

No. 256, S.]

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**CHAPTER 477.**

AN ACT to revise chapter 57 of the statutes, relating to probation, paroles and pardons of convicts.

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

SECTION 1. The title to chapter 57 shall read:

**CHAPTER 57****PROBATION, PAROLES AND PARDONS**

SECTION 2. 57.01 and 57.02 (1) are consolidated, renumbered and revised to read:

57.01 PROBATION OF FELONS. (1) When a person is convicted of a felony (convictions under section 351.30 excepted) and it appears to the court from his character and the circumstances of the case that he is not likely again to commit crime and that the public welfare does not require that he shall suffer the penalty of the law, the court may, by order, withhold sentence or impose sentence and stay its execution and in either case place him on probation to the department and in either case place him on probation to the department for a stated period, stating in the order the reasons therefor, and may impose as a condition of such order or of continuing it in effect that he shall make restitution or pay the costs of prosecution or do both.

(2) Prior to the expiration of any probation period the court may by order extend his probation for a stated period.

(3) The original term of probation shall not be less than the statutory minimum nor more than the statutory maximum term of imprisonment for the crime.

(4) If the defendant is a minor at the time of conviction, the court may, in lieu of placing him in the custody of the department, order that he be in the custody of a juvenile probation officer of the county, on the same conditions as though he were in the custody of the department. Such probation officer shall report to the court at such times as the court orders and if the probationer violates the conditions of his probation shall bring him before the court for revocation thereof. The court may at any time transfer the custody of the probationer to the department and may extend the period of probation as provided in subsection (2).

(5) The department shall furnish to the several courts forms setting forth the requirements and conditions applicable to probation.

SECTION 3. 57.02 (2) is renumbered and revised to read:

57.02 CONTROL OF PROBATIONER. Except as provided otherwise in section 57.025, every probationer in the custody of the department shall be subject to the control of the department under regulations applicable to paroled persons. Upon the entry of the order of probation the court or the clerk of the court shall deliver a certified copy of the record in the case to the department, whereupon the custody of the probationer vests in the department.

SECTION 4. 57.02 (3) and (4) are renumbered and revised to read:

57.025 PROBATION IN MILWAUKEE COUNTY. (1) SCOPE OF SECTION. This section applies only to counties having a population of over 500,000.

(2) JURISDICTION OF MUNICIPAL AND DISTRICT COURTS. The municipal court and the district court, respectively, shall have charge of persons on probation from each such court under this section and under sections 57.01 and 57.04.

(3) REGULATIONS. Regulations governing probation shall be made jointly by the judges of such courts, without discrimination as to probation from either court.

(4) PROBATION OFFICERS; APPOINTMENT; POWERS; COMPENSATION. The judge of the municipal court shall appoint a chief probation officer for said courts. The chief and additional probation officers shall receive such salaries and necessary expenses as determined by the county board. They shall be officers of both courts but subject to the control of the municipal court, except as to matters pertaining exclusively to the probationers of the district court, as to which the district court shall have control. The chief shall have power to arrest and shall execute the orders of such courts affecting their probationers.

(5) ADDITIONAL PROBATION OFFICERS. Additional probation officers may be appointed by the judge of the municipal court. They shall be subordinate to the chief and shall have power to arrest. The judge may appoint one of them as deputy chief probation officer to perform the duties of the chief during his absence or inability to perform them.

(6) **DUTIES OF OFFICERS.** Probation officers shall make presentence and preprobation investigations and report thereon as required by either court. To prevent absconding, to enforce discipline and for violation of probation, an officer may arrest any probationer and hold him in the county jail for a reasonable time.

(7) **OFFICE AND SUPPLIES.** The county board shall provide quarters and supplies for the adequate administration of probation under this section.

(8) **DUTIES OF CLERK OF COURT.** The clerk of court shall transmit to the department a copy of the reports required by section 57.04 (4).

(9) **PROBATION OF MISDEMEANANTS.** When a person is convicted of a misdemeanor or violation of a county or city ordinance the district court or the municipal court may place him on probation as prescribed by section 57.04 (1) for not to exceed 2 years and upon such conditions as the court determines, including the payment of a fine. He may be returned to the court for sentence at any time within the probation period. Upon the expiration of such period or before, he may be sentenced or discharged or continued under probation subject to like sentence or discharge or probation.

SECTION 5. 57.03 is revised to read:

**57.03 RETURN TO COURT; DISCHARGE.** (1) If a probationer in his charge violates the conditions of his probation, the department may order him brought before the court for sentence which shall then be imposed or if already sentenced may order him to prison; and the term of sentence shall begin on the date he enters the prison. A copy of the order of the department shall be sufficient authority for the officer executing it to take the probationer to court or to prison.

(2) When in the judgment of the department the probationer has satisfied the conditions of his probation, he shall be discharged and the department shall issue to him a certificate of final discharge.

SECTION 6. 57.04 is revised to read:

**57.04 PROBATION OF MISDEMEANANTS.** (1) When a person is convicted of a misdemeanor the court (whether a court of record or otherwise) may, by order, withhold sentence or impose sentence and stay its execution and in either case place him on probation for a period not less than one year nor

more than two years (except that in counties having a population of over 500,000 a shorter minimum period of probation may be ordered) and may, as a condition of such order or continuing it, require him to pay a fine or make restitution, or both, as the court determines, and the court may authorize the probation officer to accept payment in instalments.

(2) The order shall place the probationer in charge of the department or shall designate some person as probation officer, who shall be entitled to necessary expenses in the performance of his duties, to be paid by the county. If the probationer is a minor, the order may place him in charge of a juvenile probation officer. The department or officer may, at any time, take the probationer into court; and thereupon, if the court has reason to believe that he has violated the conditions of his probation or is engaging in criminal practices or has formed improper associations or is leading a vicious life, it may revoke his probation and pronounce sentence, or if sentence has been pronounced, order its execution, without deduction of the period of probation. A defendant on probation to a probation officer shall be subject to the probation conditions prescribed by the department so far as applicable. If such a probation officer has been appointed in any case, the court may transfer the custody of the probationer to the department.

(3) After revocation the court may again stay further execution on any conditions which it could have imposed originally. If justice is served and the good conduct and the reform of the probationer warrants it, the court may terminate the probation and discharge him.

(4) The probation officer shall report to the court, at such times as the court designates, concerning the conduct of the probationer. Blanks for such reports shall be supplied by the department, upon request.

(5) When a person is placed on probation the department, the clerk of the court or the court shall mail to the department certified copies of the complaint, information or indictment, the plea, the sentence, if any, and the probation order. The clerk or court shall receive for such services the compensation provided for certifying copies of papers, which compensation shall be paid by the county.

SECTION 7. 57.05 is repealed.

SECTION 8. 57.06 (1) to (3) are revised to read:

57.06 PAROLES FROM STATE PRISON AND HOUSE OF CORRECTION. (1) Upon 10 days' written notice to the district attorney and the judge who tried an inmate of the Wisconsin state prison or of the Milwaukee county house of correction, the department may parole him when he has served the minimum or one-half of the maximum of an indeterminate sentence or 2 years, whichever is least; or when he has served one-half of a determinate term which is less than life or 2 years, whichever is least; or when he has served 20 years of a life term, less the deductions earned for good conduct as provided in section 53.11.

(2) No such prisoner shall be paroled until the department is satisfied that suitable employment has been secured for him, unless otherwise provided for by the department. The paroled prisoner shall report to the department in such manner and at such times as it requires.

(3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department; and all prisoners under its custody may be returned to prison at any time, on the order of the department, and shall be returned whenever found exhibited in any show. A certified copy of the order shall be sufficient authority for any officer to take the prisoner to the institution from which he was paroled; and the officer shall execute such order as a warrant for arrest but any officer may, without order or warrant, whenever it appears necessary in order to prevent escape or enforce discipline, take the prisoner before the department for its action.

SECTION 9. 57.07 is revised to read:

57.07 PAROLES FROM STATE REFORMATORY AND HOME FOR WOMEN. (1) The department may parole prisoners in the state reformatory and the home for women whenever suitable employment has been secured for them, unless otherwise provided by the department, and their conduct for a reasonable time has satisfied the department that they will be law-abiding, temperate, honest and industrious. But women serving life sentences at the home for women shall be subject to the provisions of section 57.06.

(2) Such paroled persons remain in the legal custody of the department, and may be returned to the institution from which paroled, in the manner prescribed in section 57.06.

SECTION 10. 57.06 (4) is renumbered and revised to read:

57.071 WARTIME PAROLES. In time of war the department may at any time grant a parole to or suspend the parole of any prisoner in any penal institution of this state, who is eligible for induction into the armed forces of the United States. Such suspension of parole shall be for the duration of his service in the armed forces; and said parole shall again become effective upon his discharge from the armed forces in accordance with regulations prescribed by the department. If he receives an honorable discharge from the armed forces, the governor may discharge him and such discharge shall have the effect of a pardon. Upon such suspension of parole by the department, an order shall be issued by the director of the department setting forth the conditions under which the parole is suspended, including instructions as to where and when and to whom such paroled person shall report upon his discharge from the armed forces.

SECTION 11. 57.072 is created to read:

57.072 EFFECT OF ABSCONDING. By absconding, a probationer or person on parole thereby stops the running of his probation or parole period; and it does not start to run again till he is back in custody.

SECTION 12. 57.075 is revised to read:

57.075 ABSCONDING PROBATIONERS' AND PAROLEES' FUND. The department shall create a revolving fund out of any moneys in its hands belonging to probationers and parolees who absconded, or whose whereabouts are unknown. Said funds shall be used to defray the expenses of clothing and other necessities and for transporting probationers and parolees who are without means to secure the same. All payments made from such funds shall be repaid by probationers or parolees for whose benefit they are made whenever possible; and any moneys belonging to them so paid into the revolving fund shall be repaid to them in accordance with law, in case a claim therefor is filed with the department upon showing the legal right of the claimant to such money.

SECTION 13. 57.078 is created to read:

57.078 CIVIL RIGHTS RESTORED TO CONVICTED PERSONS SATISFYING SENTENCE. Every person who is convicted of crime obtains a restoration of his civil rights by serving out his term of imprisonment or otherwise satisfying his sentence. The certificate of the department or other re-

sponsible supervising agency that a convicted person has served his sentence or otherwise satisfied the judgment against him is evidence of that fact and that he is restored to his civil rights.

SECTION 14. 57.08 and 57.09 are reenacted.

SECTION 15. 57.10 is revised to read:

57.10 PARDON APPLICATION PAPERS. An application for pardon shall be accompanied by the following papers:

(1) Notice of application and acknowledgments or affidavits showing due service and affidavits showing due publication and posting whenever required;

(2) A certified copy of the docket entries, the indictment or information, pleas, transcript of the testimony and all other papers on file in the court, if obtainable, relating to the case;

(3) A full sworn statement by the applicant of all facts and reasons upon which the application is based;

(4) Written statements by the judge and the district attorney who tried the case, if obtainable, indicating their views regarding the application and stating any circumstances within their knowledge in aggravation or extenuation of the applicant's guilt;

(5) A certificate of the keeper of the prison where he has been confined showing whether the applicant has conducted himself in a peaceful and obedient manner.

SECTION 16. 57.11 is revised to read:

57.11 CONDITIONAL PARDON; ENFORCEMENT. (1) In case a pardon is granted upon conditions the governor may issue his warrant to carry the conditions into effect.

(2) If it appears to the governor during the term of the sentence that the convicted person violated or failed to comply with any such condition, he may issue his warrant to any sheriff commanding him to arrest the convicted person and bring him before the governor.

(4) If upon inquiry it further appears to the governor that the convicted person has violated or failed to comply with any of such conditions, he may issue his warrant remanding him to the institution from which he was discharged, and he shall thereupon be confined and treated as though no pardon had been granted except that he loses the good time which he had earned; otherwise he shall be discharged subject to the conditional pardon.

SECTION 17. 57.115 is revised to read:

57.115 EMERGENCY RELEASE. When an emergency exists which in the opinion of the governor makes it advisable he may permit the temporary removal of a convicted person for such period and upon such conditions as he determines.

SECTION 18. 57.12 is revised to read:

57.12 EXECUTION AND RECORD OF WARRANTS. When a convicted person is pardoned or his sentence commuted, or he is remanded to prison for the violation of any of the conditions of his pardon, the officer to whom the warrant is issued after executing it shall make return thereon to the governor forthwith and shall file with the clerk of the court in which the offender was convicted a certified copy of the warrant and return, and the clerk shall enter and file the same with the records of the case.

SECTION 19. 57.13 is reenacted.

SECTION 20. 57.135 is created to read:

57.135 OUT-OF-STATE PAROLEE SUPERVISION WITHOUT COMPACT. The department is authorized to permit any person convicted of an offense within this state and placed on probation or released on parole to reside in any other state not a party to the compact authorized by section 57.13 whenever the authorities of the receiving state agree to assume the duties of visitation of and supervision over such probationer or parolee, governed by the same standards that prevail for its own probationers and parolees, on the same terms as are provided in section 57.13 (1) and (2) in the case of states signatory to said compact. But before permitting any probationer or parolee to leave this state pursuant to this section, the department shall obtain from him a signed agreement to return to this state upon demand of the department and an irrevocable waiver of all procedure incidental to extradition. The department may, in like manner, receive for supervision probationers and parolees convicted in states not signatory to said compact, and shall have the same custody and control of such persons as it has over probationers and parolees of this state.

SECTION 21. 370.01 (50) is created to read:

370.01 (50) ADULT AND MINOR, DEFINITION OF. An adult is a person who has attained the age of 21 years. A minor is a person who has not attained the age of 21 years.

Approved July 30, 1947.