

PARDONS AND PAROLE

CHAPTER 173.

[H. B. No. 249—Doyle, of Foster]

BOARD OF PARDONS.

AN ACT to Amend Section 10245 of the Revised Codes of North Dakota for 1905, Relating to the Place Where the Board of Pardons Shall Hold Its Sessions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 10245 of the revised codes of 1905, be and the same is hereby amended to read as follows:

§ 10245. BOARD MEETINGS TO BE HELD. WHEN.] The board of pardons shall hold at least two regular meetings in each calendar year, and may hold such other meetings as it shall deem expedient. Such regular meetings shall be held on the second day of June and the second day of December of each year at the executive office. All other meetings of said board shall be held in the executive chamber at the state capitol, or in such other place as may be ordered by said board; provided, that the board of pardons shall at each session visit the state penitentiary and hold at least one meeting there whenever the board of pardons shall be called to hold either a regular or special meeting.

Approved March 12, 1909.

CHAPTER 174.

[H. B. No. 157—Wolbert]

PROBATION OF CRIMINALS.

AN ACT to Provide for Probation for Persons Convicted of Felonies and Misdemeanors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PROBATION.] In all prosecutions for crime, except as hereinafter provided, where the defendant has pleaded or been found guilty, and where the court or magistrate has power to sentence such defendant to the penitentiary, and it appears that the defendant has never before been imprisoned for crime, either in this state or

elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where it appears to the satisfaction of the court or magistrate that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and where it may appear that the public good does not demand or require that the defendant shall suffer the penalty imposed by law, said court or magistrate may suspend the execution of the sentence, and place the defendant on probation in the manner hereinafter provided.

§ 2. EXCEPTIONS.] No persons convicted of murder, arson, burglary of an inhabited dwelling house, incest, sodomy, rape without consent, assault with intent to rape, or administering poison, shall have the benefit of probation.

§ 3. STATUS OF PROBATIONERS.] Whenever a sentence to the penitentiary has been imposed, but the execution thereof has been suspended and the defendant placed on probation, the effect of such order shall be to place said defendant under the control and management of the board of trustees of the penitentiary, and he shall be subject to the same rules and regulations as apply to persons paroled from the penitentiary after a period of imprisonment therein.

§ 4. BLANK FORMS FOR PROBATION OF PRISONERS.] It shall be the duty of the board of trustees of the state penitentiary to furnish the clerks of court of each county with blank forms setting forth the requirements and conditions used by them in the parole of prisoners of the institution, and in cases of probation.

§ 5. CERTIFICATION OF PROBATIONER TO THE PENITENTIARY.] Whenever it is the judgment of the court that the defendant be placed upon probation, and under the supervision of the penitentiary, it shall be the immediate duty of the clerk of the said court to make a full copy of the judgment of the court, with the order for the suspension of the execution of the sentence thereunder, and the reasons therefor, and to certify the same to the warden of the penitentiary, to which the court would have committed the defendant but for the suspension of the sentence. Upon entry in the records of the court of the order for such probation, the defendant shall be released from custody of the court as soon as the requirements and conditions of the board of trustees of the penitentiary have been properly and fully met.

§ 6. FIELD OFFICER.] The board of trustees of the penitentiary shall appoint and employ one officer, to be known as field officer for the institution, who shall carefully look after the welfare of all persons whose sentences have been suspended, and those who have been paroled from said institution after a period of imprisonment therein.

§ 7. TERMINATION OF PROBATION.] Whenever a person placed upon probation, as aforesaid, does not conduct himself in accordance with the rules and regulations of the institution in whose

charge he has been placed, the field officer thereof may without warrant or other process, arrest said person and convey him to said institution, and the board of trustees of the penitentiary may, after a full investigation and a personal hearing, because of such conduct, forthwith terminate the probation and cause said person to suffer the penalty of the sentence previously suspended. Any person under probation who has violated the conditions of his probation shall, under order of the board of trustees of the penitentiary, be subject to arrest in the same manner as in the case of an escaped convict. In all such cases of termination of probation, the original sentence shall be considered as beginning upon the first day of imprisonment in the institution.

§ 8. RELEASE FROM PROBATION.] Whenever it is the judgment of the board of trustees of the penitentiary that a person on probation has satisfactorily met the conditions of his probation, they shall cause to be issued to said person a final discharge from further supervision; provided, that the length of such period of probation shall not be less than the minimum or more than the maximum [term] for which he might have been imprisoned.

§ 9. WARRANTS FOR EXPENSES.] The state auditor shall issue his warrant upon the state treasurer to pay from the appropriation for conviction and transportation of convicts, the salaries and necessary expenses of the field officer upon presentation of itemized vouchers properly approved by the board of trustees of the state penitentiary.

Approved March 15, 1909.

CHAPTER 175.

[H. B. No. 158—Wolbert]

INDETERMINATE SENTENCE

AN ACT to Provide Indeterminate Sentences of Persons Convicted of Certain Crimes; Providing for a Board of Experts Empowered to Prescribe Suitable Rules of Conduct and Treatment; and to Determine How and When a Person Sentenced Under This Act Shall be Paroled or Released.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TERM OF IMPRISONMENT IN THE PENITENTIARY.] Every person who shall be convicted of felony punishable by imprisonment in the penitentiary, except treason, murder in the first degree, rape and kidnapping, shall be sentenced to the penitentiary, and the court imposing such sentence may in its discretion refrain from fixing the limit or duration of the same, but in such cases the term of

imprisonment shall not be less than the minimum term as now provided by law, or shall not exceed the maximum term as now or hereafter provided by law for the offense committed.

§ 2. OFFICIAL INFORMATION OF PRISONER'S CHARACTER AND HABITS.] It shall be the duty of the judge before whom any person is convicted and sentenced indeterminately to the penitentiary, and also of the state's attorney of the county in which such conviction is had, to file with the clerk of the district court an official statement of the facts and circumstances constituting and surrounding the crime whereof the prisoner was convicted, his age as nearly as can be ascertained, together with all other information accessible in regard to the career of the prisoner prior to the time of the committal of the crime of which he was convicted, relative to his habits, associates, disposition and reputation, and any other facts and circumstances which may be capable of throwing light upon the question as to when such prisoner may be capable of becoming a law-abiding citizen. It shall be the duty of the official court reporter, at the dictation of the judge of said court, or the state's attorney of said county, to write the official statements of the judge and state's attorney above referred to at the time of the conviction of the prisoner, and it shall be the duty of the clerk of the court to cause copies of such official statements to be attached to the commitment, with the copy of the judgment of the court at the time of issuing the same, and deliver the same, so attached, to the sheriff of the county, for transmission to the institution to which the prisoner is committed.

§ 3. DUTIES OF FIELD OFFICERS.] It shall be the duty of the officer who is or may hereafter be provided by law to look after the welfare of persons whose sentences have been suspended or who have been paroled, to supervise, care for and account for all persons paroled according to law in this state; to keep a complete record of the paroled person, and to report to the warden from time to time all matters pertaining to the employment, conduct and whereabouts of each person under parole from the penitentiary; and in addition to render a full and complete report at the end of each month of all persons paroled from the penitentiary. It shall also be his duty to apprehend and return to the penitentiary all persons that have violated their parole.

§ 4. BOARD OF EXPERTS.] The warden of the state penitentiary, the prison physician, the chaplain of the state penitentiary, and one other person, to be chosen by the board of trustees of the state penitentiary, shall constitute a board of experts, whose duty it shall be to pass upon the application for discharge of the inmates of the penitentiary who may have been sentenced under the indeterminate sentence provided by law, and also to pass upon the application of the inmates of the penitentiary who may make application to be paroled, as provided by law. The board of trustees shall elect a

member of the board of experts at their first meeting (held in April) after this law takes effect, and thereafter at the April meeting on each odd-numbered year. The term of this member of the board of experts shall be two years, commencing immediately after the April board meeting in an odd-numbered year. The chairman and secretary of the board of trustees of the state penitentiary shall certify to the governor and the state auditor all the names of the members of the board of experts as soon as they are elected or constituted members thereof. The board of experts as above constituted shall determine and fix the date when an inmate may be released on parole or discharged, after the expiration of the minimum term of the sentence, and shall keep a complete record of all the findings and orders of the board. It shall be the duty of the board of experts to provide books of record, application blanks, and to formulate rules and regulations governing the conduct of the inmates, and the manner in which they may become eligible to become applicants for discharge or parole, to meet once in each month, and to keep a complete record of all inmates discharged or paroled, and to make a biennial report to the board of trustees of all rules adopted, and of inmates paroled and discharged, and of all statistics pertaining thereto.

§ 5. COMPENSATION.] Each member of the board of experts, except the warden of the penitentiary and prison physician, shall receive five dollars a day and necessary traveling expenses for travel to and from the state penitentiary, and expenses for books and records, to be paid out of the general fund of the state by the state treasurer on presentation of a voucher, as required by law, and approved by the board of trustees of the state penitentiary.

§ 6. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 7. EMERGENCY.] An emergency exists, by reason of the fact that persons have been sentenced to the penitentiary for indeterminate terms, and that no one has authority to pass on the indeterminate feature of their sentences, therefore, be it provided, that this law shall be in full force and effect from and after its passage and approval.

Approved March 16, 1909.