeing, guarding and governing it. For serving executions and returning processes, like fees shall be taxed as for sheriffs. The warden, on demand of an officer having a writ commanding him to replevy from the warden's possession, any goods or chattels of a private individual, not a prisoner, shall expose them outside of the prison yard, so that they may be replevied. The officer shall pay the warden a reasonable charge for removal and tax the same in his fees on the writ.

R.S.1954, c. 27, § 29.



## Notes of Decisions

## Library references

Prisons ↯8, 9.  
C.J.S. Prisons §§ 10, 11.

State Prison may serve legal process within the precincts of the prison which embrace not only the prison building but the grounds connected therewith. *Hix v. Sumner* (1862) 50 Me. 290.

## 1. Generally

By the provisions of this section the warden and deputy warden of the

## § 554. Warden may convey real estate

The warden, under the direction of the commissioner, may sell and convey any real estate to which he acquires title in the adjustment of debts in behalf of the State.

R.S.1954, c. 27, § 34.

Library references: Prisons ↯9; C.J.S. Prisons § 11.

## § 555. Sale of prison articles; security

All sales of articles from the prison, and the letting to hire of such of the convicts as the department deems expedient, and all other contracts on account of the prison, except those made by the State Purchasing Agent, shall be made with the warden in the manner prescribed by the department. No such contract shall be accepted by the warden, unless the contractor gives satisfactory security for its performance, and no officer of the prison shall be directly or indirectly interested therein.

R.S.1954, c. 27, § 30.

Library references: Convicts ↯10(1); C.J.S. Convicts § 16.

## Cross References

Manufacture of motor vehicle registration plates, see § 5 of Title 29.

## § 556. Transport of prisoners to induction centers

The warden is authorized to transport prisoners to induction centers whenever necessary to comply with rules and regulations of selective service, and in so doing shall take such measures as the department feels are necessary for the public safety.

R.S.1954, c. 27, § 23.

Library references: Prisons ↯13; C.J.S. Prisons §§ 18, 19.

**§ 557. Warden exempt from arrest; procedure of creditor with execution**

The warden shall not be arrested on any civil process or execution while in office, but execution upon any judgment against him personally, and not in his official capacity, may be issued against his goods and estate only. If it is returned unsatisfied, the creditor may file with the Governor and Council a copy of such execution and return, and serve on the warden a copy of such copy attested by the Secretary of State, with a notice under his hand of the day on which such copy was filed. If the warden does not, within 40 days after such service, pay the creditor his full debt, with reasonable costs for copies and service thereof, he shall be removed. When he ceases to be warden, alias executions may be issued against his body and property as in other cases.

R.S.1954, c. 27, § 35.

Library references: Arrest Ⓒ9; C.J.S. Arrest § 29 et seq.

**§ 558. Warden to keep arms and ammunition**

The warden shall constantly keep on hand a suitable and sufficient supply of arms and ammunition, and may require all officers and other citizens to aid him in suppressing an insurrection among the convicts in State Prison, and in preventing their escape or rescue therefrom, or from any other legal custody or confinement, and if, in so doing, or in arresting any convict who has escaped, they wound or kill such convict or those aiding him, they shall be justified.

R.S.1954, c. 27, § 45.

Library references: Prisons Ⓒ12, 16; C.J.S. Prisons §§ 17, 23.

**§ 559. Warden cares for convict's property**

The warden shall receive and take care of any property that a convict has with him at the time of his entering the State Prison, keep an account thereof, and pay the same to him on his discharge.

R.S.1954, c. 27, § 48; 1959, c. 65.

Library references: Convicts Ⓒ3; C.J.S. Convicts §§ 2, 5.

**ARTICLE 2. OFFICIALS GENERALLY****§ 591. Power of officers; uniforms**

Employees of the State Prison shall have the same power and authority as sheriffs in their respective counties, only insofar

as apprehending escapees from State Prison is concerned, when so authorized by the warden. Employees of the State Prison shall be provided, at the expense of the State, with distinctive uniforms, for use when requisite to the performance of their official duties, all of which shall remain the property of the State. When on duty to enforce the orders of the warden, prison employees shall be in uniform.

1955, c. 182.

**Library references:** Prisons ⇐9; C.J.S. Prisons § 11.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 27-A, as enacted by 1955, c. 182.

#### Cross References

Sheriffs and officers, see § 851 et seq. of Title 30.

### § 592. Overseers

Persons having suitable knowledge and skill in the branches of labor and manufactures carried on in the State Prison shall, when practicable, be employed to superintend such branches as are assigned to them by the warden. All of them and the other subordinate officers shall perform the services in the management, superintending and guarding of the State Prison, as prescribed by the rules or directed by the warden.

R.S.1954, c. 27, § 24.

**Library references:** Prisons ⇐7, 9; C.J.S. Prisons §§ 7, 9, 11.

### § 593. Neglect of subordinate officers

If any subordinate officer is guilty of negligence or unfaithfulness in the discharge of his duties, or of a violation of any of the laws or rules for the government of the State Prison, the warden, with the approbation of the department, may deduct from his wages a sum not exceeding a month's pay.

R.S.1954, c. 27, § 36.

**Library references:** Prisons ⇐8; C.J.S. Prisons § 10.

### § 594. Officers suffering an escape or allowing convict to go at large

If any officer, or other person employed in the State Prison or its precincts, voluntarily suffers, aids or connives at the escape of a convict therefrom, he shall be punished by imprisonment

in the State Prison for any term not greater than the whole term for which the convict was sentenced. If he negligently suffers any convict confined therein to be at large out of the precincts of the State Prison, or the cell or apartment assigned to him, or to be conversed with, relieved or comforted, contrary to law or the rules of the State Prison, he shall be punished by a fine of not more than \$500.

R.S.1954, c. 27, § 38.

**Library references:** Prisons ⇐16; C.J.S. Prisons § 23.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

### § 595. If resisted, officers shall use force

If a convict sentenced to the State Prison resists the authority of any officer or refuses to obey his lawful commands, the officer shall immediately enforce obedience by the use of weapons or other effectual means, and if, in so doing, a convict thus resisting is wounded or killed by the officer and his assistants, they shall be justified.

R.S.1954, c. 27, § 44.

**Library references:** Prisons ⇐17; C.J.S. Prisons § 18.

## ARTICLE 3. PHYSICIAN

### § 631. Appointment and duties

The department and warden shall appoint some suitable person physician and surgeon of the State Prison, who shall visit the same daily, and whenever requested by the warden, to attend and prescribe for sick convicts, and to examine all convicts claiming to be ill and determine their ability to work. He shall see that proper attention is paid to the clothing, regimen and cleanliness of those in the hospital, and advise when illness of any convict requires his removal thereto. Upon such advice and in other cases when he deems it necessary, the warden shall cause any sick convict to be forthwith removed to the hospital, there to receive such care and attention and to be furnished with such medicines and diet, as his situation requires, until the prison physician determines that he may leave it without injury to his health.

R.S.1954, c. 27, § 37.

**Library references:** Prisons ⇐7, 9; C.J.S. Prisons §§ 7, 9, 11.

## ARTICLE 4. CHAPLAIN

## § 661. Duties

The department shall appoint suitable persons as chaplains, who shall, in accordance with the rules of the State Prison, conduct religious services in the chapel every Sunday, visit the sick, labor diligently and faithfully for the mental, moral and religious improvement of the convicts, and aid them when practicable in obtaining employment after their discharge. With the assent of the department, a Sunday school may be established, and persons from without, of proper character, may be admitted to assist in it.

R.S.1954, c. 27, § 51.

Library references: Prisons ↻9; C.J.S. Prisons § 11.

## SUBCHAPTER II

## PRISONERS AND THEIR CONDUCT

## Sec.

- 701. Forms of imprisonment.
- 702. Commencement of term.
- 703. Convicts of United States Courts received.
- 704. Prisoners to attend funerals.
- 705. Deduction of sentence; Board of Transfer.
- 706. Transportation of prisoners.
- 707. Transfer of prisoners to federal penal institution.
- 708. Convicts enroute temporarily lodged in jails.
- 709. Disorderly conduct of prisoners.
- 710. Assaulting officers; escape; prosecution.
- 711. Punishment.
- 712. Convicts; benefits on discharge.

## § 701. Forms of imprisonment

Punishment in the State Prison by imprisonment shall be by confinement to hard labor and not by solitary imprisonment, except as a prison discipline for the government of the convicts.

R.S.1954, c. 27, § 20.

## Notes of Decisions

## Library references

Prisons ⇨13.  
C.J.S. Prisons §§ 18, 19.

## 1. Generally

This section peremptorily prohibits courts from imposing solitary confine-

ment; the abolition of solitary confinement as punishment is entire and universal except as prison discipline but prison discipline is to be enforced by warden within precincts of prison and by no one else. *State v. Haynes* (1882) 74 Me. 161.

## § 702. Commencement of term

No convict shall be discharged from the State Prison until he has served the full term for which he was sentenced, including the day on which he was received into it, unless he is pardoned or otherwise released by legal authority.

R.S.1954, c. 27, § 47.

## Notes of Decisions

## Library references

Prisons ⇨15.  
C.J.S. Prisons § 21.

## 1. Generally

Term of a sentence begins with first day of actual incarceration after de-

livery of prisoner to warden or superintendent of penal institution to which prisoner has been sentenced. *State v. Couture* (1960) 156 Me. 231, 163 A.2d 646, quoting 24 C.J.S. Criminal Law § 1995b.

## § 703. Convicts of United States Courts received

Convicts, sentenced to hard labor in the State Prison for life or for any term not less than one year by any court of the United States held within the State, shall be received into the State Prison by the warden thereof, when delivered by the authority of the United States, and there kept in pursuance of their sentences.

R.S.1954, c. 27, § 21.

Library references: Prisons ⇨2; C.J.S. Prisons § 3.

## § 704. Prisoners to attend funerals

Convicts of the State Prison may, at the discretion of the warden, attend funerals of their legally considered mother, father, wife, son or daughter, if the funeral is held within the State of Maine. If the convict has the funds he must pay the cost of transportation and the officer's salary who takes him to the funeral.

1957, c. 148.

Library references: Prisons ⇨4; C.J.S. Prisons § 5.

## Historical Note

Derivation: R.S.1954, c. 27, § 23-A, as enacted by 1957, c. 148.

**§ 705. Deduction of sentence; Board of Transfer**

Each convict, whose record of conduct shows that he has faithfully observed all the rules and requirements of the State Prison, shall be entitled to a deduction of 7 days a month from the minimum term of his sentence, commencing on the first day of his arrival at the State Prison. An additional one day a month may be deducted from the sentence of those convicts who are assigned duties outside the prison walls or security system, or those convicts within the prison walls who are assigned to work deemed by the warden of the State Prison to be of sufficient importance and responsibility to warrant such deduction. This section shall apply to the sentences of all convicts now or hereafter confined within the State Prison, and shall not be construed to prevent the allowance of good time from maximum sentences or definite sentences.

The warden may from time to time, as he sees fit, recommend to a Board of Transfer set up within the department, and comprising the commissioner, the Superintendent of the Reformatory for Men, the Superintendent of the Augusta State Hospital and the Chairman of the State Probation and Parole Board, the transfer of certain first offenders from the State Prison to the Reformatory for Men when in his opinion such transfer is consistent with the best interest of the prisoner and the welfare of the public. Said recommendation for transfer to become effective must have the unanimous approval of the Board of Transfer and in such event shall take place forthwith. The prisoner so transferred shall serve the sentence imposed upon him by the court within the confines of the Reformatory for Men, and shall receive during said sentence the same deductions for good time as would have been received at the State Prison, and shall be subject to the same parole and release procedures as effective at the State Prison. This paragraph shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life, nor to any person convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153.

R.S.1954, c. 27, § 28; 1957, c. 149, c. 387, § 4; 1959, c. 242, § 5; 1961, c. 304, § 8.

### § 706. Transportation of prisoners

When any male person is convicted and sentenced to the State Prison from any county, the warden shall be notified immediately and the sheriff of said county, or a sufficient number of his appointed deputies, shall then transport the convict to the State Prison. The convict shall be delivered with a duly signed warrant of commitment and record, as provided by Title 15, section 1707, to the officer in charge of the prison before 4 p.m. on any day. The warden shall then file said warrant and record, as provided by Title 15, section 1707, with his return thereon in his office, and cause a copy of the warrant of commitment to be filed in the office of the clerk of the court from which it was issued.

R.S.1954, c. 27, § 32; 1955, c. 176, § 1.

#### Notes of Decisions

##### Library references

Prisons ↻15.  
C.J.S. Prisons § 21.

will depend upon circumstances of the case. *State v. Couture* (1960) 156 Me. 231, 163 A.2d 646, citing 24 C.J.S. Criminal Law § 1621.

##### I. Detention by sheriff

One who has been convicted and sentenced to imprisonment in penitentiary should not be detained unreasonably in county jail or elsewhere by sheriff, but sheriff should deliver the convict to proper authority as soon as sheriff can do so, and that which constitutes a reasonable time to detain prisoner before doing so

Where prisoner is delivered to sheriff with the mittimus commanding that prisoner be removed forthwith to penal institution to which he has been sentenced, sheriff may place prisoner within a county jail or other appropriate place and keep such person there for a reasonable time thereafter. *Id.*

### § 707. Transfer of prisoners to federal penal institution

Any person committed to the State Prison whose presence may be seriously detrimental to the well-being of the State Prison or who willfully and persistently refuses to obey the rules and regulations or who is considered an incorrigible inmate may, upon written certification from the warden to the commissioner, be transferred to a federal penal or correctional institution, provided the commissioner approves and the Attorney General of the United States accepts such application and transfer.

The commissioner is authorized to contract with the Attorney General of the United States or such officer as the Congress may designate under Title 18, section 5003 of the United States Code, and Acts supplementary and amendatory thereof, in each individual case for the care, custody, subsistence, education,



treatment and training of any prisoner transferred under this section. The contract shall provide for the reimbursement of the United States in full for all costs or other expenses involved, said costs and expenses to be paid from the appropriation for the operation of the State Prison. The warden shall affix to said contract a copy of the mittimus or mittimuses under which the prisoner is held and the same along with the contract of transfer shall be sufficient authority for the United States to hold said prisoner on behalf of the State of Maine.

Any prisoner transferred under this section shall be subject to the terms of his original sentence or sentences as if he were serving the same within the confines of the State Prison. Nothing herein contained shall deprive such prisoner of his rights to parole or his rights to legal process in the courts of this State.

1955, c. 454.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 32-A, as enacted by 1955, c. 454.

**References in text:** The Federal Act referred to in this section, May 9, 1952, P.L. 82-333, c. 253, § 1, 66 Stat. 68 is classified to 18 U.S.C.A. § 5003; the full text of that section follows:

“§ 5003. Custody of state offenders

“(a) The Attorney General, when the Director shall certify that proper and adequate treatment facilities and personnel are available, is hereby authorized to contract with the proper officials of a State or Territory for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or Territory: Provided, That any such contract

shall provide for reimbursing the United States in full for all costs or other expenses involved.

“(b) Funds received under such contract may be deposited in the Treasury to the credit of the appropriation or appropriations from which the payments for such service were originally made.

“(c) Unless otherwise specifically provided in the contract, a person committed to the Attorney General hereunder shall be subject to all the provisions of law and regulations applicable to persons committed for violations of laws of the United States not inconsistent with the sentence imposed. Added May 9, 1952, c. 253, § 1, 66 Stat. 68.”

#### Notes of Decisions

Authority of commissioner 9  
 Certificate invalid 16  
 Constitutionality 1  
 Constitutionality of Federal Act 2  
 Construction 3  
 Contract with United States Attorney General 13  
 Cooperative action 8  
 Cruel and unusual punishment 12  
 Good time 15  
 Judicial power 6  
 Jurisdiction over person 7

Persons subject 10  
 Purpose 4  
 Rights of prisoner 11  
 Sovereignty of State 5  
 Transfer between Federal institutions 14

#### Library references

Prisons 13.  
 C.J.S. Prisons §§ 18, 19.

**1. Constitutionality**

Transfer of a state prisoner to a Federal Prison by administrative officials, although done without affording the prisoner a hearing, did not deny due process nor equal protection and this section providing for such transfer was not violative of the Fourteenth Amendment. U.S.C.A.Const. Amend. 14. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

Intrastate administrative transfer of a prisoner within the official discretion of one person is not constitutionally offensive. *Id.*

**2. Constitutionality of Federal Act**

18 U.S.C.A. § 5003 providing that Attorney General, when director shall certify that proper and adequate treatment facilities and personnel are available, is authorized to contract with proper officials of a state for custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in courts of such state is not void, on ground that it is beyond delegated powers of the Federal Government. *Duncan v. Madigan* (C.A.Me.1960) 278 F.2d 695.

**3. Construction**

This section is to be strictly construed. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**4. Purpose**

Legislature would not be considered to have intended that a prisoner not be removed from within territorial jurisdiction of the State in enacting this section providing for transfer of state prisoners to Federal Prisons where the United States Bureau of Prisons never had a federal penal institution within the State. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**5. Sovereignty of State**

State prisoner transferred to a Federal Prison could not complain that the State relinquished its sovereignty and lost jurisdiction of his person by such transfer where this section under which transfer was made contained provisions that appropriate officers of

the Federal Government accept and hold a transferred prisoner as agents of the State at the State's expense and subject to the demand of the State. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**6. Judicial power**

Intrastate administrative transfer of a prisoner is not a trespass on judicial power. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**7. Jurisdiction over person**

Question of whether State lost jurisdiction over person of a state prisoner transferred to a Federal Prison in another state was moot where record did not disclose official identity of officers who accomplished the transfer. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**8. Cooperative action**

Under dual form of Government in the United States, there may be a pooling of state and federal power for cooperative action, to end that public welfare of both state and nation may be simultaneously promoted, where both have a common concern. *Duncan v. Madigan* (C.A.Me.1960) 278 F.2d 695.

**9. Authority of commissioner**

Authority of Commissioner of Mental Health and Corrections is both created and limited by this section. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

**10. Persons subject**

18 U.S.C.A. § 5003 providing that Attorney General, when director shall certify that proper and adequate treatment facilities and personnel are available, is authorized to contract with proper officials of a state for custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in courts of such state is not limited in its application to youthful offenders. *Duncan v. Madigan* (C.A.Me.1960) 278 F.2d 695.

**11. Rights of prisoner**

Administrative transfer of a prisoner from one institution to another

within a state, without a hearing to determine justification for such transfer, is neither a denial of due process nor failure to extend equal protection. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

Transfer to Federal Prison of one, who had been convicted of a criminal offense in a court of the State of Maine, did not deny him equal protection of the law. *Duncan v. Madigan* (C.A.Me.1960) 278 F.2d 695.

Transfer of a state prisoner to a federal institution, even though it results in prisoner being transferred away from family, friends and legal counsel, was not violative of any constitutional rights of the prisoner. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

#### 12. Cruel and unusual punishment

Transfer of a state prisoner from a state penal institution to a federal penal institution pursuant to contract did not constitute cruel and unusual punishment within sections of the State and Federal Constitutions prohibiting infliction thereof. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

#### 13. Contract with United States Attorney General

Contract with the Attorney General of the United States providing for transfer of a state prisoner to Federal Prison was valid, and fact that such contract provided that prisoner would

be subject to provisions applicable to federal prisoners did not violate state prisoner's constitutional rights. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

#### 14. Transfer between federal institutions

State prisoner having been lawfully transferred to federal physical custody and administration could not question power of the Federal Government to transfer him from one Federal Prison to another Federal Prison without notice or consent. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

#### 15. Good time

Any good time earned by a state prisoner while in federal physical custody under a transfer of custody agreement entered into by the State with federal authorities would be credited under state law to the minimum term of his indeterminate sentence, and good time would not be computed in accord with federal law. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

#### 16. Certificate invalid

Certificate upon which transfer of a state prisoner to Federal Prison was initiated was invalid, and transfer by virtue of such certificate was error where the certificate was unsigned. *Duncan v. Ulmer* (1963) 159 Me. 266, 191 A.2d 617.

### § 708. Convicts enroute temporarily lodged in jails

When, during the conveyance of any convict to the State Prison in pursuance of his sentence, it is necessary or convenient to lodge him for safekeeping in any jail until the residue of such conveyance can be conveniently performed, the keeper of such jail shall receive and safely keep and provide for him, until called for by the person employed to convey him, into whose custody he shall be delivered. Said jail keeper shall be allowed his reasonable charge and expenses incurred, to be paid from the State Treasury. When the warden believes that there are more convicts in the State Prison than can be confined there securely, he shall certify the fact to the Governor and Council, who may

authorize him to transfer them, so far as is necessary, to some jail. The jailer thereof shall receive such compensation from the State Treasury as he and the warden agree upon. When the accommodations of the prison shall be so increased that they can be safely confined therein, the warden shall remove them from such jail to the State Prison. The time during which they were so confined in jail shall be deducted from their sentences.

R.S.1954, c. 27, § 33.

Library references: Prisons ⇄8; C.J.S. Prisons § 10.

### **§ 709. Disorderly conduct of prisoners**

The department shall examine into all disorderly conduct among the prisoners, and when it appears to it that a convict is disorderly, refractory or disobedient, it may order any punishment other than corporal which it deems necessary to enforce obedience, not inconsistent with humanity, and authorized by the established rules and regulations of the State Prison.

R.S.1954, c. 27, § 25.

Library references: Prisons ⇄13; C.J.S. Prisons §§ 18, 19.

### **§ 710. Assaulting officers; escape; prosecution**

If a convict, sentenced to the State Prison for life or for a limited term of years, or transferred thereto from the Reformatory for Men under section 808, or committed thereto for safekeeping under Title 15, section 453, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence, except in the case of a convict serving a life sentence, to commence at the completion of 30 years of such sentence. The warden shall certify the fact of a violation of this section to the county attorney for the County of Knox, who shall prosecute such convict therefor.

R.S.1954, c. 27, § 42; 1955, c. 309; 1959, c. 242, § 6; 1963, c. 414, § 5.

#### **Cross References**

Escapes, see § 1401 et seq. of Title 17.

## Notes of Decisions

Attempt to escape 3  
 Construction 1  
 Convict, defined 2  
 Indictment 4

## Library references

Escape ⇐13.  
 Prisons ⇐13.  
 C.J.S. Escape § 28.  
 C.J.S. Prisons §§ 18, 19.

## 1. Construction

Within former provision of this section relating to forcibly attempting to escape, phrase stating that penalty might be imposed "at the discretion of the court" had no significance, and did not render such section void for indefiniteness in penalty. *Duncan v. State* (1962) 158 Me. 265, 183 A.2d 209, certiorari denied 83 S.Ct. 129, 371 U.S. 867, 9 L.Ed.2d 104.

## 2. Convict, defined

One who has been sentenced and is serving sentence in State Prison is a "convict" within this section relating to forcibly attempting to escape. *Duncan v. State* (1962) 158 Me. 265, 183 A.2d 209, certiorari denied 83 S.Ct. 129, 371 U.S. 867, 9 L.Ed.2d 104.

## 3. Attempt to escape

Record established that defendant had been indicted, tried, found guilty and sentenced under this section relating to forcible attempt to escape from prison, rather than under section 251 of Title 17. *Duncan v. State* (1962) 158 Me. 265, 183 A.2d 209, certiorari denied 83 S.Ct. 129, 371 U.S. 867, 9 L.Ed.2d 104.

## 4. Indictment

Indictment charging forcible attempt to escape sufficiently alleged that defendant was a convict lawfully committed, although it did not use word "convict" and did not allege that warrant of commitment, or mittimus, had issued. *Duncan v. State* (1962) 158 Me. 265, 183 A.2d 209, certiorari denied 83 S.Ct. 129, 371 U.S. 867, 9 L.Ed.2d 104.

Words "wilfully, unlawfully and feloniously" were not in themselves equivalent of "forcibly", within this section relating to forcible attempt to escape from prison. *Id.*

Indictment charging forcibly attempting to escape from State Prison sufficiently alleged essential overt act. *Id.*

Indictment for forcibly attempting to escape from State Prison sufficiently alleged force, although word "forcibly" was not used. *Id.*

## § 711. Punishment

Solitary confinement, as a punishment for the violation of the rules of the State Prison, shall be inflicted upon the convict in a cell and he shall be fed on bread and water only, unless the physician certifies to the warden that the health of such convict requires other diet.

R.S.1954, c. 27, § 43.

Library references: Prisons ⇐13; C.J.S. Prisons §§ 18, 19.

## Cross References

Solitary confinement otherwise prohibited, see § 701 of this Title.

**§ 712. Convicts; benefits on discharge**

On the discharge of any convict who has conducted himself well during his imprisonment, the warden may furnish him a sum not exceeding \$25, and, if he requests it, a certificate of such good conduct; and shall take care that every convict on his discharge is provided with decent clothing. The warden shall furnish transportation to the place where he was convicted, or to his home if within the State, or if he has secured employment within the State, to that place. If he lived out of the State or if he has secured employment out of the State, he shall receive transportation to the state border nearest his home or nearest the place where he has secured employment.

R.S.1954, c. 27, § 49; 1955, c. 442.

Library references: Prisons ⇄15; C.J.S. Prisons § 21.

## SUBCHAPTER III

## MISCELLANEOUS PROVISIONS

Sec.

751. Location; farms.

752. Articles labeled.

753. Rescue or aiding escape.

754. Aiding escaped convicts.

755. Conveying or attempting to convey article to convict.

756. Application of provisions.

**§ 751. Location; farms**

The State Prison at Thomaston, in the County of Knox, shall continue to be maintained as the prison and penitentiary of the State, in which convicts, lawfully committed thereto, shall be confined, employed and governed as provided by law.

Inmates of the State Prison may be transferred at the discretion of the Warden to the State Prison Farm at South Warren, which shall be considered a part of the State Prison. The warden may employ inmates on prison farms conducted on leased land in towns within the County of Knox and detain and house the prisoners in the barracks located on the Prison Farm at South Warren. Inmates so transferred or so employed shall be deemed to be serving their sentences and subject to the same rules and regulations as inmates confined within the walls of the prison at Thomaston. An inmate who escapes from the Prison Farm or from land leased by the Warden of the State Prison for

farming, wherever located, shall be guilty of an escape under this Title and shall be punished accordingly.

R.S.1954, c. 27, § 19.

Library references: Prisons ⇨1, 13; C.J.S. Prisons §§ 2, 18, 19.

### § 752. Articles labeled

All articles and goods manufactured at the prison for sale shall be distinctly labeled or branded with these words, "Manufactured at the Maine State Prison".

R.S.1954, c. 27, § 31.

Library references: Convicts ⇨13; C.J.S. Convicts §§ 18, 19.

### § 753. Rescue or aiding escape

Whoever forcibly rescues or attempts to rescue any convict sentenced to the State Prison, from the legal custody of any officer or other person, or from the State Prison, jail or other place where he is legally confined, or causes to be conveyed to such convict, into such jail, State Prison or other place, any tool, instrument, weapon or other aid, with intent to enable him to escape, shall, whether an escape is effected or not, be punished by a fine of not more than \$500 or by imprisonment for not more than 20 years.

R.S.1954, c. 27, § 39.

Library references: Escape ⇨5, 13; C.J.S. Escape §§ 6 et seq., 18, 19.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

### § 754. Aiding escaped convicts

Whoever, not standing in the relation of husband or wife, parent or child, to the principal offender, conceals, harbors or in any way aids any convict escaping from the State Prison, knowing him to be such, or furnishes such convict with food, clothing, weapon, matches or other article, or information that would aid him to escape recapture, shall be punished by a fine of not more than \$500 or by imprisonment for a term of not more than the whole time for which the convict was sentenced.

R.S.1954, c. 27, § 40.

Library references: Escape ⇨5, 13; C.J.S. Escape §§ 6 et seq., 18, 19.

**§ 755. Conveying or attempting to convey article to convict**

If any officer, contractor, teamster or other person delivers, or has in his possession with intent to deliver, to any convict confined in the State Prison, or deposits or conceals, in any place in or about the State Prison or its precincts, or in any wagon or other vehicle going thereto, any article, with intent that any convict therein shall obtain it, without consent or knowledge of the warden or deputy warden, he shall be punished by a fine of not more than \$500, or by imprisonment for not more than 2 years.

R.S.1954, c. 27, § 41; 1961, c. 304, § 9.

Library references: Prisons  $\approx$ 17½; C.J.S. Prisons § 22.

**§ 756. Application of provisions**

Sections 558, 595, 710 and 711 apply to convicts and officers in the county jails having workshops attached thereto, and in any county farm that may be established for the reformation of inebriates.

R.S.1954, c. 27, § 46.



## CHAPTER 65

### MEN'S REFORMATORY

Sec.

- 801. Maintenance; age groups.
- 802. Commitments for less than 3 years to be indeterminate.
- 803. Notice to superintendent by court; copy of record with warrant.
- 804. Court to determine age of person committed.
- 805. Classification, conduct records and parole eligibility.
- 806. Parolees; record forwarded to State Police.
- 807. Escapes; apprehension; assaults.
- 808. Incurrigibles; proceedings for transfer to State Prison.

#### § 801. Maintenance; age groups

The State shall maintain a reformatory in which all males over the age of 16 years, except as provided in Title 15, section 2717, and under the age of 36 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of this State or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory. The provisions for the safekeeping or employment of such inmates shall be made for the purpose of teaching such inmates a useful trade or profession, and improving their mental and moral condition.

The head of the institution shall be called the superintendent.

R.S.1954, c. 27, § 66; 1955, c. 318, § 1; 1959, c. 342, § 5.

#### Cross References

Death of inmate, see § 2883 of Title 22.

#### Notes of Decisions

##### Library references

Reformatories  $\Leftrightarrow$  2, 5.  
C.J.S. Reformatories §§ 1-5, 9.

would be necessary to consider it with other existing and kindred laws. Morton v. Hayden (1958) 154 Me. 6, 142 A.2d 37.

##### 1. Construction

To ascertain effects of this section authorizing reformatory for men, it

**§ 802. Commitments for less than 3 years to be indeterminate**

When, before any court having jurisdiction, a male over the age of 16 years and under the age of 36 years is adjudicated a juvenile offender, or is convicted of any offense punishable by imprisonment in the State Prison, or in any county jail or in any house of correction, such court may order his commitment to the Reformatory for Men, or sentence him to any other punishment provided by law for the same offense. Any such person known by the court having jurisdiction of the offense to have been previously committed to a State Prison shall not be committed to said reformatory. When a male is ordered committed to the Reformatory for Men, the court ordering the commitment shall not prescribe the limit thereof, but no male committed to the reformatory shall be held for more than 3 years.

If through oversight, or otherwise, any person is committed to imprisonment in the said Reformatory for Men for a definite period of time, said commitment for that reason shall not be void, but the person so committed shall be entitled to the benefit, and subject to this section, in the same manner and to the same extent as if the commitment had been in the terms required by this section. In such case the superintendent of the reformatory shall deliver to such offender a copy of this chapter.

R.S.1954, c. 27, § 67; 1955, c. 318, § 2; 1959, c. 342, § 6; 1963, c. 402, § 45.

**Library references:** Criminal Law ↔1208(9); Reformatories ↔5; C.J.S. Criminal Law § 1993; C.J.S. Reformatories § 9.

**§ 803. Notice to superintendent by court; copy of record with warrant**

The judge making a commitment pursuant to section 802 shall cause the superintendent of the reformatory to be notified immediately of such commitment and shall cause a record to be kept of the name, age, birthplace, occupation, previous commitments, if any, and for what offense, the last residence of such person so committed and the particulars of the offense for which he is committed. A copy of such record shall be transmitted with the warrant of commitment to the superintendent of such reformatory, who shall cause the facts stated therein and such other facts as may be directed by the department to be recorded in such form as the department may direct.

R.S.1954, c. 27, § 68; 1963, c. 402, § 46.

**Library references:** Reformatories ↔3; C.J.S. Reformatories §§ 6-8.

**§ 804. Court to determine age of person committed**

Such judge shall, before committing any such person, inquire into and determine the age of such person at the time of commitment, and his age so determined, shall be stated in the mittimus. The statement as to the age of said person so committed shall be conclusive evidence as to such age in any action to recover damages for his detention or imprisonment under such mittimus, and shall be presumptive evidence thereof in any other inquiry, action or proceeding relating to such detention or imprisonment.

R.S.1954, c. 27, § 69; 1963, c. 402, § 47.

**§ 805. Classification, conduct records and parole eligibility**

The superintendent of the reformatory shall classify each person committed thereto and keep a monthly record of his behavior and his progress in industry.

R.S.1954, c. 27, § 70; 1957, c. 387, § 10.

Library references: Reformatories ⇨7; C.J.S. Reformatories §§ 10, 11.

**§ 806. Parolees; record forwarded to State Police**

Whenever any person, who has been convicted of an offense under Title 17, chapter 67 or chapter 103, is discharged according to law, the superintendent shall make and forward to the State Police a copy of the record of said inmate together with such other information as he may deem important for a full comprehension of the case.

R.S.1954, c. 27, § 72; 1957, c. 387, § 12.

Library references: Pardon and Parole ⇨14.20; C.J.S. Pardons § 23.

**Cross References**

Records of parolees forwarded to State Police, see § 1679 of this Title.

**§ 807. Escapes; apprehension; assaults**

When a person sentenced to the State Reformatory for Men escapes therefrom, the superintendent shall take all proper measures for his apprehension.

Whenever any inmate of said reformatory escapes therefrom, or forcibly attempts to do so or assaults any officer or other person in the government thereof, the superintendent may certify that fact on the original mittimus, with recommendation that said person be transferred to the State Prison and present it to the commissioner for his approval. Upon approval of said rec-

ommendation by the commissioner, said inmate shall be transferred from the reformatory to the State Prison, where he shall serve the remainder of the term for which he might otherwise be held at said reformatory, or he may be punished by imprisonment in the State Prison for any term of years. Prosecution under this section may be instituted in any county in which said person may be arrested or in the County of Cumberland but in such cases the cost and expenses of trial shall be paid by the county from which said person was originally committed, and payment enforced as provided in the following paragraph.

Whenever any inmate of the reformatory, not having been sentenced thereto by a court of the county wherein such reformatory is situated and established, shall be convicted in such county of any misdemeanor or felony committed while an inmate of said reformatory, or of an escape therefrom, the cost and expense of trying such convicted inmate, and of his maintenance after conviction and sentence, if to the county jail of such county, shall be paid by the county from which the said convicted inmate was sentenced. The costs and expenses of such trial shall, in the first instance, be paid by the county wherein such reformatory shall be established, whose commissioners are thereupon authorized to draw their warrant upon the treasurer of the county, from which said convicted inmate was sentenced to said reformatory, for the amount paid by said county wherein said reformatory is established, for said costs and expenses which warrant it shall be the duty of the treasurer upon whom it may be drawn to pay forthwith.

R.S.1954, c. 27, § 73; 1963, c. 414, § 6.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

#### Notes of Decisions

#### Library references

Reformatories ↪7.  
C.J.S. Reformatories §§ 10, 11.

#### 1. Generally

Under this section pertaining to transfer to State Prison of any inmates of reformatory who escape therefrom or forcibly attempt to do so or assault any officer, authorities properly effected transfer of a reformatory inmate to a maximum security institution upon determination of need for greater custodial security, and they were not required to elect

to prosecute the offending inmate for his forcible attempt to escape, and court action was not required for such transfer. *Green v. Robbins* (1962) 158 Me. 9, 176 A.2d 743.

An individual who has escaped from the Men's Reformatory may be transferred to the State Prison to serve the remainder of his term or at the discretion of the court be sentenced to State Prison for any number of years, in which case the original sentence is no longer considered. 1959-60 Atty.Gen.Rep. 105.

**§ 808. Incurrigibles; proceedings for transfer to State Prison**

Any person committed to the Reformatory for Men, whose presence therein may be seriously detrimental to the well-being of the institution or who willfully and persistently refuses to obey the rules and regulations of said institution, may be deemed and declared incorrigible by the superintendent of said reformatory who may certify that fact upon the original mittimus with recommendation that said person be transferred to the State Prison and present said recommendation to a Board of Transfer set up within the department. This board shall consist of the commissioner, the Warden of the State Prison and the Superintendent of the Augusta State Hospital. Such recommendation to become effective must have the unanimous approval of the board to transfer and in such event shall take place forthwith. Any person so transferred shall serve the remainder of the term he might otherwise have been held at the reformatory or upon complaint being made to the proper officer of the District Court, having jurisdiction, said court upon hearing may bind over any person so accused to the term of the Superior Court next to be holden within such county, and if indictment is returned therefor, then upon conviction said incorrigible may be sentenced to the State Prison for not less than one year nor more than 5 years. Upon conviction of such person committed to the Reformatory for Men as such incorrigible and sentence, said person shall be discharged from said Reformatory for Men and be relieved from serving the balance of his sentence in said reformatory. This section, as it relates to the Board of Transfer and its powers, shall apply only to those persons committed to the Reformatory for Men for a felony.

R.S.1954, c. 27, § 75; 1963, c. 402, § 48.

**Notes of Decisions**

**Library references**

Reformatories ⇔9.

C.J.S. Reformatories § 16.

**1. Transfer for security reasons distinguished**

This section pertaining to transfer of reformatory inmates termed incor-

rigible, had no application to transfer of a "reformatory inmate to State Prison for security reasons. *Green v. Robbins* (1962) 158 Me. 9, 176 A.2d 743.

## CHAPTER 67

## WOMEN'S REFORMATORY

## Sec.

- 851. Maintenance; age groups.
- 852. Prisoners; quarters; rules.
- 853. Commitment; length of sentence; woman attendant in serving mittimus.
- 854. Indefinite sentence not void.
- 855. Record of commitments.
- 856. Age determined and stated in mittimus.
- 857. Care of children of women committed.
- 858. Apprehension of escapees.
- 859. Escape of inmate; penalty.
- 860. Expense of trial for crime committed by inmate.
- 861. Incurables; trial and sentence; discharge from reformatory.
- 862. Transfers from other penal institutions.

**§ 851. Maintenance; age groups**

The State shall maintain a reformatory in which all women over the age of 16 years and under the age of 40 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of the State or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory. The head of the reformatory shall be a woman and be called the superintendent.

R.S.1954, c. 27, § 52; 1959, c. 342, § 3.

Library references: Reformatories ~~§~~2, 5; C.J.S. Reformatories §§ 1-5, 9.

**Cross References**

Death of inmate, see § 2883 of Title 22.

**§ 852. Prisoners; quarters; rules**

The department shall maintain quarters at the Reformatory for Women for the incarceration of all women sentenced to the State Prison.

All women sentenced to the State Prison shall be transmitted directly from the place of sentence to said reformatory and serve

their sentences at said reformatory and shall be subject to all rules governing persons sentenced to the State Prison.

R.S.1954, c. 27, § 53.

Library references: Reformatories ⇐7; C.J.S. Reformatories §§ 10, 11.

**§ 853. Commitment; length of sentence; woman attendant in serving mittimus**

When, before any court having jurisdiction, a woman over the age of 16 years and under the age of 40 years is adjudicated a juvenile offender or is convicted of an offense punishable by imprisonment in the State Prison, or in the county jail, or in any house of correction, such court may order her commitment to the Reformatory for Women, or sentence her to the punishment provided by law for the same offense.

When a woman is sentenced to the Reformatory for Women the court imposing the sentence shall not fix the term of commitment to the reformatory. The duration of the commitment, including time spent on parole, may not exceed 3 years. Upon commitment of such woman, if the officer to whom the mittimus or order of commitment is addressed is not a woman, the judge shall in all cases when feasible designate a woman to be an attendant to accompany her to said reformatory.

R.S.1954, c. 27, § 54; 1957, c. 387, § 5; 1959, c. 342, § 4; 1963, c. 402, § 42.

**Notes of Decisions**

**Library references**

Reformatories ⇐6.

C.J.S. Reformatories § 9.

**1. Constitutionality**

This section fixing maximum indeterminate sentence to Reformatory for Women at 3 years on conviction of misdemeanor, such as intoxication, was not unconstitutional as unreason-

ably or improperly discriminating against women as a class because of former provision fixing maximum sentence to Reformatory for Men on conviction for offense of same grade at 2 years. *Ex parte Gosselin* (1946) 141 Me. 412, 44 A.2d 882, appeal dismissed 66 S.Ct. 982, 328 U.S. 817, 90 L.Ed 1599.

**§ 854. Indefinite sentence not void**

If, through oversight or otherwise, any person is sentenced to imprisonment in the Reformatory for Women for a definite period of time, said sentence shall not for that reason be void, but the person so sentenced shall be entitled to the benefit, and subject to the liabilities of this chapter, in the same manner and to the same extent as if the sentence had been in the terms required

by section 853. In such case the superintendent shall deliver to such offender a copy of said chapter.

R.S.1954, c. 27, § 55.

### **§ 855. Record of commitments**

The judge committing a woman to the reformatory shall cause the superintendent to be immediately notified of such commitment, and shall cause a record to be kept of the name, age, birthplace, occupation, previous commitments, if any, and for what offense, the last place of residence of such woman and the particulars of the offense for which she is committed. A copy of such record shall be transmitted with the warrant of commitment to the superintendent of such institution, who shall cause the facts stated therein and such other facts as may be directed by the department to be recorded in such form as the department shall determine.

R.S.1954, c. 27, § 56.

**Library references:** Reformatories  $\Leftrightarrow$ 3; C.J.S. Reformatories §§ 6-8.

### **§ 856. Age determined and stated in mittimus**

Such judge shall, before committing any such woman, inquire into and determine the age of such woman at the time of her commitment, and her age as so determined shall be stated in the mittimus. The statement of the age of such woman in such mittimus shall be conclusive evidence as to such age in any action to recover damages for her detention or imprisonment under such mittimus, and shall be presumptive evidence thereof in any other inquiry, action or proceeding relating to such detention or imprisonment.

R.S.1954, c. 27, § 57.

**Library references:** Reformatories  $\Leftrightarrow$ 5; C.J.S. Reformatories § 9.

### **§ 857. Care of children of women committed**

If any woman committed to said reformatory is, at the time of her commitment, pregnant with child which shall be born after such commitment, the department may commit such child to the care and custody of some relative or proper person willing to assume such care, or such child may be committed to the custody of the Department of Health and Welfare under Title 22, section 3792. If such woman, at the time of such commitment, shall be the mother of and have under her exclusive care, any



child, which might be otherwise left without proper care or guardianship, the judge committing such woman shall cause such child to be committed to such asylum as may be provided by law for such purposes, or to the care and custody of some relative or proper person willing to assume such care or to the custody of the Department of Health and Welfare. Any commitment of a child under this section to the custody of any asylum for children or to any relative or other person, or to the Department of Health and Welfare shall be subject to Title 22, sections 3793 to 3795.

R.S.1954, c. 27, § 58; 1959, c. 60.

**Library references:** Reformatories ⇨7; C.J.S. Reformatories §§ 10, 11.

### § 858. Apprehension of escapees

If a woman escapes from the reformatory, the superintendent may order her to be rearrested and returned to the reformatory by any officer of the reformatory or other law enforcement officer in the State authorized to make arrests.

R.S.1954, c. 27, § 59; 1957, c. 387, § 6.

**Library references:** Reformatories ⇨7; C.J.S. Reformatories §§ 10, 11.

### § 859. Escape of inmate; penalty

Any woman lawfully committed to said reformatory who escapes therefrom shall be punished by additional imprisonment in said reformatory for not more than 11 months for each such offense. Prosecution under this section may be instituted in any county in which said woman may be arrested or in the County of Somerset, but in such case the costs and expense of trial shall be paid by the county from which said woman was originally committed, and payment enforced as provided in section 860.

R.S.1954, c. 27, § 61; 1957, c. 387, § 8.

**Library references:** Escape ⇨13; C.J.S. Escape § 28.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

### § 860. Expense of trial for crime committed by inmate

Whenever any inmate of the Reformatory for Women, not having been sentenced thereto by the court of the county wherein such Reformatory for Women is situated, shall be convicted in such county of any misdemeanor or felony committed while an

inmate of the said reformatory, the costs and expenses of trying such convicted inmate and of her maintenance after conviction and sentence, if to the county jail of such county, shall be paid by the county from which the said convicted inmate was originally sentenced. The costs and expenses of the trial of such convicted inmate shall, in the first instance, be paid by the county wherein such Reformatory for Women is situated, and the commissioners thereof may thereupon draw their warrant upon the treasurer of the county, from which said convicted inmate was sentenced to the reformatory, for the amount so paid by the said county wherein such reformatory is situated for said costs and expenses, and the treasurer upon whom said warrant may be drawn shall pay it forthwith.

R.S.1954, c. 27, § 62.

### § 861. Incurrigibles; trial and sentence; discharge from reformatory

Any person committed to the Reformatory for Women whose presence therein may be seriously detrimental to the well-being of the institution or who willfully and persistently refuses to obey the rules and regulations of said institution, may be deemed and declared an incurrigible. When complaint is made to the proper officer of the District Court having jurisdiction, said court may upon hearing bind over any person so accused to the term of the Superior Court next to be holden within such county, and if indictment is returned therefor, then, upon conviction, said incurrigible may be sentenced to the State Prison for not less than one year, nor more than 5 years. Upon conviction as such incurrigible and sentence, said person shall be discharged from said reformatory and be relieved from serving the balance of sentence in said reformatory.

R.S.1954, c. 27, § 64; 1963, c. 402, § 43.

Library references: Reformatories Ⓒ9; C.J.S. Reformatories § 16.

### § 862. Transfers from other penal institutions

Upon petition of the department asking for the transfer to the Reformatory for Women of any woman serving sentence in any county jail or in any house of correction, presented to the court having imposed sentence, the judge shall set a time for hearing, giving at least 48 hours' notice to said woman, and shall notify the custodian of said woman to bring said woman before him for hearing. After hearing, said judge may order said wom-

an transferred to the Reformatory for Women to serve the remainder of the term of sentence under which said woman was committed to the county jail or house of correction. The provisions of this chapter in regard to original commitments to the reformatory shall apply to any transfer under this section, but in no case shall the time of sentence to be served in the reformatory exceed the remaining time of the sentence originally imposed. A woman transferred under this section shall be subject to the provisions of this chapter relating to the reformatory and to the same rules and regulations as inmates originally committed to the reformatory.

R.S.1954, c. 27, § 65; 1963, c. 402, § 44.

Library references: Reformatories  $\Leftrightarrow$ 9; C.J.S. Reformatories § 16.

CHAPTER 69  
COUNTY JAILS AND JAILERS

Subch.	Sec.
I. Officials and Personnel .....	901
II. Prisoners and Their Conduct .....	951
III. Prison Labor .....	1001
IV. Miscellaneous Provisions .....	1041

SUBCHAPTER I

OFFICIALS AND PERSONNEL

Sec.	
901.	Custody of jail and prisoners; jailer.
902.	Jailer's duties when office of sheriff vacant.
903.	Offices of jailer and sheriff vacant; appointment by county commissioners.
904.	Jailer to live in jail.
905.	Jailer to return list of prisoners at each criminal session of court.
906.	Official papers filed and kept with calendar and delivered to successor.
907.	Sheriff answerable for delivery of prisoners to successors.
908.	Liability of sheriff for escape.
909.	Escape through insufficiency of jail; sum paid; reimbursed.
910.	Appointment of agent to defend county; execution.
911.	Liability of keeper and sheriff for escape.

**§ 901. Custody of jail and prisoners; jailer**

The sheriff has the custody and charge of the jail in his county and of all prisoners therein and shall keep it himself, or by his deputy as jailer, master or keeper for whom he is responsible. The jailer, master or keeper shall appoint all subordinate assistants and employees for whom he is responsible, and the pay of whom, including the jailer, shall be fixed by the county commissioners and paid by their several counties, except when otherwise provided by law.

Title 30, section 801, shall apply to sick leave and vacation of the full-time employees of the sheriff's department of each county.

R.S.1954, c. 89, § 174; 1963, c. 66.

**Cross References**

Commissioner to reimburse county for incarceration of fish and game law violators, see § 3059 of Title 12.

County commissioners, see § 51 et seq. of Title 30.

Sheriffs and officers, see § 851 et seq. of Title 30.

**Notes of Decisions**

County commissioners 3  
Employment of physician 2  
Generally 1

**Library references**

Prisons ☞6, 9.

C.J.S. Prisons §§ 6 et seq., 11.

**1. Generally**

It is expressed intention of the Legislature that sheriff or his deputy, as jailer, shall have absolute and exclusive custody and charge of all prisoners confined in jails. *Sawyer v. Commissioners of Androscoggin County* (1917) 116 Me. 408, 102 A. 226.

**2. Employment of physician**

This section in view of other provisions of this chapter, imposing on sheriff or deputy as county jailer responsibility for care, custody, and

safeguarding of prisoners in county jail, by necessary implication authorizes him alone when necessary to employ jail physician for prisoners. *Sawyer v. Commissioners of Androscoggin County* (1917) 116 Me. 408, 102 A. 226.

**3. County commissioners**

There is no authority, express or implied, conferred upon county commissioners in conflict with authority vested by this chapter, in sheriff, or his deputy, as jailer. *Sawyer v. Androscoggin County Commrs.* (1917) 116 Me. 408, 102 A. 226.

Mandamus is remedy whereby county jail physician may compel county commissioners to fix his pay for services as jail physician, he having no remedy by action, certiorari or quo warranto. *Id.*

**§ 902. Jailer's duties when office of sheriff vacant**

When a vacancy occurs in the office of sheriff, the jailer lawfully acting continues in office and shall retain charge of the jail and of all prisoners therein or committed thereto, and his official neglects and misdoings are a breach of his principal's official bond until a new sheriff is qualified, or the Governor and Council remove such jailer and appoint another, which they may do. The jailer so appointed shall give bond in the manner required of a sheriff for the faithful discharge of his duties.

R.S.1954, c. 89, § 175.

Library references: Prisons ☞9; C.J.S. Prisons § 11.

**§ 903. Offices of jailer and sheriff vacant; appointment by county commissioners**

If the office of jailer becomes vacant while the office of sheriff is vacant, the county commissioners may appoint a jailer, who

shall give bond as a sheriff is required to do and continue in office, if his appointment is confirmed at their next meeting, during the vacancy in the office of sheriff or until he is removed and a new jailer appointed.

R.S.1954, c. 89, § 176.

Library references: Prisons ⇌7; C.J.S. Prisons §§ 7, 9.

### **§ 904. Jailer to live in jail**

Except for Cumberland County, every keeper of a jail shall reside constantly with his family, if he has any, in the house provided for him, if in the opinion of the county commissioners it is good and sufficient. If he neglects to do so, he forfeits not more than \$300 to be recovered for the county by indictment.

R.S.1954, c. 89, § 178; 1959, c. 63.

Library references: Prisons ⇌6; C.J.S. Prisons § 6 et seq.

### **§ 905. Jailer to return list of prisoners at each criminal session of court**

Every jailer, at the opening of every criminal term of the Superior Court for his county, shall return a list of prisoners in his custody and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed, and shall have the calendar of prisoners in court for its inspection. For neglecting to do so, the court may impose a reasonable fine.

R.S.1954, c. 89, § 186.

Library references: Prisons ⇌9; C.J.S. Prisons § 11.

### **§ 906. Official papers filed and kept with calendar and delivered to successor**

All warrants, mittimuses, processes and other official papers by which any prisoner is committed or liberated, or attested copies thereof, shall be regularly filed in order of time and with the calendar safely kept and when he vacates his office, they shall be, by the sheriff or his personal representative, delivered to his successor on penalty of forfeiting \$200 to the county.

R.S.1954, c. 89, § 187.

Library references: Prisons ⇌9; C.J.S. Prisons § 11.

### § 907. Sheriff answerable for delivery of prisoners to successors

Every sheriff is answerable for the delivery to his successor of all prisoners in his custody at the time of his removal, and for that purpose shall retain the keeping of the jail in his county and the prisoners therein until his successor enters on the duties of his office.

R.S.1954, c. 89, § 188.

Library references: Prisons ⇨13; C.J.S. Prisons §§ 18, 19.

### § 908. Liability of sheriff for escape

When a prisoner escapes through the insufficiency of the jail or the negligence of the sheriff or jailer, the sheriff is chargeable to the creditor or other person at whose suit he was committed or to whose use any forfeiture was adjudged against such prisoner.

R.S.1954, c. 89, § 190.

#### Cross References

Escapes, see § 1401 et seq. of Title 17.

#### Notes of Decisions

Generally 1  
Release of debtor 2

#### Library references

Prisons ⇨16.  
C.J.S. Prisons § 23.

#### I. Generally

Sheriffs will not be excused for escape of person under arrest although armed multitude break jail and rescue him; for sheriff has power of county at his beck, to aid him in execution

of precepts and law supposes posse to be sufficient defense against rescue and that no force is able to resist successfully sheriff and his posse. Cumberland County v. Pennell (1879) 69 Me. 357.

#### 2. Release of debtor

The jailer is liable for an escape if he permits a prisoner committed to jail on execution to go at large without giving a bond approved as required by section 3705 of Title 14. Hotchkiss v. Whitten (1880) 71 Me. 577.

### § 909. Escape through insufficiency of jail; sum paid; reimbursed

When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to such party. If they do not make such order within 6 months after the demand is laid before them, the sheriff may bring his action against the

inhabitants of such county, to be tried therein or in an adjoining county, and service shall be made as in other actions.

R.S.1954, c. 89, § 191; 1959, c. 317, § 50.

Library references: Prisons  $\Leftrightarrow$ 16; C.J.S. Prisons § 23.

### § 910. Appointment of agent to defend county; execution

The commissioners may appoint an agent to appear and defend the action. If they have no meeting between the time of service and the time within which the answer is required to be served, it shall be continued for such time as the court directs, saving all advantages to the defendants. If judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied.

R.S.1954, c. 89, § 192; 1959, c. 317, § 51.

### § 911. Liability of keeper and sheriff for escape

If any jail keeper, through negligence, suffers a prisoner charged with an offense to escape, he shall be fined according to the nature of the offense charged against the escaped prisoner, but if a person committed for debt escapes from jail and the sheriff or jail keeper, within 3 months thereafter, returns him there-to, the sheriff is liable only for the costs of any action commenced against him therefor.

R.S.1954, c. 89, § 195.

#### Notes of Decisions

##### Library references

Prisons  $\Leftrightarrow$ 16.  
C.J.S. Prisons § 23.

##### I. Constitutionality

This section respecting action to recover damages for escape of debtor committed in execution was not unconstitutional. *Thayer v. Seavey* (1834) 11 Me. (2 Fairf.) 284.

## SUBCHAPTER II

### PRISONERS AND THEIR CONDUCT

#### Sec.

- 951. Pay for labor of prisoners before sentence.
- 952. Deductions from sentence.
- 953. Treatment of prisoners for debt and minors.
- 954. Violations or furnishing liquor to prisoners.
- 955. Federal prisoners.



Sec.

- 956. Prisoners to attend funerals.
- 957. Disposal of body of person dying in jail.
- 958. Record of persons committed.
- 959. Assistance to discharged prisoners.

### § 951. Pay for labor of prisoners before sentence

Any person charged with crime or awaiting sentence who, while confined in any jail where provision for labor has been made, chooses to labor as provided for persons under sentence, shall receive therefor such sum as, in the judgment of the commissioners of said county, he has earned.

R.S.1954, c. 89, § 180.

Library references: Convicts ⇌7; C.J.S. Convicts § 13.

### § 952. Deductions from sentence

Each convict, who, in the opinion of the sheriff, has faithfully observed all the rules and requirements of the jail, shall be entitled to a deduction of 2 days a month from the term of his sentence, commencing on the first day of his arrival at the jail. An additional one day a month may be deducted from the sentence of those convicts who are assigned duties outside the jail, or those convicts within the jail who are assigned to work deemed by the sheriff to be of sufficient importance and responsibility to warrant such deduction. This section shall apply to the sentences of all convicts now or hereafter confined within the jail.

R.S.1954, c. 89, § 183; 1961, § 97.

Library references: Prisons ⇌15; C.J.S. Prisons § 21.

### § 953. Treatment of prisoners for debt and minors

Every jail keeper shall keep prisoners committed for debt separate from prisoners charged with felony or infamous crimes, and shall keep all minors so committed and all prisoners upon a first charge, before or after conviction, separate from notorious offenders and those convicted more than once of felony or infamous crimes, so far as the construction or state of the jail admits.

R.S.1954, c. 89, § 193.

Library references: Prisons ⇌13; C.J.S. Prisons §§ 18, 19.

### § 954. Violations or furnishing liquor to prisoners

If any jail keeper violates section 953 or voluntarily or negligently suffers any prisoner in his custody, charged with or con-

victed of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in such jail in writing certifies that such prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offense \$25, and for the second \$50, to be recovered for the county by indictment, or by any person suing therefor, to his own use; and shall be removed from office and shall be incapable of holding the office of sheriff, deputy sheriff or jailer for 5 years.

R.S.1954, c. 89, § 194.

**Library references:** Prisons ⇌10; C.J.S. Prisons §§ 12, 13, 15, 16.

### **§ 955. Federal prisoners**

The keepers of the several jails shall receive and safely keep all prisoners committed under authority of the United States until discharged, under the penalties provided for the safekeeping of prisoners under the laws of the State.

R.S.1954, c. 89, § 196.

**Library references:** Prisons ⇌2; C.J.S. Prisons § 3.

### **§ 956. Prisoners to attend funerals**

Prisoners at the several county jails may, at the discretion of the sheriff, attend funerals of their legally considered mother, father, husband, wife, son or daughter, if the funeral is held within the State of Maine. Prisoners shall pay the cost of transportation and the fee and expenses of the officer who takes them to the funeral.

1959, c. 1.

**Library references:** Prisons ⇌13; C.J.S. Prisons §§ 18, 19.

#### **Historical Note**

**Derivation:** R.S.1954, c. 89, § 189-A, as enacted by 1959, c. 1.

### **§ 957. Disposal of body of person dying in jail**

When a person dies in jail, the jailer or sheriff shall deliver the body to his friends, if requested. Otherwise, he shall dispose of it for anatomical purposes as provided in Title 22, chapter 709, unless the deceased at any time requested to be buried, in which case he shall bury the body in the common burying ground and the expenses thereof shall be paid by the town in which he had a settlement, if he had any in the State, and if not, by the State.

R.S.1954, c. 89, § 197.

**Library references:** Dead Bodies ⇌1; C.J.S. Dead Bodies § 2.

## Cross References

Death of inmate, see § 2883 of Title 22.

### § 958. Record of persons committed

Every sheriff shall keep in a suitable bound book a true and exact calendar containing, distinctly and fairly registered, the names of all prisoners committed to the jail under his charge, their places of abode, additions, time of their commitment, for what cause and by what authority, and a particular description of the persons of those committed for offenses. He shall register in said book the name and description, the time when and the authority by which any prisoner was discharged, and the time and manner of any prisoner's escape.

R.S.1954, c. 89, § 185.

## Notes of Decisions

#### Purpose 1

#### Records as evidence 2

#### Library references

Prisons ⇐9.  
C.J.S. Prisons § 11.

#### 1. Purpose

This section and section 906 of this Title defining duties of jailer in rela-

tion to keeping calendar and other records seem to be predicated upon practice of having in jailer's possession written evidence of cause of each prisoner's detention. *Jones v. Emerson* (1880) 71 Me. 405.

#### 2. Records as evidence

Calendar is prima facie evidence of facts contained therein which law requires to be entered. *Goodrich v. Senate* (1899) 92 Me. 248, 42 A. 409.

### § 959. Assistance to discharged prisoners

The sheriff or his deputy keeping the jail may, at the expense of the county, give a prisoner about to be discharged from jail a sum of money not exceeding \$2 and wearing apparel to the value of not exceeding \$10 and may furnish to such discharged prisoner a railroad ticket, nontransferable, to any place to which the fare does not exceed \$8. All sums so expended by the sheriff or jailer shall be repaid to him from the county treasury after the account thereof has been audited and the amount found correct by the county commissioners.

R.S.1954, c. 89, § 184.

Library references: Prisons ⇐17; C.J.S. Prisons § 18.

## SUBCHAPTER III

## PRISON LABOR

Sec.

- 1001. Employment of prisoners generally.
- 1002. Stonebreaking.
- 1003. Highway maintenance and repair.
- 1004. Application for labor.
- 1005. Voters' request for labor.
- 1006. Contracts subject to cancellation or suspension.

**§ 1001. Employment of prisoners generally**

The county commissioners may authorize the employment, for the benefit of the county or of dependent families of prisoners committed for crime, in some suitable manner not inconsistent with their security and the discipline of the prison, and may pay the proceeds of such labor, less a reasonable sum to be deducted therefrom for the cost of maintenance of said prisoners, to the families of such person or persons as may be dependent upon them for support.

This section does not apply to sections 1003 to 1006.

R.S.1954, c. 89, § 28.

**Notes of Decisions****Library references**

Convicts  $\S$  7.  
C.J.S. Convicts  $\S$  13.

**1. Generally**

The sheriff is the one primarily liable for the safekeeping of prisoners

and the county commissioners may not order such prisoners to work outside the jail without first securing the permission of the sheriff. 1951-54 Atty.Gen.Rep. 176.

**§ 1002. Stonebreaking**

The county commissioners may, at the expense of their several counties in addition to county workshops that may therein be established, provide some suitable place, materials and implements for the breaking of stone into suitable condition for the building and repair of highways, and may cause all persons sentenced under Title 17, section 3751, to labor at breaking stone. They may, at the expense of their several counties, provide suitable materials and implements sufficient to keep at work all persons committed to either of such jails; and may from time to time establish needful rules for employing, reforming and gov-

erning the persons so committed, for preserving such materials and implements, and for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed; and may make all necessary contracts in behalf of their several counties.

R.S.1954, c. 89, § 22; 1963, c. 427.

Library references: Convicts ⇨7; C.J.S. Convicts § 13.

### § 1003. Highway maintenance and repair

County commissioners may authorize the keepers of jails to put able-bodied male prisoners to work on the building or repairing of highways within their county. They shall make rules and regulations and appoint overseers and keepers needful for the direction and safekeeping of prisoners so employed, and such overseers and keepers shall have all authority conferred by law on masters of houses of correction and shall be responsible for the safekeeping and return to jail of all prisoners in their custody, and shall be subject to section 911. No prisoner shall be so employed who has been exempted therefrom by the judge imposing sentence or if in the judgment of a physician expressed by a certificate he is unfit for such labor. The county commissioners shall supply all prisoners with all necessary and suitable clothing of such description as will not materially distinguish them from other workmen. They shall furnish said prisoners with the required tools and implements and may employ such other labor and purchase such other material and equipment as may be necessary to properly carry out the objects of this section, and shall keep account of all expenses incident to such employment.

R.S.1954, c. 89, § 23.

Library references: Convicts ⇨7; C.J.S. Convicts § 13.

### § 1004. Application for labor

The State Highway Commission and municipal officers of towns may make application for the services of prisoners as aforesaid and may enter into an agreement as to the cost and compensation to be paid to the county for such services, and the sum agreed on may be paid out of moneys appropriated for highway purposes. All such labor shall be under the general direction of the board or persons charged with the work.

R.S.1954, c. 89, § 24.

Library references: Convicts ⇨10(3); C.J.S. Convicts § 16.

**§ 1005. Voters' request for labor**

When a written petition signed by at least 3% of the voters in any county, as determined by the number of votes cast therein for Governor at the last preceding election, is presented to the county commissioners of said county requesting the employment of prisoners, said commissioners shall act thereon and shall designate the prisoners available for work under the conditions provided in section 1003.

R.S.1954, c. 89, § 25.

Library references: Convicts ⇌10(1); C.J.S. Convicts § 16.

**§ 1006. Contracts subject to cancellation or suspension**

Any contract for the employment of prisoners not provided for in sections 1003 to 1005, which may be made by the county commissioners of any county with any person, firm or corporation, shall be made subject to the right of the said county commissioners to withdraw, cancel or suspend said contract in whole or in part.

R.S.1954, c. 89, § 26.

Library references: Convicts ⇌10(6); C.J.S. Convicts § 21.

**SUBCHAPTER IV****MISCELLANEOUS PROVISIONS**

Sec.

- 1041. Examination of jails.
- 1042. Jails to be clean and healthful.
- 1043. Bible, books and instruction for prisoners.
- 1044. Supplies for jails; accounts audited.
- 1045. Cumberland commissioners annually advertise for supplies.
- 1046. Transfer of prisoners when jail unfit or insecure.
- 1047. Fines applied to building and repair of jail.
- 1048. Additional accommodations.

**§ 1041. Examination of jails**

At the commencement of each session required by law, the county commissioners shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness and for their accommodation.

R.S.1954, c. 89, § 28.

Library references: Prisons ⇌1; C.J.S. Prisons § 2.

**§ 1042. Jails to be clean and healthful**

The sheriff shall see that the jail in his county is kept as clean and healthful as may be, cause the walls to be whitewashed in April or May annually and as often as the county commissioners order, at the expense of the county, and pay strict attention to the personal cleanliness of the prisoners.

R.S.1954, c. 89, § 177.

**Library references:** Prisons ⇌17; C.J.S. Prisons § 18.

**§ 1043. Bible, books and instruction for prisoners**

The jailer, at the expense of the county, shall furnish to each prisoner who is able to read a copy of the Bible, and to all, on Sundays, such religious instruction as he may be able to obtain without expense, and to such as may be benefited thereby, instruction in reading, writing and arithmetic one hour every evening except on Sunday. It shall be his duty to receive for their use from whatever source, by loan or contribution, any books or literature of a moral or religious tone and to exclude those of opposite tendencies.

R.S.1954, c. 89, § 179.

**Library references:** Prisons ⇌17; C.J.S. Prisons § 18.

**§ 1044. Supplies for jails; accounts audited**

The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, fuel, bedding and clothing for the jails and the prisoners therein, to be furnished and purchased under their direction and at the expense of the counties. No county commissioner shall be interested directly or indirectly in the purchase of any such supplies or in any contract therefor made by the board of which and while he is a member thereof, and all contracts made in violation hereof are void. A suitable person shall be employed to prepare the foods of the prisoner in each county at the expense of the county, and the service of the food to the prisoners shall be under the general direction of the jailer, master or keeper. The person employed to prepare the food of the prisoners shall be appointed by the sheriff in each county, subject to the approval of the county commissioners. The county commissioners may at any time direct specific rations or articles of food, clothing, soap, fuel or other necessaries to be furnished and served to the prisoners. The bills and accounts for supplies furnished

and the items of expense incurred in preparing and serving the same shall be audited by the State Department of Audit, as provided by Title 5, section 243, subsection 2.

R.S.1954, c. 89, § 181.

**Library references:** Prisons ⇐1; C.J.S. Prisons § 2.

### **§ 1045. Cumberland commissioners annually advertise for supplies**

The county commissioners of the County of Cumberland may each year, as soon after the first day of January as may be, make an estimate of the amount of food, fuel, clothing and supplies as far as practicable which will be required by the county jail and for the support of the prisoners therein for the current year, and advertise for sealed proposals for furnishing the same according to specifications furnished by them, in the daily papers of the City of Portland, 3 days successively, at least 14 days before the time limited for the reception of such proposals, at which time they shall examine all such proposals and award the contract to the lowest responsible bidder. The county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract and account for the same in the manner provided for in section 1044.

R.S.1954, c. 89, § 182.

**Library references:** Prisons ⇐9; C.J.S. Prisons § 11.

### **§ 1046. Transfer of prisoners when jail unfit or insecure**

Whenever complaint on oath is made to a Justice of the Superior Court that any jail is unfit for occupation or is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than 3 days' notice of such complaint to be given to the jailer or sheriff of the county to appear at the time and place fixed in such notice. If on examination the matter complained of is found true, he may issue his warrant for the transfer of such prisoner at the expense of said county to any jail where he may be more securely kept. If by fire or other casualty any jail is destroyed or rendered unfit for use, any Justice of the Superior Court may, upon being notified by the county attorney of the county where such jail was or is located, issue his order to the sheriff and his deputies and constables of said county to cause all prisoners who might be liable to imprisonment in said county to be imprisoned



in the jail of some adjoining county, said order to be printed in the newspapers of said county.

R.S.1954, c. 89, § 189.

**Library references:** Prisons ⇄13; C.J.S. Prisons §§ 18, 19.

### § 1047. Fines applied to building and repair of jail

All fines imposed by this chapter, Title 14, chapter 203, subchapter IV, Title 14, section 555 and Title 30, chapter 1, subchapter VI, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed.

R.S.1954, c. 89, § 198.

**Library references:** Fines ⇄20; C.J.S. Fines § 19.

### § 1048. Additional accommodations

The county commissioners may make such additions in workshops, fences and other suitable accommodations in, adjoining or appurtenant to the jails in the several counties as may be found necessary for the safekeeping, governing and employing of offenders committed thereto by authority of the State or the United States. For the better employing of such offenders, they may lease or purchase necessary lands or buildings anywhere within their respective counties and may authorize the employment on such lands for the benefit of the county or of dependent families of prisoners committed for crime, as provided in section 1001. Whenever the county commissioners shall determine that the use of such land and buildings is unnecessary for such use, they may sell and dispose of the same in the manner required by law. The county commissioners may raise by loan of their several counties, or otherwise, a total sum not exceeding \$5,000 to make such purchases, alterations and improvements, and may expend so much thereof as is necessary.

R.S.1954, c. 89, § 21.

**Library references:** Prisons ⇄1; C.J.S. Prisons § 2.

**CHAPTER 71**

**TOWN JAILS AND JAILERS**

<b>Subch.</b>	<b>Sec.</b>
<b>I. Workhouses</b> .....	<b>1091</b>
<b>II. Houses of Correction</b> .....	<b>1141</b>

**SUBCHAPTER I**

**WORKHOUSES**

- Sec.**
- 1091. Workhouse provided by town; persons liable to commitment.
  - 1092. Overseers of poor in charge.
  - 1093. Regulations.
  - 1094. Commitment of persons without settlement.
  - 1095. Able inmates kept employed.

**§ 1091. Workhouse provided by town; persons liable to commitment**

Any town may erect or provide a workhouse for the employment and support of persons of the following description: All poor and indigent persons, maintained by or receiving alms from the town; all able-bodied persons not having estate or means otherwise to maintain themselves, who refuse or neglect to work; all who live a dissolute and vagrant life and exercise no ordinary calling or lawful business sufficient to gain an honest livelihood; and all such persons as spend their time and property in public houses to the neglect of their proper business, or by otherwise misspending what they earn to the impoverishment of themselves and their families are likely to become paupers. Any workhouse may, by vote of the town, be discontinued or applied to other uses. Until such workhouse is thus provided, the almshouse or any part thereof may be used for that purpose.

R.S.1954, c. 95, § 1.

Library references: Prisons ⇔1; C.J.S. Prisons § 2.

**Cross References**

Paupers, generally, see § 4451 of Title 22.

Persons committed only on conviction, see § 1150 of this Title.

### § 1092. Overseers of poor in charge

Such workhouse shall be in charge of the overseers of the poor of the town maintaining the same, who shall have the inspection and government thereof, with power to appoint a master and needful assistants for the more immediate care and superintendence of the persons received or employed therein.

R.S.1954, c. 95, § 2.

Library references: Prisons ⇄6; C.J.S. Prisons § 6 et seq.

#### Cross References

Overseers of the poor—

Duties, see § 4459 of Title 22.

Election, see § 2060 of Title 30.

### § 1093. Regulations

The overseers, as occasion requires, shall hold meetings on the business of their office; and make needful orders and regulations for such house, to be binding until the next town meeting, when they shall be submitted to the consideration of the inhabitants; and such as are approved at said meeting shall remain in force until revoked by the town.

R.S.1954, c. 95, § 3.

Library references: Prisons ⇄4; C.J.S. Prisons § 5.

### § 1094. Commitment of persons without settlement

When any person, not having a legal settlement in any town in the State, becomes idle or indigent, he may be committed to the workhouse provided for the town in which he resides, to be employed, if able to labor, in the same manner and to be subject to the same rules as the other persons thereto committed.

R.S.1954, c. 95, § 4.

#### Cross References

Persons committed only on conviction, see § 1150 of this Title.

### § 1095. Able inmates kept employed

Every person committed to such workhouse, if able to work, shall be kept diligently employed during the term of his commitment. For idleness, obstinacy or disorderly conduct, he may be punished as provided by the lawful regulations of the house.

R.S.1954, c. 95, § 5.

Library references: Convicts ⇄7; C.J.S. Convicts § 13.

**SUBCHAPTER II**

**HOUSES OF CORRECTION**

**Sec.**

- 1141. House of correction maintained by town.
- 1142. Overseers of poor in charge.
- 1143. Food and clothing for inmates.
- 1144. Able inmates kept employed.
- 1145. Insubordination; food abridged.
- 1146. Paupers subject to extension of confinement.
- 1147. Pauper notice to towns of settlement.
- 1148. Earnings and expenditures of prisoners accounted for; excess.
- 1149. Remedy against family.
- 1150. Persons committed only on conviction.

**§ 1141. House of correction maintained by town**

A town, at its own expense, may build and maintain a house of correction. Until such house of correction is so built, the almshouse or any part thereof may be used for that purpose.

R.S.1954, c. 95, § 6.

**Library references:** Prisons ↩1; C.J.S. Prisons § 2.

**Cross References**

Death of inmate, see § 2883 of Title 22.

**§ 1142. Overseers of poor in charge**

Such house of correction shall be in charge of the overseers of the poor of the town maintaining the same, who shall have the inspection and government of the same and may establish from time to time such rules and orders not repugnant to law as they deem necessary for governing and punishing persons lawfully committed thereto. When an almshouse is used for a house of correction, the master thereof shall be master of the house of correction; but in other cases the overseers thereof shall appoint a suitable master, removable at their pleasure, and may fix his compensation. The overseers, from time to time, shall examine into the prudential concerns and management of such house and see that the master faithfully discharges his duty.

R.S.1954, c. 95, § 7.

**Library references:** Prisons ↩6; C.J.S. Prisons § 6 et seq.

**§ 1143. Food and clothing for inmates**

Every person committed to such house of correction shall be supplied with suitable food and clothing and, if sick, with such medical attendance and care as the overseers order. All expenses incurred for commitment and maintenance, exceeding the earnings of the person confined, shall be paid by the town where such prisoner has his legal settlement or by his kindred.

R.S.1954, c. 95, § 8.

Library references: Prisons ⇌17; C.J.S. Prisons § 18.

**§ 1144. Able inmates kept employed**

The master of such house may set to work all persons committed to his custody, so far as they are able, during the time of their confinement. If their department renders it expedient, he may impose shackles or fetters to prevent resistance or escape, without unnecessarily inflicting pain or interrupting labor.

R.S.1954, c. 95, § 9.

Library references: Convicts ⇌7; C.J.S. Convicts § 13.

**§ 1145. Insubordination; food abridged**

If a prisoner is stubborn, disorderly, idle, refractory or refuses to perform his appointed task in a proper manner, the master may abridge his supply of food until he complies with the reasonable requirements of the master and overseers.

R.S.1954, c. 95, § 10.

Library references: Prisons ⇌17; C.J.S. Prisons § 18.

**§ 1146. Paupers subject to extension of confinement**

Notwithstanding the payment of costs and expenses, if the prisoner has actually received relief as a pauper, the overseers of the poor where the house is or of the town to which he belongs, on complaint to the court by which he was committed, may procure an extension of the confinement for not more than 30 days at a time by the court. Such application may be renewed, if occasion requires it, on like complaint. In all cases the prisoners shall be brought before the court to answer to the complaint.

R.S.1954, c. 95, § 11; 1963, c. 414, § 109.

**§ 1147. Pauper notice to towns of settlement**

Such masters shall, within 10 days after commitment of any person to such house of correction, give notice thereof to the

overseers of the poor of the town where it is situated, and if the prisoner has actually received relief as a pauper, said overseers shall give the same notice thereof to the overseers of the poor of the town of his legal settlement as is required in other cases in which paupers become chargeable in places where they have no legal settlement.

R.S.1954, c. 95, § 12.

**Cross References**

Pauper notice, see § 4476 et seq. of Title 22.

**§ 1148. Earnings and expenditures of prisoners accounted for; excess**

The master shall keep an exact account of the earnings of each prisoner and of the expense incurred for commitment and maintenance, specifying the time of his commitment and liberation, and present it, on oath, to the overseers of the poor of the town where such house is established, annually and oftener if directed. The town may recover the amount of such expenses after deducting the earnings of the prisoner from the town where such prisoner has his legal settlement. If such account shows the earnings of such prisoner to exceed the expenses incurred for commitment and maintenance of said prisoner, such excess may be paid by the overseers of the poor to or for the benefit of the dependent family or kindred of said prisoner.

R.S.1954, c. 95, § 13.

**Library references:** Convicts  $\S$  13; C.J.S. Convicts  $\S$  26.

**§ 1149. Remedy against family**

If there are kindred, obliged by law to maintain the prisoner as provided in Title 22, section 4467, such master, or the town obliged to pay his account, has the same remedy against such kindred as is provided in Title 22, chapter 1251 for towns incurring expense for relief and support of paupers.

R.S.1954, c. 95, § 14.

**§ 1150. Persons committed only on conviction**

Persons shall be committed to workhouses or houses of correction only upon conviction of the offenses, acts or conditions for which such commitments are by law authorized before the District Court. Commitments to workhouses may be for terms of not more than 3 months.

R.S.1954, c. 95, § 15; 1963, c. 402, § 119.

## CHAPTER 73

### NEW ENGLAND INTERSTATE CORRECTIONS COMPACT

Subch.	Sec.
I. Compact .....	1291
II. Provisions Relating to Compact .....	1341

#### SUBCHAPTER I

#### COMPACT

Sec.
1291. Purpose and policy—Article I.
1292. Definitions—Article II.
1293. Contracts—Article III.
1294. Procedures and rights—Article IV.
1295. Acts not reviewable in receiving state; extradition—Article V.
1296. Federal aid—Article VI.
1297. Entry into force—Article VII.
1298. Withdrawal and termination—Article VIII.
1299. Other arrangements unaffected—Article IX.
1300. Construction and severability—Article X.

#### § 1291. Purpose and policy—Article I

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

1961, c. 197.

**Library references:** Prisons ☞1; States ☞6; C.J.S. Prisons § 2; C.J.S. States § 10.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197. compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.”

**Consent of Congress:** 4 U.S.C.A. § 111(a) provides:  
“(a) The consent of Congress is hereby given to any two or more States to enter into agreements or such agreements and compacts.”

**§ 1292. Definitions—Article II**

As used in this compact, unless the context clearly requires otherwise:

**1. Inmate.** “Inmate” means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

**2. Institution.** “Institution” means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in subsection 1 may lawfully be confined.

**3. Receiving state.** “Receiving state” means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

**4. Sending state.** “Sending state” means a state party to this compact in which conviction or court commitment was had.

**5. State.** “State” means a state of the United States, located in New England, to wit, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1293. Contracts—Article III**

Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

**1. Duration.** Its duration;

**2. Payments.** Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary



medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

**3. Employment.** Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

**4. Inmate delivery.** Delivery and retaking of inmates; and

**5. Other matters.** Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

Subject to legislative approval by the states concerned and prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

1961, c. 197.

#### Historical Note

Derivation: R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

### § 1294. Procedures and rights—Article IV

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quar-

ters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state, provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

All inmates who may be confined in an institution pursuant to this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for

such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

The parent, guardian, trustee or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

1961, c. 197.

#### Historical Note

Derivation: R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

### § 1295. Acts not reviewable in receiving state; extradition —Article V

Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against

the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1296. Federal aid—Article VI**

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1297. Entry into force—Article VII**

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into

law by any 2 states from among the states of New England. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1298. Withdrawal and termination—Article VIII**

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to this compact.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1299. Other arrangements unaffected—Article IX**

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1300. Construction and severability—Article X**

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provi-

sion 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 circumstance 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.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**SUBCHAPTER II**

**PROVISIONS RELATING TO COMPACT**

**Sec.**

1341. Ratification.

1342. Title.

1343. Powers.

**Library references:** Prisons ↩1; States ↩6; C.J.S. Prisons § 2; C.J.S. States § 10.

**§ 1341. Ratification**

The New England Interstate Corrections Compact is enacted into law and entered into by this State with any other of the states mentioned in Article II legally joining therein in the form substantially as provided in this chapter.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 2, as enacted by 1961, c. 197.

**§ 1342. Title**

This chapter may be cited as the New England Interstate Corrections Compact.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 1, as enacted by 1961, c. 197.

**§ 1343. Powers**

The Commissioner of Mental Health and Corrections is authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular and he may in his discretion delegate this authority to the Warden of the Maine State Prison.

1961, c. 197.

**Historical Note**

**Derivation:** R.S.1954, c. 27-C, § 3, as enacted by 1961, c. 197.

## CHAPTER 75

**DISPOSITION OF DETAINERS**

Sec.

1391. Procedure.

1392. Limitations.

1393. Application to mentally ill persons.

**§ 1391. Procedure**

Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this State, and whenever during the continuance of the term of imprisonment there is pending in this State any untried indictment, information or complaint against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting official of the county in which the indictment, information or complaint is pending, and the appropriate court, written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint. For good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden, Commissioner of Mental Health and Corrections or other official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the State Probation and Parole Board relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden, commissioner or other official having custody of him, who shall promptly forward it, together with the certificate, to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

The warden, commissioner or other official having custody of the prisoner shall promptly inform him in writing of the source and contents of any untried indictment, information or complaint against him concerning which the warden, commissioner or other official has knowledge and of his right to make a request for final disposition thereof.



Escape from custody by the prisoner subsequent to his execution of the request for final disposition shall void the request.

1957, c. 18; c. 429, § 36.

**Library references:** Criminal Law  $\Leftrightarrow$ 589(1); C.J.S. Criminal Law §§ 483, 501.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 8-A, as enacted by 1957, c. 18. 1957, c. 429, § 36.

**§ 1392. Limitations**

In the event that the action is not brought to trial within the period of time provided, no court of this State shall any longer have jurisdiction thereof, nor shall the untried indictment, information or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

1957, c. 18.

**Library references:** Criminal Law  $\Leftrightarrow$ 145½; C.J.S. Criminal Law § 223.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 8-B, as enacted by 1957, c. 18.

**§ 1393. Application to mentally ill persons**

This chapter shall not apply to any person adjudged to be mentally ill.

1957, c. 18.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 8-C, as enacted by 1957, c. 18.

**PART 3**

**PROBATION AND PAROLE**

Chap.	Sec.
121. State Probation and Parole Board .....	1501
123. Uniform Act for Out-of-State Parolee Supervision .....	1721

**CHAPTER 121**

**STATE PROBATION AND PAROLE BOARD**

Subch.	Sec.
I. General Provisions .....	1501
II. Parole Board .....	1551
III. Director of Probation and Parole .....	1591
IV. Probation .....	1631
V. Parole .....	1671

**SUBCHAPTER I**

**GENERAL PROVISIONS**

- Sec.
- 1501. Definitions.
  - 1502. Probation-parole officer; powers and duties.
  - 1503. Abetting violations.
  - 1504. Pardons by Governor.

**§ 1501. Definitions**

The listed terms as used in this chapter and chapter 123 are defined as follows, unless a different meaning is plainly required by the context:

**1. Correctional institution.** "Correctional institution" means the following state institutions: The State Reformatory for Men and the State Reformatory for Women.

1959, c. 312, § 1.

**2. Fine.** "Fine" includes court costs wherever applicable.

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

1959, c. 312, § 1.

**4. Juvenile.** "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 Title 15, chapters 401 to 409 regardless of whether, at the time of the proceeding, such person is of the age of 17 years or over.

1959, c. 342, § 8; c. 378, § 27.

**5. Parole.** "Parole" is a release procedure by which a person may be released from a state penal or correctional institution by the State Probation and Parole Board prior to the expiration of his maximum term.

1959, c. 312, § 1.

**6. Penal institution.** "Penal institution" means the State Prison.

**7. Prisoner.** "Prisoner" means a person in execution of a sentence to the State Prison.

1959, c. 312, § 1.

**8. Probation.** "Probation" means a procedure under which a person found guilty of an offense is released by the court without being committed to a state penal or correctional institution, subject to conditions imposed by the court.

1957, c. 387, § 1; 1959, c. 312, § 1, c. 342, § 8, c. 378, § 27.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 1, c. 342, § 8, c. 378, § 27.

### § 1502. Probation-parole officer; powers and duties

The general powers and duties of a probation-parole officer are:

**1. Duties prescribed.** To perform the duties which are prescribed for him;

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

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

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

**3. Supervision.** To supervise the probation or parole of each person placed under his supervision;

1957, c. 428, § 1.

**4. Conduct and condition of person in custody.** 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;

1959, c. 312, § 4.

**5. Records and reports.** To keep records of each case and make reports as required;

**6. Collection and disbursement of money.** 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;

**7. Arrest violators.** 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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 5, as enacted by 1957, c. 387, § 1. 1957, c. 428, § 1; 1959, c. 312, § 4.

**Notes of Decisions**

**Arrest of violator** 2  
**Nature of office** 1

department. State v. Blanchard  
(1960) 156 Me. 30, 159 A.2d 304.

**2. Arrest of violator**

Section 1632 of this Title gives the probation-parole officer authority to arrest and charge a probationer with violation of probation and take him into custody prior to consulting with the court and a requirement of prior consultation would be a policy made in the discretion of the administrator. 1961-62 Atty.Gen.Rep. 32.

**Library references**

Pardon and Parole ⇨14.16.  
C.J.S. Pardons § 23.

**1. Nature of office**

Probation officer in relation to convicted criminals is a judicial officer and not an officer of the executive

**§ 1503. Abetting violations**

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 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.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 17-B, as enacted by 1959, c. 312, § 14. 1963, c. 414, § 10.

## § 1504. Pardons by Governor

This chapter and chapter 123 do 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.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 19, as enacted by 1957, c. 387, § 1.

#### Cross References

Executive power, see Maine Const. Art. V, Pt. 1st, § 1.

Pardons and commutations, see § 2161 et seq. of Title 15.

Reprieves, commutations and pardons, see Maine Const. Art. V, Pt. 1st, § 11.

#### Notes of Decisions

##### Library references

Pardon and Parole 4.  
C.J.S. Pardons §§ 3, 5, 14, 15, 19.

Baston v. Robbins (1957) 153 Me. 128,  
135 A.2d 279.

##### 1. Power of Governor and Council

Power to grant reprieves, commutations and pardons is vested by Constitution in Governor and Council, and the Legislature is without authority to control, regulate or interfere with such powers except as it may provide by law regulations relative to the manner of applying for pardons.

Under power derived from Constitution, Governor and Council may commute sentences with such restrictions and limitations as may be deemed proper, provided such restrictions and limitations are not illegal, immoral or impossible to perform, and any statutory provision in conflict with such restrictions or limitations may be ignored. *Id.*

**SUBCHAPTER II****PAROLE BOARD**

Sec.

1551. Membership.

1552. Powers and duties.

**§ 1551. Membership**

A State Probation and Parole Board, as heretofore created within the Department of Mental Health and Corrections and in this chapter called the "board" shall consist of 3 members who are citizens and residents of the State. 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 Mental Health and Corrections 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 Mental Health and Corrections, 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, c. 360, § 2.

Library references: Pardon and Parole ⇔5; C.J.S. Pardons § 3.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 2, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 2, c. 360, § 2.

## § 1552. Powers and duties

The general powers and duties of the board are:

**1. Administration.** 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;

**2. Prescribe duties of director.** To prescribe the duties and supervise the activities of the director;

**3. Obtain services.** To obtain psychiatric, psychological and other necessary services;

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

**5. Delegate powers.** 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;

**6. Recommendations.** To make recommendations to the Governor and Council in reference to the granting of reprieves, commutations and pardons when requested;

**7. Reports.** To report annually to the Governor facts and recommendations relating to the administration of probation and parole services.

1957, c. 387, § 1.

### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 3, as enacted by 1957, c. 387, § 1.

**Provision for transition of rules:** Rules and regulations in effect on December 30, 1964, "are hereby de-

clared to be lawful and in effect", according to section 2 of the Revision Act of September 30, 1964, set out following Title 39.

### Cross References

Records confidential, see § 1 of this Title.

### Notes of Decisions

Attendance at hearings 2  
Records 1

### Library references

Pardon and Parole 5.  
C.J.S. Pardons § 3.

**1. Records**

Decisions of the parole board which include the date of eligibility for parole of prisoners, information used to make the determination and the time and place of parole release are "administrative records" as used in this section and held confidential under provisions of section one of this title. 1959-60 Atty.Gen.Rep. 99.

**2. Attendance at hearings**

Material used by the parole board for case valuation are administrative records which are confidential, therefore, if the public were allowed to attend a parole hearing, it would violate section one of this title, which requires these records to be held confidential. 1959-60 Atty.Gen.Rep. 87.

## SUBCHAPTER III

## DIRECTOR OF PROBATION AND PAROLE

## Sec.

1591. Appointment and qualifications.

1592. Powers and duties.

**§ 1591. Appointment and qualifications**

The Commissioner of Mental Health and Corrections shall appoint, with the approval of the board, subject to the Personnel Law, a State Director of Probation and Parole, in this chapter called the "director", 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; 1959, c. 360, § 2.

Library references: Pardon and Parole ⇨4; C.J.S. Pardons §§ 3, 5, 14, 15, 19.

**Historical Note**

Derivation: R.S.1954, c. 27-A, § 3-A, as enacted by 1957, c. 387, § 1. 1959, c. 360, § 2.

**§ 1592. Powers and duties**

The general powers and duties of the State Director of Probation and Parole are:

**1. Duties prescribed by board.** To perform the duties which are prescribed for him by the board;

**2. Administrative districts.** To divide the State into administrative districts;



**3. Probation-parole officers.** To appoint, with the approval of the board, all personnel, supervisory, probation-parole officers and clerical, subject to the Personnel Law, and assign such personnel to the established districts;

1959, c. 312, § 3.

**4. Direct and supervise work.** To direct and supervise the work of all personnel appointed by him;

1959, c. 312, § 3.

**5. Uniform methods and procedure.** To establish uniform methods and procedures in the administration of probation and parole, including investigation, supervision, casework, record keeping, making reports and accounting;

**6. Instruction and training courses.** To provide instruction and training courses for probation-parole officers.

1957, c. 387, § 1; 1959, c. 312, § 3.

**Library references:** Pardon and Parole ↻14.16; C.J.S. Pardons § 23.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 4, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 3.

## SUBCHAPTER IV

### PROBATION

Sec.

- 1631. Probation of person by court.
- 1632. Person on probation under jurisdiction of court.
- 1633. Violation of probation.
- 1634. Discharge from probation by court.
- 1635. Probation of juveniles in Cumberland County.

#### § 1631. 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.

**1. Continue for sentence.** 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.

**2. Sentence imposed.** 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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 6, as enacted by 1957, c. 387, § 1. 1957, c. 428, § 2.

**Cross References**

Sentences, see § 1701 et seq. of Title 15.

**Notes of Decisions**

**Constitutionality 1**  
**Generally 2**  
**Power of court 3**  
**Prohibited acts 4**

departments of government and giving to Governor the power to grant reprieves, commutations and pardons. State v. Blanchard (1960) 156 Me. 30, 159 A.2d 304, quoting 24 C.J.S. Criminal Law § 1618b.

**Library references**

Criminal Law ⇨982.3(2).  
 C.J.S. Criminal Law § 1618.

**2. Generally**

There can be no probation until a person charged with crime has been convicted. State v. Blanchard (1960) 156 Me. 30, 159 A.2d 304.

**1. Constitutionality**

This section permitting court to suspend execution of sentence and to place on probation a defendant convicted of a criminal offense is not violative of constitutional provisions respecting the separation of distinct

**3. Power of court**

Court has jurisdiction over its judgment within term in which it was rendered and court has power to alter or modify its sentence during

term within which it was imposed except when execution of sentence has begun. *State v. Blanchard* (1960) 156 Me. 30, 159 A.2d 304.

Apart from authority granted by this section, court may temporarily suspend the execution of its sentence pending review, and also in cases where cumulative sentences are imposed, and perhaps in some cases on extreme necessity or emergency. *State v. Sturgis* (1912) 110 Me. 96, 85 A. 474, 43 L.R.A.,N.S., 443.

#### 4. Prohibited acts

In absence of statutory enactment, court has no power indefinitely to

suspend execution of sentence either in whole or in part, and any such order made after judgment is void. *State v. Blanchard* (1960) 156 Me. 30, 159 A.2d 304.

After judgment and sentence, the court cannot relieve the convict from its execution, indefinitely postpone execution, commute the punishment, exempt the prisoner from it in whole or in part, or in any way cancel the sentence, since that would be the exercise of the power of pardon vested exclusively in the Governor. *State v. Sturgis* (1912) 110 Me. 96, 85 A. 474, 43 L.R.A.,N.S., 443.

### § 1632. 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 1633. In the event the court refuses to issue an order returning the probationer as provided under section 1633, 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 1633 and 1634 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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 7, as enacted by 1957, c. 387, § 1. 1957, c. 428, § 3; 1959, c. 342, § 9.

**Notes of Decisions****Library references**

Criminal Law ⇔982.5(1).  
C.J.S. Criminal Law §§ 1571, 1618.

**1. Arrest of violator**

This section gives the probation-parole officer authority to arrest and

charge a probationer with violation of probation and take him into custody prior to consulting with the court and a requirement of prior consultation would be a policy made in the discretion of the administrator. 1961-62 Atty.Gen.Rep. 32.

**§ 1633. Violation of 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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 8, as enacted by 1957, c. 387, § 1. 1957, c. 428, § 4.

**Notes of Decisions****Library references**

Criminal Law ⇔982.9(6).  
C.J.S. Criminal Law §§ 1572, 1618.

**1. Revocation of probation**

Under an earlier version of this section authorizing courts to suspend sentences and place offenders on probation, and providing that if the defendant violates the terms of his probation the court may decree the probation ended, and either impose the sentence if the cause has been continu-

ed for sentence, or in other cases, order the respondent to forthwith comply with the original sentence, where the court ended probation in a case where sentence had already been imposed, it should have committed defendant at once under the sentence, and had no authority to direct that mittimus should not issue until the expiration of another sentence, which defendant was then serving. *State v. Jenness* (1917) 116 Me. 196, 100 A. 933.

**§ 1634. Discharge from probation by court**

A person on probation may be discharged by the court which placed him on probation.

**1. Probationer no longer needs supervision.** 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.

1957, c. 428, § 5.

**2. Has fulfilled conditions.** 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.

**Library references:** Criminal Law ⚡982.8; C.J.S. Criminal Law §§ 1571, 1618.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 9, as enacted by 1957, c. 387, § 1. 1957, c. 428, § 5.

### § 1635. 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.

**Library references:** Infants ⚡69; C.J.S. Infants § 96.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 10-A, as enacted by 1957, c. 387, § 1.

**Cumberland County:** P.L.1957, c. 387, §§ 34-A-34-J, providing for the appointment and duties of a juvenile probation officer in Cumberland County, was reserved from repeal by the Repealing Act of September 30, 1964. They provide: "**Sec. 34-A. Appointment approved by Judge of Superior Court or by Chief Justice of the Supreme Judicial Court.** The judge of the municipal court for the city of Portland shall appoint one person as juvenile probation officer for Cumberland county, to be approved by a Judge

of the Superior Court resident in Cumberland county or by the Chief Justice of the Supreme Judicial Court. Said juvenile probation officer shall be a person qualified by personality, professional training and executive or supervisory experience in a social agency using professional standards, to direct an effective probation service. Said juvenile probation officer shall act under the direction of said courts. The terms of office of said officer shall be for the period of 2 years, or until removed by the judge of said municipal court with the approval of a Judge of the Superior

Court resident in said county, or of the Chief Justice of the Supreme Judicial Court. A record of said appointment and approval and of any such removal shall be made by the clerk of said Superior Court and said clerk shall notify the county commissioners and the county treasurer of the county of Cumberland of the same. Said judge of said municipal court may also appoint one person as assistant juvenile probation officer and a third person as probation clerk, to be approved in the same manner as above provided in the case of the juvenile probation officer. The assistant juvenile probation officer shall be a person qualified by personality, professional training and experience in a social agency using professional standards, to deal with juvenile cases. Said probation clerk shall maintain accurate records of service rendered by the probation department and shall act as secretary of the department. Said assistant juvenile probation officer and probation clerk shall serve during the pleasure of said judge and shall have the same authority and powers under the direction of said juvenile probation officer as said juvenile probation officer has under sections 34-A to 34-I of this act. A record of said appointments and approval of any such removal shall be made by the clerk of said Superior Court and said clerk shall notify the county commissioners and the county treasurer of the county of Cumberland of the same. Said juvenile probation officer shall give bond to the county in such sum and with such sureties as the county commissioners of said county shall approve.

**"Sec. 34-B. Duty of police officers to cooperate; powers not limited to criminal matters.** Said juvenile probation officer, so far as necessary in the performance of his official duties, shall have all the powers of a truant officer, police officer, constable and deputy sheriff but he shall report to the said courts, or either of them, concerning all matters committed to him, whenever required. It shall be the duty of police officials to cooperate with the said juvenile probation officer in obtaining and reporting information concerning juveniles on

probation and to assist him, when called upon, in the discharge of his duties. He may also, without warrant or other process, take any juvenile placed in his care by either of said courts at any time until such juvenile is committed on mittimus in final execution of sentence and bring him before the court, or the court may issue a warrant for the re-arrest of any such juvenile; and the court may thereupon proceed to sentence, order mittimus to issue where it has been stayed or make any other lawful disposition of the case.

**"Sec. 34-C. Salary.** The salaries of said juvenile probation officer, assistant juvenile probation officer, and probation clerk shall be determined by the judge of the municipal court for the city of Portland with the approval of a Judge of the Superior Court resident in Cumberland county or of the Chief Justice of the Supreme Judicial Court. All of said salaries shall be subject to the further approval of the county commissioners for said county of Cumberland, and shall be payable monthly in equal installments by the county treasurer of the county of Cumberland upon warrants drawn by the county commissioners of said county.

"When a juvenile has been placed on probation the court may direct and authorize the juvenile probation officer to expend for the temporary support of such juvenile, or for his transportation, or for both such purposes, such reasonable sums as the court shall consider expedient and any sums so expended, together with actual disbursements for necessary expenses made by said juvenile probation officer while in the performance of his duty, shall be reimbursed to him out of the county treasury of the county of Cumberland after approval of the judge of said court when said expenditure was made by order of the judge of said court.

**"Sec. 34-D. Juvenile probation officer, pro-tempore.** In case of the absence of said juvenile probation officer, the judge of said municipal court, or, in his absence, the recorder, or the judge of the Superior Court, as the case may be, may appoint a juvenile probation officer, pro tempore, to act

during such absence, who shall have all the powers and perform all the duties of the juvenile probation officer and who shall receive compensation for each day's service, to be paid by the county treasurer of the county of Cumberland; provided, that the compensation so paid for any excess over 14 days' service in any one calendar year shall be deducted by said county treasurer from the salary of the juvenile probation officer.

**"Sec. 34-E. Duties.** Said juvenile probation officer shall assist said courts in obtaining and furnishing information concerning previous arrests, convictions, imprisonments and other matters ordered by either of said courts relative to juveniles accused of criminal offenses, and by inquiring into the facts of every criminal case brought before said court, and may recommend that any juvenile convicted be placed upon probation. The case against any such convicted juvenile may be continued for sentence, or sentence may be imposed and mittimus stayed for any period, and on any terms the court deems best. The court may place any juvenile convicted by it in care of the juvenile probation officer for such time and upon such conditions as may seem proper. If the sentence is to pay fine and to stand committed until the same is paid, the fine may be paid to said juvenile probation officer at any time during the period of probation and said probationer shall thereby be discharged. Said officer shall give a receipt for every fine so paid, shall keep a record of the same, shall pay the fine to the recorder or clerk of the court, as the case may be, within 24 hours after its receipt and shall keep on file the recorder's or clerk's receipt therefor.

**"Sec. 34-F. Statements of juvenile.** Any juvenile arrested for a misdemeanor may make to the officer in charge of the place of custody in which he is confined a written statement, addressed to the judge of the municipal court, giving his name and address, his place of employment if any, and whether he has been arrested before within 12 months next preceding, together with a request to be released from custody. The officer

who receives such statement shall endorse thereon the name of the arresting officer, and shall transmit said statement to the juvenile probation officer, who shall at once inquire as to the truth or falsity thereof, and into the record of said juvenile as to previous offenses, and shall endorse thereon over his own signature for the use of the court the result of the investigation, and the court thereupon in its discretion may direct that such juvenile be released from custody without arraignment, upon such terms and conditions as the court may deem appropriate. No officer making an arrest under the provisions of this section shall be liable for illegal arrest or imprisonment, if the juvenile arrested shall be released from custody upon his own request as herein provided.

**"Sec. 34-G. Records.** Said juvenile probation officer shall keep full records of all cases investigated by him, and of all cases placed in his care by said courts and of any other duties performed by him under sections 34-A to 34-J of this act, and shall so arrange, consolidate and index his records, that the complete record of all the offenses of any one juvenile may be readily ascertained.

**"Sec. 34-H. Reports.** Said juvenile probation officer shall give to the county commissioners of the county of Cumberland such information as they shall request regarding his work, and shall report to said commissioners on blanks or forms furnished by them such facts as they shall require regarding all cases brought before said courts and investigated by said officer, and regarding all cases of juveniles placed upon probation in his custody. Said commissioners shall keep a record of the same and incorporate said record in their annual report.

**"Sec. 34-I. Execution of sentence at any term of court, or in vacation.** The juvenile probation officer may bring any respondent placed in his custody by a Justice of the Superior Court who has violated the terms of his probation before said Court, at any term, civil or criminal, in vacation, and any Justice of said Court upon being satisfied of the facts, may order the respondent to forthwith

comply with the original sentence. If the cause had been continued for sentence, the Justice of said Court may, either in term or in vacation, impose sentence.

"Sec. 34-J. Juvenile probation officer to be officer in all courts of the county. The juvenile probation officers provided for in sections 34-A to 34-I of this act shall serve as juvenile probation officers for all the courts in the county of Cumberland. The judges of all the municipal courts in the county of Cumberland shall have the same powers and authority as are granted to the judge of the municipal court for the city of Portland by sections 34-A to 34-J of this act, excepting the power and authority to appoint and remove said juvenile probation officer and his assistants. Such juvenile

probation officer shall perform the same duties and have the same authority concerning juveniles committed to their care by any of the municipal courts within said county of Cumberland as is granted to them over persons placed in their care by the judge of the municipal court for the city of Portland. The expenses necessary or expedient for the supervision of juveniles placed in the care of said juvenile probation officers by any of the courts except the municipal court for the city of Portland and the Superior Court and for the other additional duties required of them by this section, shall be paid out of the county commissioners thereof, in addition to the expenses of said juvenile probation officers otherwise provided for by sections 34-A to 34-I of this act."

## SUBCHAPTER V

### PAROLE

Sec.

- 1671. Parole by board.
- 1672. Eligibility for hearing; State Prison.
- 1673. —Men's reformatory.
- 1674. —Women's reformatory.
- 1675. Violations of parole.
- 1676. Sentence for crime committed by parolee.
- 1677. Discharge from parole.
- 1678. Certificate of discharge.
- 1679. Records forwarded to State Police.

#### § 1671. Parole 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.

**1. 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.

1961, c. 292, § 1.



**2. Custody and control.** While on parole, the parolee is under the custody of the warden or superintendent of the institution from which he was released but under the immediate supervision of and subject to the rules and regulations of the board or any special conditions of parole imposed by the board.

1957, c. 387, § 1; 1959, c. 312, § 5; 1961, c. 292, § 1.

**Library references:** Pardon and Parole  $\Leftrightarrow$ 4; C.J.S. Pardons §§ 3, 5, 14, 15, 19.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 11, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 5; 1961, c. 292, § 1.

### § 1672. Eligibility for hearing; State Prison

A prisoner at the Maine State Prison becomes eligible for a hearing by the board as follows:

**1. Expiration of minimum term in minimum-maximum sentence.** After the expiration of his minimum term of imprisonment less the deduction for good behavior, when the law provides for a minimum-maximum sentence;

**2. Expiration of 1/2 of term in certain cases.** After the expiration of 1/2 of the term of imprisonment imposed by the court less the deduction for good behavior, when he has been convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153. This subsection applies to a prisoner who has been convicted previously of an offense under Title 17, sections 1951, 3151, 3152 or 3153;

1959, c. 312, § 6.

**3. Expiration of 30-year term in life imprisonment cases.** 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. (1959, c. 312, § 6.)

1957, c. 387, § 1; 1959, c. 312, § 6; 1963, c. 414, § 7.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 12, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 6; 1963, c. 414, § 7.

## Notes of Decisions

## Library references

Pardon and Parole ⇨4.  
C.J.S. Pardons §§ 3, 5, 14, 15, 19.

## I. Duty of warden

Prison warden has duty to furnish blank application for parole to prisoner who is eligible for parole. *Smith v. Lovell* (1951) 146 Me. 63, 77 A.2d 575.

## § 1673. —Men's reformatory

An inmate at the Reformatory for Men becomes eligible for a hearing by the board as follows:

**1. 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 one-year term of commitment if convicted of a felony. At any time after 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;

1959, c. 312, § 7; 1961, c. 292, § 2.

**2. Recommendation of superintendent.** Upon the recommendation of the superintendent to the board for parole of the inmate, when the conduct of the inmate justifies it;

**3. Suitable employment secured.** 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.

Library references: Pardon and Parole ⇨4; C.J.S. Pardons §§ 3, 5, 14, 15, 19.

## Historical Note

**Derivation:** R.S.1954, c. 27-A, § 13, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 7; 1961, c. 292, § 2; 1963, c. 414, § 8.

## § 1674. —Women's reformatory

An inmate at the Reformatory for Women becomes eligible for a hearing by the board as follows:

**1. Inmate reformed.** When it appears to the superintendent that the inmate has reformed;

**2. Suitable employment secured.** When some suitable employment or situation has been secured for 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.

**Library references:** Pardon and Parole ⇄4; C.J.S. Pardons §§ 3, 5, 14, 15, 19.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 13-A, as enacted by 1959, c. 312, § 8. 1963, c. 414, § 9.

### § 1675. Violations of 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.

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

**2. May earn deductions.** While serving the unexpired portion of his sentence after parole has been revoked, the prisoner or inmate may earn deductions for good conduct.

1957, c. 387, § 1; 1959, c. 312, § 10, c. 342, § 12, c. 378, § 28; 1963, c. 228.

**Library references:** Pardon and Parole ⇄14.17; C.J.S. Pardons § 23.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 15, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 10, c. 342, § 12, c. 378, § 28; 1963, c. 228.

**§ 1676. Sentence for crime committed by parolee**

Any parolee who commits an offense while on parole who is sentenced to the State Prison shall serve the 2nd 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.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 16, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 11.

**Notes of Decisions**

**Action by court 3**  
**Generally 2**  
**Purpose 1**

**Library references**

Pardon and Parole ↪14.10.  
 C.J.S. Pardons § 23.

**1. Purpose**

Purpose of this section providing that any prisoner committing crime while on parole and being convicted and sentenced therefor shall serve 2nd sentence to commence from date of termination of first sentence, whether such sentence is served or annulled, is to prevent simultaneous execution of first and subsequent sentence and to make it mandatory that 2nd sentence begin at expiration of first sentence when 2nd sentence is imposed on prisoner for crime committed by him while on parole. *Lewis v. Robbins* (1954) 150 Me. 121, 104 A.2d 838.

**2. Generally**

This section providing that any prisoner committing crime while on parole and being convicted and sentenced therefor shall serve 2nd sen-

tence to commence from date of termination of first sentence, whether such sentence is served or annulled, does not permit simultaneous service of old and new sentences if parole has been revoked. *Lewis v. Robbins* (1954) 150 Me. 121, 104 A.2d 838.

Where prisoner, who received first sentence of 3 to 6 years, was conditionally paroled and released from prison, but his parole was revoked because of breaking and entering by prisoner while at large, and thereafter he pleaded guilty to charge of breaking and entering, and 2nd sentence was imposed, sentences did not run concurrently. *Id.*

**3. Action by court**

This section providing that any prisoner committing crime while on parole and being convicted and sentenced therefor shall serve 2nd sentence to commence from date of termination of first sentence, whether such sentence is served or annulled, is direct, positive, and mandatory, and no action by court can change or vary its provisions. *Lewis v. Robbins* (1954) 150 Me. 121, 104 A.2d 838.

**§ 1677. Discharge 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.

Library references: Pardon and Parole ⇨14.22; C.J.S. Pardons § 26.

#### Historical Note

Derivation: R.S.1954, c. 27-A, § 17, as enacted by 1957, c. 387, § 1. 1959, c. 312, § 12.

### § 1678. 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.

Library references: Pardon and Parole ⇨14.22; C.J.S. Pardons § 26.

#### Historical Note

Derivation: R.S.1954, c. 27-A, § 17-A, as enacted by 1959, c. 312, § 13.

### § 1679. Records forwarded to State Police

When a person who has been convicted under Title 17, sections 1951, 3151, 3152 or 3153 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. Whenever any prisoner, who has been convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153 is discharged in full execution of his sentence, the Warden of the State Prison shall make and forward to the State Police a copy of the prison record of said prisoner together with a statement of any fact or facts which he may deem necessary for a full comprehension of the case.

R.S.1954, c. 149, § 17; 1957, c. 387, §§ 1, 21.

#### Notes of Decisions

##### Library references

Pardon and Parole ⇨14.20.  
C.J.S. Pardons § 23.

##### I. Generally

Notification to State Police of name and place of person on parole is a proper administrative act. 1959-60 Atty.Gen.Rep. 99.

CHAPTER 123

UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION

Subch.	Sec.
I. Compact .....	1721
II. Provisions Relating to Compact .....	1761

SUBCHAPTER I

COMPACT

- | Sec.  |  |
|-------|--|
| 1721. | Conditions for residence in another state—Article I. |
| 1722. | Duties of receiving state—Article II.                |
| 1723. | Retaking—Article III.                                |
| 1724. | Transportation of retaken persons—Article IV.        |
| 1725. | Rules and regulations—Article V.                     |
| 1726. | Entry into force—Article VI.                         |
| 1727. | Renunciation—Article VII.                            |

§ 1721. Conditions for residence in another state—Article I

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

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

2. **Consent.** 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 chapter is one who has been an actual inhabitant of such state continuously for more than one 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.

1957, c. 387, § 1.

**Library references:** Pardon and Parole ⇨1 et seq.; States ⇨6; C.J.S. Pardons § 1 et seq.; C.J.S. States § 10.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

**Uniform laws:** The so-called "Uniform Act for Out-of-State Parolee Supervision" was never adopted by the National Conference of Commissioners on Uniform State Laws presumably because it is not a "Uniform Act" but rather an "Interstate Compact". It was adopted in Maine by P.L.1957, c. 387, § 1, effective Aug. 28, 1957.

**Consent of Congress:** Section 111(a) of Title 4, U.S.C.A. provides:

"(a) The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts."

### § 1722. Duties of receiving state—Article II

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.

1957, c. 387, § 1.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

### § 1723. Retaking—Article III

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 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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

**§ 1724. Transportation of retaken persons—Article IV**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

**§ 1725. Rules and regulations—Article V**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

**§ 1726. Entry into force—Article VI**

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.

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.



### § 1727. Renunciation—Article VII.

This compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until re-taken 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.

1957, c. 387, § 1.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

## SUBCHAPTER II

### PROVISIONS RELATING TO COMPACT

Sec.

1761. Action by Governor.

1762. State defined.

1763. Short title.

### § 1761. Action by Governor

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 provided in this chapter.

1957, c. 387, § 1.

**Library references:** States ⇄41; C.J.S. States §§ 60, 74.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

### § 1762. State defined

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

1957, c. 429, § 38.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 429, § 38.

**34 § 1763 PUBLIC INSTITUTIONS, ETC.**

**Title 34**

**§ 1763. Short title**

This chapter may be cited as the "Uniform Act for Out-of-State Parolee Supervision."

1957, c. 387, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 20, as enacted by 1957, c. 387, § 1.

## PART 4

### MENTAL HEALTH AND HOSPITALS

Chap.	Sec.
181. Bureau of Mental Health .....	2001
183. Community Mental Health Services .....	2051
185. Hospitals Generally .....	2101
187. Pineland Hospital and Training Center .....	2151
189. Private Mental Hospitals .....	2211
191. Hospitalization of Mentally Ill .....	2251
193. Sterilization .....	2461
195. Support at State Institutions .....	2511
197. Interstate Compact on Mental Health .....	2561

#### CHAPTER 181

#### BUREAU OF MENTAL HEALTH

Sec.

- 2001. Creation; purpose.
- 2002. Director; duties.
- 2003. Advisory committee; duties.

#### § 2001. Creation; purpose

The Bureau of Mental Health, as heretofore created within the Department of Mental Health and Corrections, shall be responsible for the direction of the mental health programs in the institutions within the department and shall be responsible for the promotion and guidance of mental health programs within the several communities of the State.

1959, c. 360, §§ 1, 2.

**Library references:** Mental Health ~~§~~20; C.J.S. Insane Persons § 3.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 94-A, as enacted by 1959, c. 360, §§ 1, 2.

#### § 2002. Director; duties

The Commissioner of Mental Health and Corrections shall appoint, subject to the Personnel Law, a Director of Mental Health.

The director shall be a qualified psychiatrist with administration and organization experience and ability.

It shall be the duty of the director to carry out the purposes of the bureau and, in the event of vacancy in the office of the commissioner or during his absence or disability, the director shall perform such duties and have the same powers as provided by law for the commissioner.

1959, c. 360, § 1; 1961, c. 304, § 11.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 94-B, as enacted by 1959, c. 360, § 1. 1961, c. 304, § 11.

**Cross References**

Personnel Law, sec § 551 et seq. of Title 5.

**§ 2003. Advisory committee; duties**

The Governor shall appoint a Committee on Mental Health to consist of 9 members and appoint the chairman. Of the first appointments 3 shall be appointed for one year, 3 for 2 years and 3 for 3 years. Thereafter appointments shall be made for 3 years. In order to insure a broad contact with the problems of the municipalities in the State, the committee shall be composed of members whose chief employment is outside of State Government.

The duties shall be to assist in carrying out the purposes of the Bureau of Mental Health.

1959, c. 360, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 94-C, as enacted by 1959, c. 360, § 1.

## CHAPTER 183

### COMMUNITY MENTAL HEALTH SERVICES

Sec.

- 2051. Purpose.
- 2052. Powers.
- 2053. Municipalities and other governmental units.
- 2054. State aid.
- 2055. Amount.
- 2056. Fees.

#### § 2051. Purpose

The purpose of this chapter is to expand community mental health services; to encourage participation in such a program by persons in local communities; to obtain better understanding of the need of such services and to secure aid for the program by state aid and local financial support.

1961, c. 391, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 1; C.J.S. Insane Persons § 3.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 142-A, as enacted by 1961, c. 391, § 1.

#### Cross References

Community Mental Health Centers Act, see 42 U.S.C.A. § 2681 et seq.

#### § 2052. Powers

The Department of Mental Health and Corrections may provide mental health services throughout the State, and for that purpose may cooperate with other state agencies, municipalities, persons and nonprofit corporations. The department shall adopt and promulgate rules and regulations relating to the administration of the services authorized by this chapter. Under this chapter, funds will be granted by the commissioner only to those organizations whose programs provide for adequate standards of professional service. The department may receive and use for the purpose of this chapter money appropriated by the State and grants by the United States Government and gifts from individuals.

1961, c. 391, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 1, 31; C.J.S. Insane Persons §§ 3, 58, 61.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 142-B, as enacted by 1961, c. 391, § 1.

**§ 2053. Municipalities and other governmental units**

A municipality or other governmental unit, such as a county, school district, health district, etc., through its local board of health or other town or governmental agency approved by the department, is authorized to adopt and carry out a program of mental health services established or approved by the department and appropriate money for that purpose. A municipality or other governmental unit may join with another municipality or governmental unit to carry out such a program.

1961, c. 391, § 1.

**Library references:** Mental Health  $\Leftrightarrow$  1; C.J.S. Insane Persons § 3.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 142-C, as enacted by 1961, c. 391, § 1.

**Cross References**

Interlocal cooperation, see § 1951 et seq. of Title 30.

Municipal expenditures for health and welfare as legal expenditures, see § 5105 of Title 30.

**§ 2054. State aid**

Upon application to the department by such municipality, governmental unit or by a nonprofit corporation organized for the improving of community health and welfare, the department may grant to the municipality, governmental unit or nonprofit organization money to be used for carrying out its mental health services.

1961, c. 391, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 142-D, as enacted by 1961, c. 391, § 1.

**§ 2055. Amount**

Such grant of money shall not exceed in any single year  $\frac{1}{2}$  of the operating expenses incurred by the municipality, governmental unit or nonprofit corporation receiving the grant after deducting from said expense the fees, if any, received for the services rendered. Consideration shall be given to the ability of

the municipality or governmental unit to support the mental health services, as reflected by the state's evaluation of the component communities. For nonprofit corporations, all income and resources shall be taken into account.

1961, c. 391, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 142-E, as enacted by 1961, c. 391, § 1.

**§ 2056. Fees**

The program authorized by the department may include the providing of services by said department or the municipality, governmental unit or nonprofit corporation directly to individuals, for which a fee may be charged if the individual is financially able to pay the same. Fees received by the department shall be credited to the General Fund. Fees received by the municipality, governmental unit or nonprofit corporation are appropriated to each for use in carrying out its duties under this chapter.

1961, c. 391, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 142-F, as enacted by 1961, c. 391, § 1.

**CHAPTER 185**  
**HOSPITALS GENERALLY**

Sec.

2101. Maintenance; location.

2102. Superintendent; powers and duties; removal.

2103. Rules and regulations.

2104. Specialists for temporary patients; bureau for community service.

**§ 2101. Maintenance; location**

The State shall maintain 2 hospitals for the mentally ill, one at Bangor called the Bangor State Hospital and the other at Augusta, called the Augusta State Hospital.

R.S.1954, c. 27, § 95.

**Cross References**

Death of inmate, sec § 2883 of Title 22.

**Notes of Decisions**

**Library references**

Hospitals ↔2.

C.J.S. Hospitals § 4.

**I. Drug addicts**

There is no authority to admit persons suffering from opiates to the state mental institutions unless they are otherwise committed under the provisions of this Title. 1959-60 Atty. Gen.Rep. 133.

**§ 2102. Superintendent; powers and duties; removal**

The head of each hospital shall be called the superintendent and shall be a qualified psychiatrist. He shall have general superintendence of the hospital and grounds under the direction of the department, and shall receive all patients in need of special care and treatment, legally sent to the hospital, that the accommodations permit, subject to the regulations of the department.

R.S.1954, c. 27, § 96; 1961, c. 304, §§ 12, 13, c. 317, § 44, c. 417, § 74; 1963, c. 94.

**Library references:** Hospitals ↔4; C.J.S. Hospitals § 9.

**§ 2103. Rules and regulations**

The superintendent of each hospital shall keep posted, in conspicuous places about the hospital under his charge, printed



cards containing the rules and regulations prescribed for the government of employees or shall furnish employees with printed rules and regulations.

R.S.1954, c. 27, § 97.

Library references: Hospitals § 3; C.J.S. Hospitals § 5.

#### Historical Note

**Provision for transition of rules:** Rules and regulations in effect on December 30, 1964, "are hereby declared to be lawful and in effect", according to section 2 of the Revision Act of September 30, 1964, set out following Title 39.

### § 2104. Specialists for temporary patients; bureau for community service

In every state institution, to which a mentally ill, feeble-minded or epileptic person may be committed, the department shall appoint a physician experienced in the care and treatment of such persons, and the necessary assistants to such physician, and shall organize and administer under his direction a Bureau for Community Service in the district served by the institution. The duties of said bureau shall be:

**1. Supervision of patients who have left.** The supervision of patients who have left the institution with a view to their safe care at home, suitable employment and self-support under good working and living conditions, and prevention of their relapse and return to public dependency;

**2. Mental condition of indigent patients.** Provision for informing and advising any indigent person, his relatives or friends, and the representatives of any charitable agency as to the mental condition of any indigent person, as to the prevention and treatment of such condition, as to the available institutions or other means of caring for the person so afflicted and as to any other matter relative to the welfare of such person;

**3. Cooperation with state departments.** Whenever it is deemed advisable the superintendent of the institution may cooperate with state departments to examine upon request and recommend suitable treatment and supervision for:

**A.** Persons thought to be afflicted with mental or nervous disorder,

**B.** School children who are nervous, psychopathic, retarded, defective or incorrigible,

**C.** Children brought before any juvenile court;

**4. Information on mental conditions.** The acquisition and dissemination of knowledge of mental disease, feeble-mindedness, epilepsy and allied conditions, with a view to promoting a better understanding and the most enlightened public sentiment and policy in such matters. In this work the bureau may cooperate with local authorities, schools and social agencies.

R.S.1954, c. 27, § 148; 1959, c. 242, § 8.

**Library references:** Hospitals 6; C.J.S. Hospitals § 5 et seq.

## CHAPTER 187

### PINELAND HOSPITAL AND TRAINING CENTER

Sec.

- 2151. Purposes.
- 2152. Admittance and commitment procedures.
- 2153. Habeas corpus.
- 2154. Conditional release of patients.
- 2155. Mentally ill child attaining 18.
- 2156. Discharge of patients.
- 2157. Rehearing to determine need for continuing treatment.
- 2158. Expenses of examination and commitment.

#### § 2151. Purposes

Pineland Hospital and Training Center, heretofore established at New Gloucester in the County of Cumberland, shall be maintained for the training, education, treatment and care of persons who are mentally retarded and of persons who are between the ages of 6 and 16, except as provided in section 2155, who are mentally ill.

The head of the Pineland Hospital and Training Center shall be called the superintendent and shall be a qualified psychiatrist or pediatrician. He shall be responsible for the training, education, treatment and care of all persons received into the Pineland Hospital and Training Center. He shall be responsible for the release of all such persons, except those placed in the Pineland Hospital and Training Center under Title 15, sections 101 or 103. He shall have direct supervision, management and control of the grounds, buildings and property and officers and employees of the Pineland Hospital and Training Center, subject to the approval of the department.

1963, c. 351, § 7.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 144-A, as enacted by 1963, c. 351, § 7.

#### Cross References

Death of inmate, see § 2883 of Title 22.

#### Notes of Decisions

Hospitalization of children 1  
Management of grounds 2

Library references  
Hospitals ⇔ 2.  
C.J.S. Hospitals § 4.

**1. Hospitalization of children**

Children between the ages of 6 and 16 should properly be sent to Pineland Hospital and Training Center and not to mental institutions. 1959-60 Atty.Gen.Rep. 160.

**2. Management of grounds**

It would be proper for the superintendent to designate certain parking areas for employees, but such an administrative act would not be enforceable by fine, forfeiture or like penalty. 1959-60 Atty.Gen.Rep. 58.

**§ 2152. Admittance and commitment procedures**

The Superintendent of the Pineland Hospital and Training Center, subject, except in the case of emergency admittance, to the availability of suitable accommodations and in the order of priority determined by the department, shall receive for observation, diagnosis, training, education, treatment or care any person whose admittance is applied for under any of the following procedures.

The words "proposed patient" as used in subsection 3 shall mean any person with respect to whom application is made for admittance to the Pineland Hospital and Training Center for training, education, treatment or care under such section. The word "patient" as used in sections 2154 to 2156 shall mean any person received into Pineland Hospital and Training Center for training, education, treatment or care.

**1. Voluntary admittance.**

**A. Application.** Application for voluntary admittance of any person to the Pineland Hospital and Training Center shall be made to the department in writing by a parent, relative, spouse or guardian of the person, a health or public welfare officer, or the head of any institution in which such person may be; and

**B. Certification.** Certification by either a psychiatrist or a licensed physician and a certified psychologist that they have examined the person, and that in their opinion such person is mentally retarded or being between the ages of 6 and 16 is mentally ill and is in need of institutional care, such as is provided at the Pineland Hospital and Training Center; except that, certification by psychologist shall not be required if the person, as determined by the department, is so severely retarded as to be untestable by formal methods.

**2. Emergency admittance.** Whenever it is made to appear to the Superintendent of the Pineland Hospital and Training Center that a person, a proper subject for the Pineland Hospital and Training Center, is in need of immediate care and treatment

and admittance is requested by a licensed physician with the approval of a parent, relative, spouse or guardian of the person, the person may be admitted solely on the basis thereof for a period not to exceed 15 days. A report of the circumstances of such emergency admission shall be made promptly to the department and if continuing care and treatment is indicated the regular admission procedures shall be initiated for voluntary admission without certification. During the pendency of said procedure the superintendent may detain such patient at his institution, but in no event for a period longer than 30 days.

**3. Admittance by order of probate court.** Whenever it is made to appear that a person is a proper subject for Pineland Hospital and Training Center and voluntary admittance cannot be accomplished, application may be made to the judge of probate, within whose jurisdiction the individual may be, by a friend, a licensed physician, a health or public welfare officer, or the head of any institution in which such person may be. Any such application shall be accompanied by a certificate of a psychiatrist or a licensed physician stating that he has examined the person and is of the opinion that the person is mentally retarded, or being between the ages of 6 and 16, is mentally ill and is a proper subject for Pineland Hospital and Training Center, or a written statement by the applicant that the person has refused to submit to examination.

Upon receipt of an application the court shall give notice thereof in hand to the proposed patient, in hand or by certified mail to his legal guardian, if known, and to his spouse or a parent or one of his adult children, or if none of these persons exist or if their whereabouts are unknown, then to one of his next of kin or to a friend. If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to him may be omitted.

As soon as practicable after notice of the commencement of proceedings is given or it is determined that notice should be omitted, the court shall appoint 2 licensed physicians, one of whom shall be a psychiatrist, or shall appoint a licensed physician and a certified psychologist to examine the proposed patient and report to the court their findings as to the mental condition of the proposed patient and his need for training, education, treatment or care at the Pineland Hospital and Training Center.

The examination shall be held at a hospital or other medical facility, at the home of the proposed patient or at any other suitable place not likely to have a harmful effect on his health. A pro-

posed patient to whom notice of the commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the appointed examiners of refusal to submit to an examination, the court shall give notice to the proposed patient as provided under this section and order him to submit to such examination.

If the report of the appointed examiners is to the effect that the proposed patient is not mentally retarded or mentally ill, the court may without taking any further action terminate the proceedings and dismiss the application. Otherwise, it shall forthwith fix a date for and give notice of a hearing to be held not less than 5 nor more than 15 days from receipt of the report.

Notice of the hearing shall be given at least 72 hours prior to the time of said hearing, in the same manner as is required for notice of receipt of application, to the person or persons receiving notice of receipt of application, to the applicant in hand or by certified mail, and to such other persons as the court may direct.

The proposed patient, the applicant and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the court may in its discretion receive the testimony of any other persons. The proposed patient shall not be required to be present, and all persons not necessary for the conduct of the proceedings shall be excluded, except as the court may direct in its discretion. The court may order a public hearing upon the request of the patient or any member of his family. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The court shall receive all relevant and material evidence which may be offered. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the court shall appoint counsel.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally retarded or mentally ill, and because of his retardation or illness is in need of education, training, treatment or care at the Pineland Hospital and Training Center, it shall order his commitment. Otherwise it shall dismiss the proceedings.

Unless otherwise directed by the court, it shall be the responsibility of the sheriff of the county in which the probate court has jurisdiction to assure the carrying out of the order within such period as the court shall specify. The court is authorized to ap-

point a special commissioner who shall be a member of the bar of the State to assist in the conduct of commitment proceedings. In any case in which the court refers an applicant to the commissioner, the commissioner shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the commitment of the proposed patient.

The Superintendent of the Pineland Hospital and Training Center admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admittance to the department.

1963, c. 351, § 7.

**Library references:** Hospitals ☞5; C.J.S. Hospitals § 7.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 144-B, as enacted by 1963, c. 351, § 7.

### § 2153. Habeas corpus

Any person detained pursuant to section 2152, subsection 1, 2 or 3 shall be entitled to the writ of habeas corpus upon proper petition by his parent, spouse or any adult relative or friend to any justice generally empowered to issue the writ of habeas corpus in the county in which said person is detained.

1963, c. 351, § 7.

**Library references:** Habeas Corpus ☞9; C.J.S. Habeas Corpus § 9 et seq.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 144-C, as enacted by 1963, c. 351, § 7.

#### Cross References

Habeas corpus—

Generally, see § 5501 et seq. of Title 14.

Parent or guardian of minor, see § 5510 of Title 14.

### § 2154. Conditional release of patients

The Superintendent of the Pineland Hospital and Training Center may at his discretion, except in instances of placement in the Pineland Hospital and Training Center under Title 15, section 101 or 103, release any patient for a definite or indefinite length of time to any responsible person under such conditions as the superintendent may specify, which release may at any time be revoked or extended. No such patient shall be allowed to leave the institution temporarily until an agreement has been pro-

cured by the superintendent from some responsible person or persons to provide such patient with proper care during his period of temporary absence from the institution. In the event that any such patient should fail to return to the institution at any time required by the superintendent, full power to retake and return such patient is expressly conferred upon the superintendent, whose written order shall be a sufficient warrant authorizing any officer named therein to return such patient to the institution.

1963, c. 351, § 7.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 144-D, as enacted by 1963, c. 351, § 7.

**Notes of Decisions**

**Library references**

Hospitals ⇨5.  
C.J.S. Hospitals § 7.

of Pineland Training Center, is subject to be charged, if able to pay, a portion of the expense involved in supplying such care. 1957-58 Atty. Gen.Rep. 133.

**1. Expenses**

A patient on a bona fide trial visit, still under the care and supervision

**§ 2155. Mentally ill child attaining 18**

No child received in the children's psychiatric unit of the Pineland Hospital and Training Center shall be detained beyond his 18th birthday and if the mental condition of the child at that time is such that further hospital care is necessary because of mental illness, the Superintendent of the Pineland Hospital and Training Center shall cause application to be made for the admittance of said child to one of the hospitals for the mentally ill.

1963, c. 351, § 7.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 144-E, as enacted by 1963, c. 351, § 7.

**Notes of Decisions**

**Library references**

Mental Health ⇨56.  
C.J.S. Insane Persons §§ 58, 72.

ta State Hospital or Bangor State Hospital, an inmate of Pineland is found in Cumberland County, with the result that commitment proceedings may be instituted before the judge of probate of Cumberland County. 1959-60 Atty.Gen.Rep. 29.

**1. Venue**

For the purposes of legal proceedings for commitment to either Augus-

**§ 2156. Discharge of patients**

If any patient received under section 2152, subsection 1, 2 or 3 is deemed by the Superintendent of the Pineland Hospital and



Training Center not to be a proper person for further training, education, treatment or care in that institution, he shall be discharged. Notice of impending discharge shall be given to the person or agency initiating the original application within a reasonable length of time preceding actual discharge.

No patient received under section 2152, subsection 1 or 2 shall be detained for more than 10 days after the parent, guardian or person or agency having right to custody of such patient has filed with the superintendent a written request for discharge, except that, upon application to the probate court or a judge thereof, whether in session or in vacation, supported by a certification by the Superintendent of the Pineland Hospital and Training Center that in his opinion such release would be unsafe for the patient or for others, release may be postponed for such period not to exceed 10 days as the court or a judge thereof may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 2152, subsection 3.

The Superintendent of the Pineland Hospital and Training Center shall inform the legal guardian, spouse, parent, relative or a friend of any patient received under section 2152, subsection 1 or 2, in writing, on admittance, of the patient's right to release as provided in this section and shall provide reasonable arrangements for making and presenting requests for release.

1963, c. 351, § 7.

**Library references:** Mental Health  $\Leftrightarrow$ 59; C.J.S. Insane Persons § 72.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 144-F, as enacted by 1963, c. 351, § 7.

### § 2157. Rehearing to determine need for continuing treatment

Any person received pursuant to section 2152, subsection 3 shall be entitled to a rehearing to determine his need for continuing training, education, treatment or care on the petition of his legal guardian, spouse, parent or of a relative or friend to the probate court for the county from which such person was originally received.

Upon receipt of the petition the court shall conduct or cause to be conducted, by a special commissioner, proceedings in accordance with section 2152, subsection 3, except that notice of receipt of application may be omitted. Such proceedings shall not be required to be conducted if the petition is filed less than 6

**34 § 2157 PUBLIC INSTITUTIONS, ETC.**

**Title 34**

months after issuance of the original order of commitment or less than one year after the filing of a previous petition under this section.

1963, c. 351, § 7.

**Library references:** Mental Health  $\Leftrightarrow$ 41; C.J.S. Insane Persons §§ 19 et seq., 67.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 144-G, as enacted by 1963, c. 351, § 7.

**§ 2158. Expenses of examination and commitment**

The probate court conducting proceedings under section 2152, subsection 3, section 2156 or 2157 shall order that the Department of Mental Health and Corrections be made chargeable in the first instance for expenses of examination and commitment as in cases covered by section 2421, subsection 1, and reimbursement shall be sought for such expenses in accordance with section 2421, subsections 1 and 2.

1963, c. 351, § 7.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 144-H, as enacted by 1963, c. 351, § 7.

## CHAPTER 189

### PRIVATE MENTAL HOSPITALS

Sec.

2211. License; visitation; penalty.

2212. Visitation.

2213. Revocation or suspension of license after hearing.

#### § 2211. License; visitation; penalty

The Department of Health and Welfare may license any suitable person to establish and keep a private hospital or private house for the reception and treatment of patients who are mentally deranged. Such hospital or private house shall be subject to visitation by the department or any member thereof.

Whoever establishes or keeps such private hospital or private house without a license, or after revocation or during suspension of said license, shall be fined not more than \$500.

R.S.1954, c. 25, §§ 22, 23; 1961, c. 394, §§ 3, 4.

Library references: Hospitals ⇄1; C.J.S. Hospitals § 1 et seq.

#### Cross References

Hearings and appeals, rules and procedure for, see § 2301 et seq. of Title 5.

Revocation, modifications or issuance of license by Hearing Commissioner, see § 2407 of Title 5.

#### § 2212. Visitation

Each of said licensed hospitals or houses shall be visited at least once a year, and oftener if the Commissioner of Health and Welfare so directs, by a member of the Department of Health and Welfare who shall carefully inspect every part of said hospital or house visited with reference to its cleanliness and sanitary conditions and who shall make a report to the department with such recommendations to improve conditions as said department may deem necessary.

R.S.1954, c. 25, § 28.

Library references: Hospitals ⇄3; C.J.S. Hospitals § 5.

#### § 2213. Revocation or suspension of license after hearing

When the Department of Health and Welfare believes a license should be suspended or revoked it shall file a statement or

**34 § 2213 PUBLIC INSTITUTIONS, ETC.**

**Title 34**

complaint with the Administrative Hearing Commissioner designated in Title 5, chapters 301 to 307. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with said Administrative Hearing Commissioner.

R.S.1954, c. 25, § 29; 1961, c. 303, § 4, c. 394, § 5, c. 417, § 47; 1963, c. 412, § 23.

**Library references:** Hospitals ↻1; C.J.S. Hospitals § 1 et seq.

**Cross References**

Hearings and appeals, see § 2401 et seq., § 2451 et seq. of Title 5.

Rules for administrative hearings, see § 2351 et seq. of Title 5.

## CHAPTER 191

### HOSPITALIZATION OF MENTALLY ILL

Subch.	Sec.
I. General Provisions .....	2251
II. Voluntary Hospitalization .....	2291
III. Involuntary Hospitalization .....	2331
IV. Expenses .....	2421

#### SUBCHAPTER I

##### GENERAL PROVISIONS

Sec.
2251. Definitions.
2252. Right to humane care and treatment.
2253. Mechanical restraints and seclusion.
2254. Right to communication and visitation.
2255. Habeas corpus.
2256. Disclosure of information.
2257. Detention pending judicial determination.
2258. Additional powers of the department.
2259. Unwarranted hospitalization or denial of rights; penalty.

#### § 2251. Definitions

Each word or term defined in this section has the meaning indicated in this section for the purposes of this chapter, unless a different meaning is plainly required by the context.

**1. Department.** “Department” means the Department of Mental Health and Corrections.

**2. Head of hospital.** “Head of hospital” means the individual in charge of a hospital, or his designee.

**3. Hospital.** “Hospital” means a public or private hospital or institution, or part thereof, equipped to provide in-patient care and treatment for the mentally ill.

**4. Licensed physician.** “Licensed physician” means an individual licensed under the laws of the State of Maine to practice medicine or osteopathy and a medical officer of the Government of the United States while in this State in the performance of his official duties.

**5. Mentally ill individual.** "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs his mental health. For the purposes of this chapter, the term "mentally ill individual" does not include mentally retarded or sociopathic individuals.

**6. Patient.** "Patient" means an individual under observation, care or treatment in a hospital pursuant to this chapter. 1961, c. 303, § 1.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 168, as enacted by 1961, c. 303, § 1.

#### Cross References

Commitment of mentally ill prisoners, see § 2211 et seq. of Title 15.

Exception to rule of construction, see § 72(8) of Title 1.

#### Notes of Decisions

##### Opinion of Justices 2

##### Presumption 3

##### Purpose 1

##### 1. Purpose

In the first place, law should put no hindrance in way to prompt use of those instrumentalities which are regarded as most effectual in promoting comfort and restoration of patient; secondly, it should spare unnecessary exposure of private troubles and unnecessary conflict with popular prejudices; thirdly, it should protect individuals from wrongful imprisonment. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

##### 2. Opinion of Justices

Under provisions of Maine Const. Art. VI, § 3, the Senate of the One

Hundredth Legislature of the State of Maine submitted to the Justices of the Supreme Judicial Court a complete draft of subchapters I, II, III of this chapter, requesting answers to specific questions as to the constitutionality of certain provisions, which the justices found to be constitutional with one exception wherein the justices suggested an amendment to render that section constitutional, which amendment was adopted in the subsequent enactment of the draft submitted. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

##### 3. Presumption

One adjudged insane is presumed to continue as such until it is shown that sanity has returned. *Austin W. Jones Co. v. State* (1923) 122 Me. 214, 119 A. 577.

## § 2252. Right to humane care and treatment

Every patient shall be entitled to humane care and treatment and, to the extent that facilities, equipment and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice.

1961, c. 303, § 1.

**Library references:** Mental Health ⇄31; C.J.S. Insane Persons §§ 58, 61.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 187, as enacted by 1961, c. 303, § 1.

**§ 2253. Mechanical restraints and seclusion**

Restraint, including any mechanical means of restricting movement, and seclusion, including isolation by means of doors which cannot be opened by the patient, shall not be applied to a patient unless it is determined by the head of the hospital or his designee to be required by the medical needs of the patient. Every use of mechanical restraint or seclusion and the reasons therefor shall be recorded and available for inspection. The limitation of the use of seclusion by this section shall not apply to maximum security installations.

1961, c. 303, § 1.

**Library references:** Mental Health ☞51; C.J.S. Insane Persons §§ 71, 77.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 188, as enacted by 1961, c. 303, § 1.

**§ 2254. Right to communication and visitation**

Every patient shall be entitled:

**1. Mail.** To communicate by sealed envelopes with the department, clergyman or his attorney and with the court, if any, which ordered his hospitalization, and to communicate by mail in accordance with the regulations of the hospital;

**2. Visitors.** To receive visitors unless definitely contraindicated by his medical condition; except he may be visited by his clergyman or his attorney at any reasonable time.

1961, c. 303, § 1.

**Library references:** Mental Health ☞31; C.J.S. Insane Persons §§ 58, 61.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 189, as enacted by 1961, c. 303, § 1.

**Cross References**

Interference with mail, see 18 U.S.C.A. §§ 1702, 1703.

**§ 2255. Habeas corpus**

Any individual detained pursuant to this chapter shall be entitled to the writ of habeas corpus upon proper petition by him-

self or a friend to any justice generally empowered to issue the writ of habeas corpus in the county in which such individual is detained.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 190, as enacted by 1961, c. 303, § 1.

**Cross References**

Habeas corpus—

Generally, see § 5501 et seq. of Title 14.

Constitutional provision, see Maine Const. Art. I, § 10.

**Notes of Decisions**

- Availability of writ 2**
- Common law 1**
- Deprivation of liberty 4**
- Restriction on Legislature 3**
- Scope of inquiry 5**

**Library references**

Habeas Corpus ⇔9.

C.J.S. Habeas Corpus § 9 et seq.

**1. Common law**

At common law an insane person who was a menace to his own safety or that of others could be confined in a suitable place by any interested person without legal process, and this right was dependent upon fact of actual insanity of such nature that person confined was actually a menace either to his own safety or that of others. Appeal of Sleeper (1952) 147 Me. 302, 87 A.2d 115.

**2. Availability of writ**

The "great writ of liberty" must not be weakened or destroyed; the writ of habeas corpus must remain available at all times to any person hospitalized under this chapter. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660. See, also, Stuart v. Smith (1906) 101 Me. 397, 64 A. 663.

Since it is necessary that habeas corpus be at all times available to a patient hospitalized as mentally ill, a patient hospitalized pursuant to the provision for hospitalization upon court order would have a right to apply for habeas corpus under this

section or chapter 609 of Title 14 even though the patient sought a writ of habeas corpus within 3 days of his hospitalization, or within 3 months of having been denied a re-examination of his order of hospitalization solely on the grounds that he had completely recovered. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**3. Restriction on Legislature**

Assuming that this chapter for the hospitalization of the mentally ill contains provisions adequate to protect the constitutional rights of any patient, the Legislature may not provide that the writ of habeas corpus shall not be available to any such patient. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**4. Deprivation of liberty**

The confinement of one who is mentally ill in a mental hospital is a deprivation of his liberty under due process clause of U.S.C.A.Const. Amend. 14 unless confinement is accomplished and continued with person's voluntary consent. Appeal of Sleeper (1952) 147 Me. 302, 87 A.2d 115.

**5. Scope of inquiry**

In habeas corpus proceedings to obtain release of an insane person, court not only inquires into legality of restraint but the necessity therefor, and if person is found to be actually insane and a menace to himself or safety of others, he is not entitled to discharge. Appeal of Sleeper (1952) 147 Me. 302, 87 A.2d 115.



§ 2256. Disclosure of information

All certificates, applications, records and reports made for the purpose of this chapter and directly or indirectly identifying a patient or former patient or an individual whose hospitalization has been sought under this chapter shall be kept confidential and shall not be disclosed by any person except insofar:

1. **Consent of individual.** As the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent, or

2. **Necessity.** As disclosure may be necessary to carry out any of the provisions of this chapter, or

3. **Court directive.** As a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it or that failure to make such disclosure would be contrary to the public interest.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to his current medical condition to any members of the family of a patient or to his relatives or friends, nor the disclosure of any information concerning the patient to other hospitals, accredited social agencies or for purposes of research; nor shall this section affect the public-record status of the court docket, so called.

Any person willfully violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 and by imprisonment for not more than one year.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 191, as enacted by 1961, c. 303, § 1.

**Notes of Decisions**

**Library references**

Mental Health  $\S$  21.  
C.J.S. Insane Persons  $\S\S$  40, 67.

1. **Attorney**

An attorney should be granted permission to inspect any record which is open to the inspection of that attorney's client. 1951-54 Atty.Gen.Rep. 70.

§ 2257. Detention pending judicial determination

Notwithstanding any other provisions of this chapter, no patient with respect to whom proceedings for judicial hospitaliza-

tion have been commenced shall be released or discharged during the pendency of such proceedings unless ordered by the probate court upon the application of the patient, or his legal guardian, parent, spouse or next of kin, or upon the report of the head of the hospital that the patient may be discharged with safety, or upon writ of habeas corpus under section 2255.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 192, as enacted by 1961, c. 303, § 1.

**Cross References**

Probate court, see § 201 et seq. of Title 4.

**Notes of Decisions**

**Constitutionality 1  
Restriction on Legislature 2**

culty is correct by inclusion of those words and this section does not now limit availability of the "great writ". Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**Library references**

Mental Health  $\Rightarrow$  40.  
C.J.S. Insane Persons §§ 19, 66.

**2. Restriction on Legislature**

Assuming that this chapter for the hospitalization of the mentally ill contains provisions adequate to protect the constitutional rights of any patient, the Legislature may not provide that the writ of habeas corpus shall not be available to any such patient. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**1. Constitutionality**

Without the words "upon writ of habeas corpus under section 2255", this section, in operating notwithstanding any other provisions of this chapter, would unconstitutionally limit right to habeas corpus but this diffi-

**§ 2258. Additional powers of the department**

In addition to the specific authority granted by other provisions of this chapter, the department shall have authority to prescribe the form of applications, records, reports and medical certificates provided for under this chapter and the information required to be contained therein; to require reports from the head of any hospital relating to the admission, examination, diagnosis, release or discharge of any patient; to visit each hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent

**Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2291**

with this chapter as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

1961, c. 303, § 1.

**Library references:** Mental Health ⇐20; C.J.S. Insane Persons § 3.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 193, as enacted by 1961, c. 303, § 1.

**§ 2259. Unwarranted hospitalization or denial of rights; penalty**

Any person who willfully causes, or conspires with or assists another to cause, the unwarranted hospitalization of any individual under this chapter, or the denial to any individual of any of the rights accorded to him under this chapter, 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.

**Library references:** Mental Health ⇐47; C.J.S. Insane Persons § 68.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 194, as enacted by 1961, c. 303, § 1.

**SUBCHAPTER II**

**VOLUNTARY HOSPITALIZATION**

Sec.

2291. Authority to receive voluntary patients.

2292. Discharge of voluntary patients.

2293. Right of release on application.

**§ 2291. Authority to receive voluntary patients**

The head of a private hospital may, and the head of a public hospital, subject, except in case of medical emergency, to the availability of suitable accommodations, may admit for observation, diagnosis, care and treatment any individual who is mentally ill or has symptoms of mental illness and who, being 16 years of age or over, applies therefor, exclusive of those persons with pending criminal action.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 169, as enacted by 1961, c. 303, § 1.

**Cross References**

Hospitalization of alcoholics and drug addicts, see § 1353 et seq. of Title 22.

**Notes of Decisions**

**Library references**

Mental Health Ⓒ15.  
C.J.S. Insane Persons § 32.

ing right of release on application, as provided in section 2293 adequately protect the constitutional rights of any person hospitalized as a voluntary patient under this section. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**1. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill, respect-

**§ 2292. Discharge of voluntary patients**

The head of the hospital shall discharge any voluntary patient who has recovered or whose hospitalization he determines to be no longer advisable. He may discharge any voluntary patient if to do so would, in the judgment of the head of the hospital, contribute to the most effective use of the hospital in the care and treatment of the mentally ill.

1961, c. 303, § 1.

**Library references:** Mental Health Ⓒ61; C.J.S. Insane Persons § 72.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 170, as enacted by 1961, c. 303, § 1.

**§ 2293. Right of release on application**

A voluntary patient who requests his release or whose release is requested, in writing, by his legal guardian, parent, spouse or adult next of kin shall be released forthwith except that:

**1. Patient admitted on own application.** If the patient was admitted on his own application and the request for release is made by a person other than the patient, release may be conditioned upon the agreement of the patient thereto; or

**2. Head of hospital certifies release unsafe.** If the head of the hospital, within 10 days from the receipt of the request, files with the probate court of the county where said hospital is situated or a judge thereof, whether in session or in vacation, a certification that in his opinion the release of the patient would be unsafe for the patient or others, release may be postponed on ap-

Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2293

plication for as long as the court or a judge thereof determines to be necessary for the commencement of proceedings for judicial hospitalization, but in no event for more than 10 days.

Notwithstanding any other provision of this chapter, judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by himself or the individual who applied for his admission.

1961, c. 303, § 1.

Historical Note

Derivation: R.S.1954, c. 27, § 171, as enacted by 1961, c. 303, § 1.

Notes of Decisions

Constitutionality 2  
Prior law 1  
Restrictions on release 3

rights of any person hospitalized as a voluntary patient under section 2291 of this Title. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

Library references

Mental Health 36.  
C.J.S. Insane Persons § 64.

3. Restrictions on release

The restrictions on release in this section are reasonable. Opinion of the Justices (1961) 157 Me. 187, 170 A. 2d 660.

1. Prior law

Former provisions of this section containing similar language required any request for release to be in writing and a verbal request for release by a patient should not be accepted. 1960-61 Atty.Gen.Rep. 73.

The limitation on release may appear inconsistent with objective of encouraging voluntary hospitalization by assuring prospective patients and their families that admission to hospital is subject to revocation but, however, if condition of person is such that it is unsafe for him to go unrestrained, the necessity of steps to secure his detention and treatment is same whether he is outside or inside hospital at time condition develops. Id.

2. Constitutionality

Provisions of this chapter on hospitalization of the mentally ill, respecting right of release on application as provided in this section, adequately protect the constitutional

SUBCHAPTER III

INVOLUNTARY HOSPITALIZATION

ARTICLE 1. ADMISSION PROCEDURES

Sec.

- 2331. Authority to receive involuntary patients.
- 2332. Medical certification; standard nonjudicial procedure.
- 2333. —Emergency procedure.
- 2334. Court order; judicial procedure.

Sec.

- 2335. Hospitalization by United States agency.
- 2336. Transfers from out-of-state institutions.
- 2337. Members of Armed Forces; status.
- 2338. Transportation; temporary.

**ARTICLE 2. POST-ADMISSION PROVISIONS**

- 2371. Notice of hospitalization.
- 2372. Medical examination of new patients.
- 2373. Transfer of patients.
- 2374. Discharge.
- 2375. Convalescent status; rehospitalization.
- 2376. Right to release; application for judicial determination.
- 2377. Rehearing to determine need for continuing hospitalization.

**ARTICLE 1. ADMISSION PROCEDURES**

**§ 2331. Authority to receive involuntary patients**

The head of a private hospital may and the head of a public hospital, subject, except in case of medical emergency, to the availability of suitable accommodations, shall receive therein for observation, diagnosis, care and treatment any individual whose admission is applied for under any of the following procedures:

- 1. Medical certification, nonjudicial procedure.** Hospitalization on medical certification; standard nonjudicial procedure.
- 2. Medical certification, emergency.** Hospitalization on medical certification; emergency procedure.
- 3. Court order.** Hospitalization on court order; judicial procedure.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 172, as enacted by 1961, c. 303, § 1.

**Cross References**

Commitment of mentally ill prisoners, see § 2211 et seq. of Title 15.  
Commitment on plea of insanity, see § 101 et seq. of Title 15.

**Notes of Decisions**

**Presumption** 2  
**Prior law** 1

**Library references**  
Mental Health  $\Leftrightarrow$  31.  
C.J.S. Insane Persons §§ 58, 61.

**Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2332**

See, also, Notes of Decisions under section 2255 of this Title.

**1. Prior law**

In insanity commitment cases, the municipal officers of towns were constituted a judicial tribunal. *Dunbar v. Greenlaw* (1957) 152 Me. 270, 128 A.2d 218.

Jurisdiction to summon, inquire, hear, adjudge, detain and, where war-

ranted, commit, was judicial authority conferred upon municipal officers by prior law relating to emergency insanity detention proceedings. *Id.*

**2. Presumption**

One adjudged insane is presumed to continue as such until it is shown that sanity has returned. *Austin W. Jones Co. v. State* (1923) 122 Me. 214, 119 A. 577.

**§ 2332. Medical certification; standard nonjudicial procedure**

Any individual may be admitted to a hospital upon:

**1. Application.** Written application to the hospital by a friend, relative, spouse or guardian of the individual, a health or public welfare officer, or the head of any institution in which such individual may be; and

**2. Certification.** Certification by 2 licensed physicians that they have examined the individual and that they are of the opinion that:

**A.** He is mentally ill, and

**B.** Because of his illness is likely to injure himself or others if allowed to remain at liberty, or

**C.** Is in need of care or treatment in a mental hospital, and because of his illness, lacks sufficient insight or capacity to make responsible application therefor.

The certification by the licensed physicians may be made jointly or separately, and may be based on examination conducted jointly or separately. An individual with respect to whom such certification has been issued may not be admitted on the basis thereof at any time after the expiration of 15 days after the date of examination. The head of the hospital admitting the individual shall forthwith make a report thereof to the department.

Such a certificate, if it states a belief that the individual is likely to injure himself or others if allowed to remain at liberty, upon endorsement for such purpose by the District Court Judge or complaint justice within whose jurisdiction the individual is present, shall authorize any health or police officer to take the

individual into custody and transport him to a hospital as designated in the application.

1961, c. 303, § 1; 1963, c. 402, § 52.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 173, as enacted by 1961, c. 303, § 1. 1963, c. 402, § 52.

**Notes of Decisions**

**Constitutionality** 1  
**Osteopathic physician** 3  
**Relationship of physician** 2

fective proceeding for release of the patient by persons acting in his behalf. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**Library references**

Mental Health 38.  
 C.J.S. Insane Persons §§ 15-17, 67.

**2. Relationship of physician**

Relationship of physician to alleged mentally ill person in proceedings under this subchapter is not that of physician with patient. Dunbar v. Greenlaw (1957) 152 Me. 270, 128 A.2d 218.

**1. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill adequately protect the constitutional rights of any person hospitalized as a patient under the provisions of this section for hospitalization on medical certification in view that section 2376 of this Title provides a prompt and ef-

**3. Osteopathic physician**

Persons may be committed to an institution for the mentally ill on the authority of osteopathic physicians. 1951-54 Atty.Gen.Rep. 49.

**§ 2333. —Emergency procedure**

Any individual may be admitted to a hospital upon:

**1. Application.** Written application to the hospital by any health or police officer or any other person stating his belief that the individual is likely to cause injury to himself or others if not immediately restrained, and the grounds for such belief; and

**2. Certification.** A certification by at least one licensed physician that he has examined the individual and is of the opinion that the individual is mentally ill and, because of his illness, is likely to injure himself or others if not immediately restrained.

An individual with respect to whom such a certificate has been issued may not be admitted on the basis thereof at any time after the expiration of 3 days after the date of examination. The head of the hospital admitting the individual shall forthwith make a report thereof to the department.

Such a certificate, upon endorsement for such purpose by the District Court Judge or complaint justice within whose jurisdiction the individual is present, shall authorize any health or



Ch. 191 HOSPITALIZATION—MENTALLY ILL **34 § 2334**

police officer to take the individual into custody and transport him to a hospital as designated in the application.

1961, c. 303, § 1; 1963, c. 402, § 53.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 174, as enacted by 1961, c. 303, § 1. 1963, c. 402, § 53.

**Notes of Decisions**

**I. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill adequately protect the constitutional rights of any person hospitalized as a patient under the provisions of this section for hospitalization on emergency procedure, in view that section 2376 of this Title provides a prompt and effective proceeding for release of the patient by persons acting in his behalf. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**§ 2334. Court order; judicial procedure**

Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application with the probate court by a friend, relative, spouse or guardian of the individual, or by a licensed physician, a health or public welfare officer, or the head of any public or private institution in which such individual may be. Any such application shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill and should be hospitalized, or a written statement by the applicant that the individual has refused to submit to examination by a licensed physician.

Upon receipt of an application the court shall give notice thereof in hand to the proposed patient, in hand or by certified mail, to his legal guardian, if known, and to his spouse, or a parent or one of his adult children, or if none of these persons exist or if their whereabouts are unknown then to one of his next of kin or to a friend. If one of the named persons is the applicant, notice to that person may be omitted but must be given to one other of the named persons. If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to him may be omitted.

As soon as practicable after notice of the commencement of proceedings is given or it is determined that notice should be omitted, the court shall appoint 2 licensed physicians to examine the proposed patient and report to the court their findings as to the mental condition of the proposed patient and his need for custody, care or treatment in a mental hospital.

The examination shall be held at a hospital or other medical facility, at the home of the proposed patient or at any other suitable place not likely to have a harmful effect on his health. A proposed patient to whom notice of the commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the licensed physicians of refusal to submit to an examination, the court shall give notice to the proposed patient as provided under this section and order him to submit to such examination.

If the report of the licensed physicians is to the effect that the proposed patient is not mentally ill, the court may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice of a hearing to be held not less than 5 nor more than 15 days from receipt of the report.

Notice of the hearing shall be given at least 72 hours prior to the time of said hearing, in the same manner as is required for notice of receipt of application, to the person or persons receiving notice of receipt of application, to the applicant in hand or by certified mail, and to such other persons as the court may direct.

The proposed patient, the applicant and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the court may in its discretion receive the testimony of any other person. The proposed patient shall not be required to be present, and all persons not necessary for the conduct of the proceedings shall be excluded, except as the court may direct in its discretion. The court may order a public hearing upon the request of the patient or any member of his family. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The court shall receive all relevant and material evidence which may be offered. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the court shall appoint counsel.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally ill, and because of his illness is likely to injure himself or others if allowed to remain at liberty, or is in need of custody, care or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with

**Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2335**

respect to his hospitalization, it shall order his hospitalization. Otherwise, it shall dismiss the proceedings.

Unless otherwise directed by the court, it shall be the responsibility of the sheriff of the county in which the probate court has jurisdiction to assure the carrying out of the order within such period as the court shall specify.

The court is authorized to appoint a special commissioner who shall be a member of the bar of the State to assist in the conduct of hospitalization proceedings. In any case in which the court refers an applicant to the commissioner, the commissioner shall promptly cause the proposed patient to be examined and on the basis thereof shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the hospitalization of the proposed patient.

The head of the hospital admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admission to the department.

1961, c. 303, § 1, c. 407, §§ 3, 4.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 175, as enacted by 1961, c. 303, § 1. 1961, c. 407, §§ 3, 4.

**Cross References**

Probate courts, see § 201 et seq. of Title 4.

**Notes of Decisions**

**Library references**

Mental Health  $\Leftrightarrow$ 44.  
C.J.S. Insane Persons §§ 26, 67.

**I. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill, respecting petition for re-examination of the order of hospitalization as pro-

vided by section 2377 of this Title, adequately protect the constitutional rights of the patient under this section respecting hospitalization upon court order, since the court may entertain a petition for re-examination at any time. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

**§ 2335. Hospitalization by United States agency**

If an individual ordered to be hospitalized pursuant to section 2334 is eligible for hospital care or treatment by any agency of the United States, the court, upon receipt of a certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, may order

him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of such court to any hospital or institution operated by any agency of the United States within or without the State, he shall be subject to the rules and regulations of such agency. The chief officer of any hospital or institution operated by such agency and in which the individual is so hospitalized shall with respect to such individual be vested with the same powers as the heads of hospitals or the department within this State with respect to detention, custody, transfer, conditional release or discharge of patients. Jurisdiction is retained in the appropriate courts of this State at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of his hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

1961, c. 303, § 1.

**Library references:** Mental Health ↔31; C.J.S. Insane Persons §§ 58, 61.

#### **Historical Note**

**Derivation:** R.S.1954, c. 27, § 176, as enacted by 1961, c. 303, § 1.

#### **Cross References**

Admission to St. Elizabeth's Hospital of insane members, employees and former members of military, naval and air force, see 24 U.S.C.A. § 191 et seq.  
Commitment of mentally incompetent veterans, see 38 U.S.C.A. § 3201.  
Commitment to Veterans Administration, see § 218 of Title 37.

### **§ 2336. Transfers from out-of-state institutions**

The commissioner may, upon request of a competent authority of a state, or of the District of Columbia, which is not a member of the Interstate Compact on Mental Health, grant authorization for the transfer of a mentally ill patient directly to a Maine state hospital, provided said patient has resided in the State of Maine for a consecutive period of one year during the 3-year period immediately preceding commitment in such other state or the District of Columbia; that said patient is currently confined in a recognized state institution for the care of the mentally ill as the result of proceedings considered legal by that state; that a duly certified copy of the original commitment proceedings and a copy of the patient's case history is supplied; that if, after investigation, the commissioner shall deem such a transfer justifiable; and that all expenses incident to such a transfer be borne by the agency requesting same. When the commissioner has authorized such a transfer, the superintendent

**Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2338**

of the state hospital designated by him shall receive the patient as having been regularly committed to said hospital under section 2332.

1961, c. 303, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 31; C.J.S. Insane Persons §§ 58, 61.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 177, as enacted by 1961, c. 303, § 1.

**Cross References**

Interstate Compact on Mental Health, see § 2561 et seq. of this Title.

**§ 2337. Members of Armed Forces; status**

Any member of the Armed Forces of the United States, who was a resident of the State at the time of his induction into the service, who shall be determined by a federal board of medical officers to have a mental disease not incurred in line of duty, shall be received at either of the state hospitals for the mentally ill in the discretion of the commissioner, without formal commitment, upon delivery of such person, together with the findings of such board of medical officers that such person is mentally ill, at the hospital designated by said commissioner.

After delivery of such person at the hospital designated by said commissioner, his status shall be the same as if he had been committed to the hospital under section 2332.

1961, c. 303, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 37; C.J.S. Insane Persons §§ 8 et seq., 67 et seq.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 178, as enacted by 1961, c. 303, § 1.

**§ 2338. Transportation; temporary**

Whenever an individual is about to be hospitalized under section 2332, 2333 or 2334, the sheriff of the county or a state or local police officer shall, on request, arrange for the individual's transportation to the hospital with suitable attendants and by such means as may be suitable for his medical condition. Whenever practicable, the individual to be hospitalized shall be transported to the hospital by one or more of his friends or relatives, or shall be permitted to be accompanied by one or more of his friends or relatives.

Pending his removal to a hospital, a patient taken into custody or ordered to be hospitalized pursuant to this chapter may be detained in his home, a licensed foster home or any other suitable facility under such reasonable conditions as the sheriff of the county may fix, but he shall not, except because of and during an extreme emergency, be detained in a nonmedical facility used for the detention of individuals charged with or convicted of penal offenses. The sheriff of the county or his properly accredited assistant shall take such reasonable measures, including provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section.

1961, c. 303, § 1.

#### Historical Note

Derivation: R.S.1954, c. 27, § 179, as enacted by 1961, c. 303, § 1.

### ARTICLE 2. POST-ADMISSION PROVISIONS

#### § 2371. Notice of hospitalization

Whenever a patient has been admitted to a hospital pursuant to section 2332 or 2333 on the application of any person other than the patient's legal guardian, spouse or next of kin, the head of the hospital shall notify the patient's legal guardian, spouse or next of kin, if known.

1961, c. 303, § 1.

Library references: Mental Health  $\Leftrightarrow$ 39; C.J.S. Insane Persons §§ 18, 67.

#### Historical Note

Derivation: R.S.1954, c. 27, § 180, as enacted by 1961, c. 303, § 1.

#### § 2372. Medical examination of new patients

Every patient admitted pursuant to section 2332, 2333 or 2334 shall be examined as soon as practicable after his admission.

The head of the hospital shall arrange for examination by a staff physician of every patient hospitalized pursuant to section 2333. If such an examination is not held within 3 days after the day of admission, or if a staff physician fails or refuses after such examination to certify that in his opinion the patient is mentally

**Ch. 191 HOSPITALIZATION—MENTALLY ILL 34 § 2373**

ill and is likely to injure himself or others if allowed to remain at liberty, the patient shall be immediately discharged.

1961, c. 303, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 43; C.J.S. Insane Persons §§ 25, 67.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 181, as enacted by 1961, c. 303, § 1.

**§ 2373. Transfer of patients**

The department may transfer, or authorize the transfer of, a patient from one hospital to another either within or out of State if the department determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice thereof shall be given to his legal guardian, parents or spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient.

Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered hospitalized pursuant to law or hereafter pursuant to section 2334 in any hospital for care or treatment of the mentally ill and that such individual is eligible for care or treatment in a hospital or institution of such agency, the hospital may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse or parents, or if none be known, his nearest known relative or friend and the department shall be notified thereof by the hospital. No person shall be transferred to an agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person shall enter an order for such transfer after appropriate motion and hearing. Any person transferred as provided in this section to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

1961, c. 303, §

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 182, as enacted by 1961, c. 303, § 1.

**§ 2374. Discharge**

The head of a hospital shall as frequently as practicable, but not less often than every 12 months, examine or cause to be examined every patient and whenever he determines that the conditions justifying hospitalization no longer obtain, discharge the patient and make a report thereof to the department.

1961, c. 303, § 1.

**Library references:** Mental Health  $\Leftrightarrow$ 61; C.J.S. Insane Persons § 72.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 183, as enacted by 1961, c. 303, § 1.

**§ 2375. Convalescent status; rehospitalization**

The head of a hospital may release an improved patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status may include provisions for continuing responsibility to and by the hospital, including a plan of treatment on an out-patient or non-hospital patient basis. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the head of the hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent status and, if he determines that in view of the condition of the patient convalescent status is no longer necessary, he shall discharge the patient and make a report thereof to the department. Convalescent status of voluntary patients must be terminated within 10 days after receiving from the patient a request for discharge from convalescent status.

Prior to such discharge, the head of the hospital from which the patient is given convalescent status may at any time readmit the patient. If there is reason to believe that it is to the best interests of the patient who had been involuntarily admitted to be rehospitalized, the department or the head of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall, upon the endorsement by a District Court Judge or complaint justice in the county in which the patient is resident or present, authorize any health or police officer to take the patient into custody and transport him to the hospital, or if the order is issued by the department to a hospital designated by it.

1961, c. 303, § 1; 1963, c. 402, § 54.



**Historical Note**

**Derivation:** R.S.1954, c. 27, § 184, as enacted by 1961, c. 303, § 1. 1963, c. 402, § 54.

**Notes of Decisions**

**1. Discretion of hospital head**

While, under earlier version of this section, the superintendent of an insane hospital might permit an inmate to leave the institution temporarily, in charge of his guardian, relative, or friend, or even by himself, for a period not exceeding 6 months, such permission should not be given if the

safety and welfare of the patient or the community at large would be jeopardized, and where a patient was suffering from a mental ailment which made him a dangerous man to be at large, it was an abuse of discretion to grant a parole. *Austin W. Jones Co. v. State* (1923) 122 Me. 214, 119 A. 577.

**§ 2376. Right to release; application for judicial determination**

Any patient hospitalized under section 2332 or 2333 who requests to be released or whose release is requested in writing by his legal guardian, spouse or adult next of kin shall be released within 10 days after receipt of the request except that, upon application to the probate court or a judge thereof, whether in session or in vacation, supported by a certification by the head of the hospital that in his opinion such release would be unsafe for the patient or for others, release may be postponed for such period not to exceed 10 days as the court or a judge thereof may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 2334.

The head of the hospital shall inform involuntary patients in writing, on admission, of their right to release as provided in this section and shall provide reasonable arrangements for making and presenting requests for release.

1961, c. 303, § 1.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 185, as enacted by 1961, c. 303, § 1.

**Cross References**

Probate courts, see § 201 et seq. of Title 4.

**Notes of Decisions**

**Library references**

Mental Health ☞ 60.  
C.J.S. Insane Persons § 72.

**1. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill ade-

**34 § 2376 PUBLIC INSTITUTIONS, ETC. Title 34**

quately protect the constitutional rights of any person hospitalized as a patient under the provisions for hospitalization on medical certification, section 2332 of this Title and emergency procedure, section 2333 of this Title, in view that this section provides a

prompt and effective proceeding for release of the patient by persons acting in his behalf. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660. See, also, Opinion of the Justices (1955) 151 Me. 1, 117 A.2d 53.

**§ 2377. Rehearing to determine need for continuing hospitalization**

Any patient hospitalized pursuant to section 2334, or if hospitalized prior to September 16, 1961 pursuant to the Revised Statutes, 1954, chapter 27, sections 104, 105, 107 and 110 shall be entitled to a re-hearing to determine his need for continuing hospitalization on his own petition, or that of his legal guardian, parent, spouse, relative or friend, to the probate court of the county in which he is detained at the time of the request for re-hearing. Upon receipt of the petition, the court shall conduct or cause to be conducted by a special commissioner, proceedings in accordance with section 2334, except that notice of receipt of application may be omitted. Such proceedings shall not be required to be conducted if the petition is filed less than 6 months after the issuance of the original order of hospitalization or less than one year after the filing of a previous petition under this section.

1961, c. 303, § 1, c. 407, § 5.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 186, as enacted by 1961, c. 303, § 1. 1961, c. 407, § 5.

**Cross References**

Probate courts, see § 201 et seq. of Title 4.

**Notes of Decisions**

**I. Constitutionality**

Provisions of this chapter on hospitalization of the mentally ill, respecting petition for re-examination of the order of hospitalization, as provided by this section adequately protect the constitutional rights of the patient un-

der section 2334 of this Title respecting hospitalization upon court order, since the court may entertain a petition for re-examination at any time. Opinion of the Justices (1961) 157 Me. 187, 170 A.2d 660.

SUBCHAPTER IV

EXPENSES

Sec.

2421. Expenses of examination and commitment.

2422. Revolving fund.

§ 2421. Expenses of examination and commitment

1. **Department chargeable in first instance.** The probate court conducting proceedings for the involuntary judicial hospitalization of an individual under sections 2334, 2376 and 2377 shall order that the Department of Mental Health and Corrections be charged in the first instance for any expenses of examination, fees incident to giving notice, fees of attorneys when court appointed, and other proper fees and charges when hospitalization is not ordered and, when hospitalization is ordered, for any expenses of examination and commitment, including fees of attorneys, when court appointed, and fees or charges for notice when served in hand or by certified mail. The department, after being made chargeable in the first instance for such expenses, shall recover amounts paid under this section from the proposed patient if able to pay, or from persons legally liable for his support under section 2512 if able to pay or from the town of legal settlement of the proposed patient as if incurred for the expenses of a pauper. No proposed patient under sections 2334, 2376 and 2377 shall suffer any of the disabilities of pauperism or be deemed a pauper by reason of his inability to pay any of such expenses of examination or commitment.

2. **Determination of settlement.** If the department shall determine that neither the proposed patient nor any person liable for support under section 2512 is able to pay expenses of examination and commitment it shall certify that fact to the Department of Health and Welfare, which department shall determine whether the proposed patient has a legal settlement within the State. If it is determined that the proposed patient has a legal settlement within the State, the Department of Mental Health and Corrections shall seek reimbursement from the municipality of legal settlement. If it is determined that there is no legal settlement within the State, the Department of Health and Welfare shall reimburse the Department of Mental Health and Corrections for expenditures made under subsection 1.

**3. Fees for transportation.** In instances of indorsement on the certificate of the licensed physicians by the District Court or by a complaint justice, under section 2332 or 2333, for the purpose of authorizing a health or police officer to transport a patient to a hospital, fees for such transportation shall be charged in the first instance to the department. Any fee so charged shall be first approved in writing by the District Court or by a complaint justice. Reimbursement shall be sought for such expenditures as in cases of expenses incurred in probate court commitment proceedings.

1961, c. 407, § 2; 1963, c. 103.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-A, as enacted by 1961, c. 407, § 2. 1963, c. 103.

**Cross References**

Acceptance of federal aid, see § 1 of this Title.  
Paupers and their settlements, see § 4451 et seq. of Title 22.  
Probate courts, see § 201 et seq. of Title 4.

**§ 2422. Revolving fund**

There is reappropriated to the department the unexpended balance of "Working Capital Reserve for Institutional Farms," Account #6397. Said sum so reappropriated shall be a revolving fund for the use of said department in carrying out the terms and purposes of section 2421. This section shall remain effective until repealed by the Legislature at which time the sum reappropriated by this section shall be repaid into the General Fund.

1961, c. 407, § 2.

**Library references:** Mental Health ↻46; C.J.S. Insane Persons §§ 34, 67.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-B, as enacted by 1961, c. 407, § 2.

## CHAPTER 193

### STERILIZATION

Sec.

- 2461. Consent necessary; procedure prior to operation.
- 2462. Recommendation.
- 2463. Written order.
- 2464. Notice.
- 2465. Appeal from sterilization order.
- 2466. Proceedings stayed on appeal; order put to effect.
- 2467. Permanent record; inspection.
- 2468. Liability of persons executing provisions.

#### Library References

Mental Health  $\S$ 57; C.J.S. Insane Persons  $\S$  71.

#### **$\S$ 2461. Consent necessary; procedure prior to operation**

The operations of vasectomy and fallocotomy may be performed under the conditions and within the restrictions described and under such provisions shall be lawful.

When either of the recognized sterilizing operations referred to may be indicated for the prevention of the reproduction of further feeble-mindedness, or for the therapeutic treatment of certain forms of mental disease, physicians may recommend to the nearest relative, guardian and affected individual the advisability and necessity of such operation. When the written consent of the patient, when mentally competent to give such consent or the written consent of the nearest relative or guardian when the patient is mentally incompetent to give such consent, is given, the physician shall call a council of 2 registered medical practitioners, one a physician and one a surgeon, of not less than 5 years' practice and not related to the patient, whose duty it shall be in conjunction with the physician in charge of the case, to examine the individual recommended for operation. Whether the person to be operated upon is mentally capable of giving his consent shall be decided by the consultants and stated in writing, with their reasons therefor, and such written statement shall be kept on file at the Pineland Hospital and Training Center and in case they find that the patient is mentally incapable of giving his consent, the consent of the nearest relative or guardian must be secured. If in the judgment of the consulting physicians the operation will prevent the further propagation of mental deficiency, or if in the judgment of the medical consultants the phys-

ical or mental condition of any such person will be substantially benefited thereby, then the consultants shall select a competent surgeon to perform the operation of fallocotomy or vasectomy, as the case may be, upon such person, and such surgeon may be the consulting surgeon.

R.S.1954, c. 27, § 149; 1957, c. 21, § 2.

**Notes of Decisions**

**I. Duration of consent**

The consent is valid only during any one period of commitment provid-

ing the executing person remains alive and competent. 1959-60 Atty.Gen. Rep. 166.

**§ 2462. Recommendation**

Whenever it appears to the medical staff or institution physician of any institution in this State which has the care or custody of mentally ill or feeble-minded persons that any inmate under the care or custody of such institution would be likely, if released without sterilization, to produce a child or children who by reason of inheritance would have a tendency to serious mental disease or mental deficiency, said medical staff or institution physician shall submit to the department a recommendation that a surgical operation be performed upon said patient for the prevention of parenthood. This recommendation shall be in writing and accompanied by the sworn statement of the superintendent of such institution containing the history of the inmate as shown by the records of the institution, so far as it bears upon the recommendation for sterilization and setting forth the reasons why sterilization is recommended.

R.S.1954, c. 27, § 150; 1959, c. 242, § 8.

**§ 2463. Written order**

If, in the judgment of the department, procreation by said inmate would be likely to produce a child or children who by reason of inheritance would have a tendency to serious mental deficiency, it shall be the duty of the department to approve said recommendation within 30 days and send to the superintendent of such institution a written order, signed by the commissioner directing him to proceed with the sterilization not earlier than 50 days after the receipt of said order. No order of sterilization shall be carried into effect until the same shall have been further approved by 2 of the following persons: The Superintendent of the Bangor State Hospital, the Superintendent of the Augusta State

Hospital and the Superintendent of the Pineland Hospital and Training Center.

R.S.1954, c. 27, § 151; 1957, c. 21, § 2.

### § 2464. Notice

Such department shall send one copy of the order for sterilization to the inmate and another copy to the father or mother, husband or wife, or legal guardian of the inmate, accompanying it in each case by a certified copy of the recommendation and notification that the inmate or his or her representative has a right of appeal to the courts. If none of the foregoing relatives are known and no legal guardian has been appointed, the department shall request a Justice of the Superior Court to appoint some attorney to protect the rights of the inmate and such notices and copies shall be sent to such attorney.

R.S.1954, c. 27, § 152.

### § 2465. Appeal from sterilization order

Within 30 days of the issuance of any order of sterilization an appeal may be taken therefrom to the Superior Court by the inmate or his or her representative. Such appeal shall be filed and heard in the county where inmate was domiciled when committed. The proceedings in such appeals shall be governed by the rules provided for probate appeals.

In this appeal the person for whom an order of sterilization has been issued shall be designated as the plaintiff and the superintendent of the institution in which said inmate is under care or custody shall be designated as defendant. The finding of the court shall be certified to the department. Such finding may affirm, revise or reverse the order of the board appealed from.

R.S.1954, c. 27, § 153; 1961, c. 317, § 46.

#### Cross References

Probate appeals, see § 401 et seq. of Title 4.

#### Maine Rules of Civil Procedure

Review of administrative action, see rule 80B, Field & McKusick, Me.Civ.Prac.

### § 2466. Proceedings stayed on appeal; order put to effect

The pendency of any appeal shall stay proceedings under the order of such department until the appeal is determined.

Should the decision of the court uphold the plaintiff's objection, the order for sterilization shall be vacated automatically and the case may not be initiated again within one year of the date of the final decision of the court. Should the court find against the plaintiff said order shall be put into effect by the superintendent of the institution in which the inmate is under care or custody and the inmate shall be sterilized by vasectomy, if a male and by a fallocotomy, if a female.

R.S.1954, c. 27, § 154.

**§ 2467. Permanent record; inspection**

The completed original documents in every case not originated and completed at the Pineland Hospital and Training Center shall be forwarded to said institution for permanent record and a duplicate thereof shall be retained by the institution where the inmate was confined. Such records or documents shall not be open to public inspection, except for such purposes as may be approved by the Superintendent of the Pineland Hospital and Training Center and the commissioner, with the assurance that the names of the persons sterilized shall not be made public.

R.S.1954, c. 27, § 155; 1957, c. 21, § 2.

**§ 2468. Liability of persons executing provisions**

Neither any of said superintendents nor any other person legally participating in the execution of this chapter shall be liable either civilly or criminally on account of said participation, except in the case of negligence in the performance of the operation.

R.S.1954, c. 27, § 156.



## CHAPTER 195

### SUPPORT AT STATE INSTITUTIONS

Sec.

- 2511. Department fixes rate.
- 2512. Persons liable.
- 2513. Determination of ability to pay.
- 2514. Statement forms to be completed by persons liable for support.
- 2515. Amount of charges; claims against estates.
- 2516. Debt to State.
- 2517. Military and Naval Children's Home.

#### § 2511. Department fixes rate

The department shall fix rates for the support of patients at the Augusta State Hospital, Bangor State Hospital and the Pineland Hospital and Training Center.

1963, c. 19, § 2.

**Library references:** Mental Health  $\Leftrightarrow$ 46; C.J.S. Insane Persons §§ 34, 67.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2.

#### § 2512. Persons liable

No bills shall be rendered under this chapter until the investigation has been made as provided for herein; except that, in instances wherein the legally liable person agrees to pay the fixed maximum rate, such investigation may be limited to a verification by reliable references of the ability of such person to pay the fixed maximum rate. Each patient and the spouse, child and parent, if the patient was wholly or partially dependent for support upon such parent at the time of admittance, shall be legally liable from the date of admittance for the support of such person committed or otherwise legally admitted to either state hospital for the mentally ill or to the Pineland Hospital and Training Center, in accordance with his ability to pay.

1963, c. 19, § 2; c. 426, § 1.

#### Historical Note

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2. 1963, c. 426, § 1.

## Notes of Decisions

## I. Basis of liability

Obligation to pay for support at State Hospital arises not from contract, express or implied, but solely by provisions of this section. *Carpenter v. Coulombe's Estate* (1950) 145 Me. 400, 75 A.2d 849.

**§ 2513. Determination of ability to pay**

The department shall, following the admittance of a patient, into either of the state hospitals for the mentally ill or into the Pineland Hospital and Training Center, cause an investigation to be made to determine the property, real and personal, and interests in property, if any, the patient has. The department shall make an investigation to determine whether there exist any persons responsible under section 2512 for the payment of charges for his support. It shall ascertain the financial condition of any such person and shall determine whether in each case such person is in fact financially able to pay such charges.

In determining ability to pay in each case the department shall consider among other items the following expenses and obligations: Special employment expenses; education expenses of the children of the patient or of any person legally liable for support under this chapter; medical and hospital obligations, if being liquidated; shelter expenses in excess of  $\frac{1}{4}$  of the gross income of the liable person minus federal income tax and any mandatory retirement deductions; accrued and unpaid obligations under a court order; debts currently being liquidated, if contracted prior to the date of admittance of the patient or contracted involuntarily, subsequent to such date; and the number and condition of others dependent upon him; and shall consider any payments which may become due and payable to the patient or the patient's estate by reason of any social security, workmen's compensation, veterans administration or other life benefits, or from any policy of insurance covering such patient.

1963, c. 19, § 2.

## Historical Note

Derivation: R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2.

**§ 2514. Statement forms to be completed by persons liable for support**

The commissioner shall prescribe financial statement forms which shall be completed by any person legally liable for support

under this chapter. Such statement shall be sworn to by such liable person and shall be returned to the department within 30 days from the date of mailing or presentation if in hand. Should such person fail to return such statement to the department properly completed within 30 days, the department shall send another statement form by certified mail, return receipt requested and if the statement is not then returned completed within 30 days of mailing such liable person shall be assessed \$5 for each week or part thereof, in excess of the latter 30-day period that the statement is overdue. Penalties incurred under this section shall be collected in the same manner as are charges for support under this chapter. Penalties collected under this section shall be paid into the General Fund. A copy of this section shall appear in boldfaced type on the first page of each statement form.

1963, c. 19, § 2.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2.

**§ 2515. Amount of charges; claims against estates**

The department may charge less than the maximum rate fixed under section 2511 but shall not in any case charge more than the fixed maximum rate. The department may enter into an agreement for support with any person legally liable for support under this chapter, under which agreement the department may postpone billing for support for any period of time. The State of Maine shall have a claim against the estate of any patient and against the estate of any person legally liable for support under this chapter, for any amount due and owing to the State of Maine at the date of death of such patient or such person, including any claim arising under an agreement entered into under this chapter, enforceable in the probate court. Such claim shall have priority over all unsecured claims against such estate, except:

1. **Administration.** Administrative expenses, including probate fees and taxes;
2. **Last sickness.** Expenses of the last sickness;
3. **Funeral.** Funeral expenses, not exceeding \$400, exclusive of clergymen's honorarium and cemetery expenses;
4. **Claims.** Claims filed against such estate under Title 22, section 3453.

The Attorney General shall collect any claim which the State may have hereunder against such estate. No such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the patient or person legally liable for support under this chapter and said spouse does not marry again.

1963, c. 19, § 2, c. 426, § 2.

**Library references:** Executors and Administrators  $\Leftrightarrow$ 205(1); C.J.S. Executors and Administrators § 370.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2. 1963, c. 426, § 2.

**Cross References**

Death of inmate, see § 2883 of Title 22.

**§ 2516. Debt to State**

Charges made under this chapter shall be a debt of the patient or of any person legally liable for support under this chapter, recoverable in any court of competent jurisdiction in a civil action, in the name of the State of Maine.

1963, c. 19, § 2.

**Library references:** States  $\Leftrightarrow$ 192; C.J.S. States § 217.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2.

**§ 2517. Military and Naval Children's Home**

This chapter shall be applicable to the support of children admitted to the Military and Naval Children's Home.

1963, c. 19, § 2.

**Historical Note**

**Derivation:** R.S.1954, c. 27, § 135-C, as enacted by 1963, c. 19, § 2.

## CHAPTER 197

### INTERSTATE COMPACT ON MENTAL HEALTH

- Sec.
- 2561. Purpose—Article I.
  - 2562. Definitions—Article II.
  - 2563. Care and treatment—Article III.
  - 2564. After-care—Article IV.
  - 2565. Escape—Article V.
  - 2566. Transportation of patient—Article VI.
  - 2567. Costs; reciprocal agreements—Article VII.
  - 2568. Guardians—Article VIII.
  - 2569. Incarceration in penal or correctional institution—Article IX.
  - 2570. Compact administrators—Article X.
  - 2571. Supplementary agreements—Article XI.
  - 2572. Effective date of compact—Article XII.
  - 2573. Withdrawal from compact—Article XIII.
  - 2574. Constitutionality—Article XIV.

#### § 2561. Purpose—Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families and society as a whole. The party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

1957, c. 231, § 1, c. 429, § 37.

**Library references:** Mental Health [↔](#)1 et seq.; States [↔](#)6; C.J.S. Insane Persons § 1 et seq.; C.J.S. States § 10.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and reallocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

§ 2562. Definitions—Article II

As used in this compact:

1. **After-care.** “After-care” shall mean care, treatment and services provided a patient, as defined, on convalescent status or conditional release.

2. **Institution.** “Institution” shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

3. **Mental deficiency.** “Mental deficiency” shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness.

4. **Mental illness.** “Mental illness” shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare or the welfare of others or of the community.

5. **Patient.** “Patient” shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment or supervision pursuant to this compact.

6. **Receiving state.** “Receiving state” shall mean a party state to which a patient is transported pursuant to the compact or to which it is contemplated that a patient may be so sent.

7. **Sending state.** “Sending state” shall mean a party state from which a patient is transported pursuant to the compact or from which it is contemplated that a patient may be so sent.

8. **State.** “State” shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

§ 2563. Care and treatment—Article III

1. **Eligibility.** Whenever a person physically present in any party state shall be in need of institutionalization by reason of

mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

**2. Transfer.** Subsection 1 to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this subsection shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

**3. Duties of receiving and sending states.** No state shall be obliged to receive any patient pursuant to subsection 2 unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

**4. Priorities.** In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

**5. Review and further transfer.** Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

1957, c. 231, § 1, c. 429, § 37.

**Library references:** Mental Health  $\Leftrightarrow$ 31; C.J.S. Insane Persons §§ 58, 61.

#### Historical Note

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2564. After-care—Article IV**

**1. Investigation.** Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

**2. After-care in receiving state.** If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

**3. Standards.** In supervising, treating or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care and treatment that it employs for similar local patients.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and reallocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2565. Escape—Article V**

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately



Ch. 197      COMPACT ON MENTAL HEALTH      34 § 2567

upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2566.      Transportation of patient—Article VI**

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**Notes of Decisions**

**I. Procedure**

The department can authorize the transfer of a voluntary patient under the terms of the compact but a request should be made for a certified copy of the voluntary admission pa-

pers admitting the patient to the out-of-state hospital and the patient should complete voluntary admission papers to the mental hospital in this State before the transfer takes place. 1957-58 Atty.Gen.Rep. 148.

**§ 2567.      Costs; reciprocal agreements—Article VII**

**1. Patient at only one institution.** No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

**2. Costs.** The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any 2 or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

**3. Internal relationships not affected.** No provision of this compact shall be construed to alter or affect any internal relationships 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.

**4. Asserting rights for costs.** 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 any provision of this compact.

**5. Reciprocal agreements not invalidated.** Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

1957, c. 231, § 1, c. 429, § 37.

**Library references:** Mental Health  $\S$  46; C.J.S. Insane Persons  $\S\S$  34, 67.

#### **Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and reallocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

### **§ 2568. Guardians—Article VIII**

**1. Supplemental or substitute guardian.** Nothing in this compact shall be construed to abridge, diminish or in any way impair the rights, duties and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances. In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the per-

son or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

**2. Guardian defined.** The term "guardian" as used in subsection 1 shall include any guardian, trustee, legal committee, conservator or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

1957, c. 231, § 1, c. 429, § 37.

**Library references:** Mental Health  $\S$  101 et seq.; C.J.S. Insane Persons  $\S$  8, 35 et seq.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2569. Incarceration in penal or correctional institution—  
Article IX**

**1. Application.** No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

**2. Policy not to jail.** To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2570. Compact administrators—Article X**

**1. Duties.** Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence and other documents relating to any patient processed under the compact by his

state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

**2. Rules and regulations.** The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2571. Supplementary agreements—Article XI**

The duly constituted administrative authorities of any 2 or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

**§ 2572. Effective date of compact—Article XII**

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1 and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

§ 2573.      **Withdrawal from compact—Article XIII**

1. **Procedure; effective date; effect.** A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. The withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the compact.

2. **Costs and supplementary agreements.** Withdrawal from any agreement permitted by Article VII, subsection 2, as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

1957, c. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1, and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

§ 2574.      **Constitutionality—Article XIV**

This compact shall be liberally construed so as to effectuate the purposes thereof. 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 party state or of the United States or the applicability thereof to any government, agency, person or circumstance 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 party thereto, 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. 231, § 1, c. 429, § 37.

**Historical Note**

**Derivation:** R.S.1954, c. 27-A, § 1, as enacted by 1957, c. 231, § 1, and re-allocated to R.S.1954, c. 27-B, § 1, by 1957, c. 429, § 37.

PART 5

HOMES, SCHOOLS AND SANATORIUMS

Chap.	Sec.
251. Governor Baxter State School for the Deaf .....	2901
253. State Military and Naval Children's Home .....	2951
255. Tuberculosis Sanatoriums .....	3001

CHAPTER 251

GOVERNOR BAXTER STATE SCHOOL  
FOR THE DEAF

- Sec.
- 2901. Purpose.
  - 2902. State assumes charges and expenses; government.
  - 2903. Powers and duties of department.
  - 2904. Admittance of children.
  - 2905. Deaf children sent to Governor Baxter State School.
  - 2906. Costs.
  - 2907. Admittance of children from other states.

§ 2901. Purpose

Governor Baxter State School for the Deaf, established by chapter 446 of the private and special laws of 1897, is to be devoted to the education and instruction of deaf children.

R.S.1954, c. 27, § 159; 1957, c. 379, § 1; 1963, c. 93, § 1.

Notes of Decisions

Library references

Schools and School Districts  $\Leftrightarrow$  11.  
C.J.S. Schools and School Districts  
§ 13.

1. Historical

By chapter 78, of the resolves of 1824, the amount of \$1,500 was placed at the disposal of the Governor with the advice of Council for the education

of the deaf and dumb and Governor Parris, in his message of January 7, 1825, used this language: "The executive have adopted such measures as seemed most likely to comport with the views of the legislature and to secure the accomplishment of the object,"—that is, the education of the deaf and dumb. Opinion of the Justices (1881) 72 Me. 542.

§ 2902. State assumes charges and expenses; government

Said school shall be located in the County of Cumberland, and the State shall have the entire charge, responsibility and ex-

pense of maintaining said school. The government of said school is vested in the Department of Mental Health and Corrections.

R.S.1954, c. 27, § 160.

Library references: Schools and School Districts  $\Leftarrow$ 19(1); C.J.S. Schools and School Districts §§ 19, 21.

### § 2903. Powers and duties of department

The Department of Mental Health and Corrections shall have charge of the general interests of said school and see that its affairs are conducted in accordance with law. It may employ officers, teachers and other employees as it may deem advisable, subject to the Personnel Law. It may from time to time prescribe the system of education and course of study to be pursued in the school.

R.S.1954, c. 27, § 161.

Library references: States  $\Leftarrow$ 67; C.J.S. States §§ 58, 66.

#### Cross References

Personnel Law, see § 551 et seq. of Title 5.

### § 2904. Admittance of children

With the consent of his parent or guardian, the Department of Mental Health and Corrections may admit to said school for a term not exceeding 16 years, any deaf child residing in this State and not less than 2 years of age, and the sums necessary for the support and instruction of such children while attending said school shall be paid by the State.

R.S.1954, c. 27, § 162; 1963, c. 93, § 2.

Library references: Schools and School Districts  $\Leftarrow$ 150; C.J.S. Schools and School Districts § 447.

### § 2905. Deaf children sent to Governor Baxter State School

Every parent, guardian or other person having control of any mentally normal child between 6 and 18 years of age, too deaf to be materially benefited by the methods of instruction in vogue in the public schools, unless it can be shown that the child is receiving regular instruction during the same period in studies usually taught in the public schools, shall be required to send such child or youth to the Governor Baxter State School for the Deaf during the scholastic year of that school. Such child or youth shall attend such school, year after year, until discharged by the

superintendent upon approval of the Department of Mental Health and Corrections.

R.S.1954, c. 27, § 163; 1957, c. 379, § 2; 1963, c. 93, § 3.

**§ 2906. Costs**

For each child admitted to the school, the town in which the child is entitled to school privileges in accordance with Title 20, section 859 shall pay to the State, to be credited to the General Fund, an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child in that town.

R.S.1954, c. 27, § 164; 1955, c. 215.

**Library references:** Schools and School Districts ~~§~~17; C.J.S. Schools and School Districts § 18.

**§ 2907. Admittance of children from other states**

Deaf children residing in other states may, at the discretion of the Department of Mental Health and Corrections, be admitted to said school upon the payment by their parents, guardian or other responsible agency of a reasonable compensation to be fixed by the department. All income from this or any other source shall be paid to the Treasurer of State and shall be credited to the General Fund.

R.S.1954, c. 27, § 165; 1961, c. 245; 1963, c. 93, § 4.

**Library references:** Schools and School Districts ~~§~~153; C.J.S. Schools and School Districts § 449.



## CHAPTER 253

### STATE MILITARY AND NAVAL CHILDREN'S HOME

Sec.

2951. Bath home declared a state institution; purposes.

2952. Guardianship.

#### § 2951. Bath home declared a state institution; purposes

The State Military and Naval Children's Home, established as the Bath Military and Naval Orphan Asylum at Bath by chapter 163 of the private and special laws of 1866, is declared to be a state institution, the purpose of which is the rearing and educating, in the common branches of learning and ordinary industrial pursuits of the poor and neglected children of this State, preference being given to the children of soldiers and sailors of Maine who have served in the various wars in which the United States has engaged.

R.S.1954, c. 27, § 166; 1955, c. 415; 1963, c. 19; P. & S.L. 1963, c. 168, § 3, c. 183, § 10.

#### Notes of Decisions

Library references: Asylums ☞2; C.J.S. Asylums § 4.

#### § 2952. Guardianship

The Department of Mental Health and Corrections shall have charge of the affairs of said home. Its head shall be called the superintendent. The commissioner and the superintendent shall act as a board of guardians of all the children who are members of said home and shall have all the power and authority granted by law to guardians.

R.S.1954, c. 27, § 167; P. & S.L. 1963, c. 168, § 3, c. 183, § 10.

Library references: Asylums ☞3; C.J.S. Asylums § 5.

#### Cross References

Powers and authority of guardians of minors, see § 3553 of Title 18.

**CHAPTER 255**

**TUBERCULOSIS SANATORIUMS**

Sec.

3001. Establishment and maintenance.

3002. Admission; charges.

**§ 3001. Establishment and maintenance**

The State shall maintain by building, lease or by purchase one or more sanatoriums in such districts of the State as shall seem best to serve the needs of the people for the care and treatment of persons affected with tuberculosis. Where lease or purchase is made, the State shall have the right to enlarge or otherwise adapt the property to meet the needs of the situation. Such additions or improvements shall be considered permanent. At the expiration of the original lease of any property for use as a tuberculosis sanatorium, the State shall have the right of renewal or of purchase.

1955, c. 437, § 1.

Library references: Asylums ↻2; C.J.S. Asylums § 4.

**Historical Note**

Derivation: R.S.1954, c. 25, § 105-C, as enacted by 1955, c. 437, § 1.

**§ 3002. Admission; charges**

Patients may be admitted to these sanatoriums upon application to the Department of Health and Welfare, if found to be suffering from tuberculosis or if suspected of having tuberculosis. All patients in said sanatoriums, the parents of minor children or the spouse, shall pay to the State for treatment, including board, supplies and incidentals necessary to the prescribed medical and surgical treatment both for in-patient and out-patient services, the amount determined by the department. The department may, if it finds that such patient or relatives liable by law are unable to pay the amount determined, in whole or in part, waive payment or so much thereof as the circumstances appear to warrant.

All funds collected from this source shall be credited to the General Fund. No pauper disabilities shall be created by reason of any aid or assistance given under this section.

Ch. 255                    TUBERCULOSIS SANATORIUMS    **34 § 3002**

This section shall not apply to persons who may be committed under Title 22, section 1042.

1955, c. 437, § 1; 1957, c. 346.

**Library references:** Asylums 65; C.J.S. Asylums § 7.

**Historical Note**

**Derivation:** R.S.1954, c. 25, § 105-D, as enacted by 1955, c. 437, § 1. 1957, c. 346.

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