

No. 35, S.]

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CHAPTER 239.

AN ACT to repeal and recreate 346.44 and to amend 53.05 (2), 54.05 (1), 54.07 (1) and (2) and 346.40 (1) and (2) of the statutes, relating to the handling of prisoners and persons under arrest and providing a penalty.

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

SECTION 1. 53.05 (2) of the statutes is amended to read:

53.05 (2) Spirituous liquors or any articles of indulgence shall not be allowed any convict except by order of the physician, which shall be in writing and for a definite period, not exceeding one month * * *

SECTION 2. 54.05 (1) of the statutes is amended to read:

54.05 (1) The provisions of * * * *chapter 53 and of section 56.03* shall apply to the reformatory, *in so far as applicable*, and the powers therein conferred upon the warden and deputy warden are hereby conferred upon the superintendent, and assistant superintendent, respectively, of the reformatory.

SECTION 3. 54.07 (1) and (2) of the statutes are amended to read:

54.07 (1) With the approval of the governor any inmate of the reformatory or of the industrial home, * * * *whether committed or transferred to such institution*, whose continued presence there is considered detrimental to the other inmates may be transferred by the state department of public welfare to the state prison, *or the prison for women*, and his original term of imprisonment shall be continued therein.

(2) Convicts in the state prison, *the prison for women* and in the Milwaukee county house of correction * * *, and in any county jail belonging to class 2, may with like executive approval be transferred from any of these institutions to the reformatory or to the industrial home and may be returned to the institution from which they were respectively taken.

SECTION 4. 346.40 (1) and (2) of the statutes are amended to read:

346.40 (1) Any convict committed *or transferred* to the state prison, *the prison for women*, the * * * state reformatory, or house of correction of Milwaukee county convicted of a crime

punishable by imprisonment in the state prison, under sentence for a limited time, who shall escape * * * *from the lawful custody of such institution*, or attempt by violence to escape, or assault the warden or other officer or person employed in any capacity in said prison, reformatory or house of correction shall be punished by imprisonment in said prison, reformatory, or house of correction not more than 10 years in addition to his former sentence * * *.

(2) Any woman sentenced to the Wisconsin industrial home for women *or transferred thereto from the Wisconsin prison for women* who shall escape therefrom, or who shall attempt by violence to escape, or shall assault the superintendent or any other officer or employe of said institution, may be punished by imprisonment in said industrial home for a term of not to exceed 2 years in addition to her former sentence.

SECTION 5. 346.44 of the statutes is repealed and recreated to read:

346.44 ESCAPE OF PERSONS UNDER ARREST. Any person who may be detained or imprisoned in any police station, lockup or municipal or county jail pursuant to a lawful arrest, with or without a warrant or other process, for felony, misdemeanor or violation of any ordinance, who shall break such prison and escape, shall be punished by imprisonment in the county jail not more than 6 months or by fine of not more than \$100. Illegality of the arrest shall be a defense but in every such case the arrest shall be presumed to have been lawful unless the defendant shall establish the contrary, and mere technical irregularities in the warrant or other process, if any, shall be no defense if an offense is substantially charged therein nor shall the guilt or innocence of the defendant of the offense for which he was arrested be material.

Approved June 2, 1945.