

requires an alteration in an existing grade crossing of a railroad track by a railroad track belonging to or operated by any railroad or railroads, or requires the installation, operation, and maintenance of some suitable protective appliance at such grade crossing, after notice and hearing as provided in section 1797—12, order such change in such crossing, or the installation, operation, and maintenance of such suitable protective appliance at such grade crossing as they shall deem best, and shall determine and direct by whom and within what time such alteration shall be made or such safety appliance shall be installed, and the cost and expense of such change in such crossing and of maintaining the crossing, or of the installation, operation, and maintenance of such safety appliance shall be apportioned and paid as provided in the preceding section.

Section 1797—12j. The provisions of section 1797—12h and 1797—12i shall apply to all swing or draw bridges, junctions, and other fouling points on all railroads.

Section 1797—12k. A sum sufficient to carry out the provisions of this act is appropriated out of any money in the state treasury not otherwise appropriated.

SECTION 2. All acts or parts of acts conflicting with the provisions of this act or with section 1792—12d, or with the exclusive exercise of the jurisdiction herein and hereby conferred, or conferred by section 1797—12d, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved June 17, 1909.

No. 474, S.]

[Published June 22, 1909.

CHAPTER 541.

AN act to create sections 4734a to 4734l, inclusive, providing for probation of persons convicted of felonies and misdemeanors, and offenses under municipal ordinances.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. There are added to the statutes twelve new sections to read: Section 4734a. In all prosecutions for crime, except as hereinafter provided, where the defendant has been convicted either upon a trial or upon his plea, where the court has power to sentence such defendant to the Wisconsin State Prison or to the Wisconsin State Reformatory, any workhouse, house of correction or other correctional institution in cases in

which the minimum penalty is one year or more, and it appears that the defendant has never before been convicted of a felony or misdemeanor, either in this state or elsewhere (a conviction of children between the ages of eight and sixteen years of a misdemeanor and commitment to any institution for juvenile delinquents therefor, or as vagrants or for incorrigibility or vicious conduct, shall not be considered a conviction under this statute), and where it appears to the satisfaction of the court that the character of the defendant and the circumstances of the case are such that he is not likely to again engage in an offensive course of conduct, and where it appears that the public good does not demand or require that the defendant shall suffer the penalty provided by law, said court may suspend the sentence or stay the execution thereof and place the defendant on probation in the manner hereinafter provided, giving his reasons therefor, which shall be made a part of the record. Nothing in this act contained shall in any manner affect the laws providing the method of dealing with delinquent juveniles.

Section 4734b. No person convicted of a crime, the maximum penalty for which is more than ten years imprisonment shall have the benefit of this act.

Section 4734c. Whenever the defendant has been placed on probation under this act the effect of such order of probation shall be to place said defendant under the control and management of the state board of control of Wisconsin reformatory, charitable and penal institutions, and he shall be subject to the same rules and regulations as apply to persons paroled from said institutions after a period of imprisonment therein.

Section 4734d. It shall be the duty of the state board of control to furnish the clerk of every court of record in this state exercising criminal jurisdiction with blank forms, setting forth all requirements and conditions used by them in the parole of persons from the state institutions, but amended so as to be applicable to cases of probation hereunder.

Section 4734e. Whenever it is the judgment of the court that the defendant be placed upon probation and under the supervision of the state board of control, it shall be the immediate duty of the clerk of said court to make a full copy of the record of the court with the order for the suspension of sentence or the stay of the execution thereof, and if sentence was suspended to certify said record to the Wisconsin state board of control, at Madison, Wisconsin, otherwise to the warden of the Wisconsin state prison, or the superintendent of the Wisconsin state reformatory, or person in charge of such other in-

stitution to which said court would have committed the defendant but for the staying of the execution 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 required by the board of control have been properly and fully met.

Section 4734f. The board of control shall appoint and employ one or more officers to be known as field officers representing the state prison and the state reformatory, who shall carefully look after the welfare of all persons paroled from said institutions after a period of imprisonment therein, or prior to such imprisonment under section 3 of this act.

Section 4734g. Whenever it appears to the state board of control that a person placed upon probation as aforesaid does not conduct himself in accordance with the rules and regulations of the board of control with reference to persons paroled by them, a field officer representing the state board of control may upon its order without warrant or other process arrest said person, and either bring him before the court for sentence upon his former conviction, which shall then be imposed and not stayed by the court, or if sentenced to any penal institution, convey him to said institution, and the board of control may after a full investigation and personal hearing because of such conduct forthwith terminate the probation and cause said person to suffer the penalty of the sentence imposed. Any person under probation who has violated the conditions of his probation shall under order of the board of control be subject to arrest in the same manner as in the case of an escaped convict. In all cases of such termination of probation the original sentence shall be considered as beginning upon the first day of imprisonment in the institution to which he is sentenced, and no period of probation shall be deducted therefrom.

Section 4734h. Whenever it is the judgment of the board of control 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 nor more than the maximum term for which he might have been imprisoned.

Section 4734i. The secretary of state shall issue his warrant upon the state treasurer to pay from the general fund the salaries and necessary expenses of the field officers upon presentation of itemized vouchers properly approved by the state board of control. In the same manner shall be paid the salar-

ies and expenses of the parole officers of the industrial school for boys and the industrial school for girls.

Section 4734j. In all cases arising either under the statutes or under any municipal ordinance where the penalty provided for the offense charged is that the defendant be imprisoned in a jail, workhouse, house of correction, penal or reformatory institution other than the Wisconsin state prison or the Wisconsin state reformatory for a period less than one year, or that the defendant be fined and committed until said fine be paid, for a period less than one year, the court at its discretion may suspend the judgment or sentence or stay the execution thereof, and place the defendant on probation and in charge of a probation officer named in said order for such a period of time, not exceeding the maximum penalty provided, and upon such terms and conditions, including payment of any fine imposed, as it shall determine, so that said defendant, in proper cases, may be given the opportunity to pay the fine, if one is imposed, within a reasonable time; provided, however, that upon payment of the fine being made, judgment shall be satisfied and the probation cease.

Section 4734k. In all cases of probation provided for in section 4734j of this act, no order for probation shall be issued unless the court designate some suitable person to act as probation officer in such case, and he shall make written reports to the court at designated periods, not less than one each month, concerning the conduct of any probationer in his charge. Said probation officer shall be entitled to necessary expenses in the performance of his duties, and, for causes hereinafter named, may, without warrant or other process, at any time until the final disposition of the case, rearrest any person placed in his care and bring him before the court, or the court may at its discretion issue a warrant for the rearrest of any such person, and may thereupon revoke and terminate such probation, if the interest of justice requires, or if the court shall have reason to believe from the report of a probation officer, or otherwise, that the probationer is violating the conditions of his probation, or is engaging in criminal practices, or has formed improper associates, or is leading a vicious life. Upon such revocation and termination the court may thereupon pronounce sentence on the former conviction, or if sentenced issue commitment on the sentence or judgment at any time within the longest period for which the defendant was sentenced or might have been imprisoned, whereupon the sentence or judgment shall be in full force and effect, and the person shall be delivered over to the proper officer to serve the same, and no

period of probation shall be considered as part thereof, or deducted therefrom. The court shall have power at any time, after the termination of probation, to again parole the defendant and stay execution of judgment or sentence on the same terms and conditions as it could originally have done, and it may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held in probation shall warrant it, terminate the period of probation and discharge the person so held, and in all cases, if the court has not seen fit to revoke the order of probation, or discharge him from custody, the defendant, at the end of the term of probation, shall be discharged from custody, and said judgment or sentence be deemed fully satisfied.

Section 47341. In all municipalities where there is now or hereafter may be established a police court, the council shall by ordinance provide for the appointment of one or more persons to be known as probation officers, who shall devote all necessary time to the interests of the persons placed under probation, and, upon the order of the police court, investigate the circumstances of any case that may come before said court for final action. Said probation officers shall be appointed by the police court and serve at its pleasure, and shall receive such compensation as the council shall by ordinance prescribe. In case a member of the police department is appointed probation officer, he shall have the privilege of returning at any time thereafter to the active service in such department, and to the same rank and standing as he held at the time of appointment as probation officer, provided, however, that this section shall not apply to counties in which juvenile courts have been or may be established.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 17, 1909.