

CHAPTER 57.*

PROBATION, PAROLES AND PARDONS.

57.01 Probation of felons.	57.078 Civil rights restored to convicted persons satisfying sentence.
57.02 Control of probationer.	57.08 Applications for pardon; regulations.
57.025 Probation in Milwaukee county.	57.09 Notice of application.
57.03 Return to court, discharge.	57.10 Pardon application papers.
57.04 Probation of misdemeanants.	57.11 Conditional pardon; enforcement.
57.06 Paroles from state prison and house of correction.	57.115 Emergency release.
57.07 Paroles from state reformatory and home for women.	57.12 Execution and record of warrants.
57.071 Wartime paroles.	57.13 Out-of-state parolee supervision; state compacts.
57.072 Effect of absconding.	57.135 Out-of-state parolee supervision without compact.
57.075 Absconding probationers' and parolees' fund.	

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 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. [57.01, 57.02 (1) Stats 1945; 1947 c. 477]

Comment of Interim Committee, 1947: 57.01 (1) is made general. The exceptions to its application are deleted, except 351.30 (desertion of wife or child). * * * The revision gives the court power to fix and extend the probation period and does not limit total length of probation. New (4) makes special provision for minor felons. (Bill 256-S)

Note: The probation system of the state is in the interests of society as a whole and of transgressors of the laws in particular, and the statutes relating to probation, 57.01 et seq., must have a reasonable, commonsense interpretation. State ex rel. Vanderhei v. Murphy, 246 W 168, 16 NW (2d) 413.

Person convicted of felony, sentenced to prison and placed on probation under stay of sentence may legally become party to contract. 25 Atty. Gen. 213.

When a person is convicted of one offense and placed on probation and subsequently sentence is imposed for another offense com-

mitted prior to probation, sentence and probation run concurrently. 25 Atty. Gen. 539. Period of probation does not count toward service of sentence imposed on probationer under 57.01, 57.04 or 57.06, Stats. 1941, and is not deducted from sentence to be served in case probation is revoked according to law. 30 Atty. Gen. 273.

Under 57.01 (1), Stats. 1941, court has no power to fix period of probation but such period is fixed by law at not less than minimum nor more than maximum term for which probationer might have been imprisoned, by 57.03 (2). Court's action in fixing different period of probation from that fixed by 57.03 (2) is extrajudicial and void—or at most advisory to department of public welfare—and period of probation will be that fixed by law and not that attempted to be fixed by court. 27 Atty. Gen. 300 disapproved in part. First clause of 57.01 (2), which gives court power to sentence probationer at any time during period of probation, ap-

***Comment of Interim Committee, 1947:** The interim committee created by Joint Resolution No. 79 (72-S) to revise and codify the public welfare laws hereby submits a bill to revise chapter 57 of the statutes, entitled "Probation, Paroles and Pardons of Convicts." The bill proposes some changes in the law but those changes are not radical and do not change state policies. Changes are made when needed to supply omissions, to make administrative procedure more complete and simple, to make the statute expressly provide long-established procedure. From first to last we have endeavored to make the language more simple and clear.

Wherever any change in the law is intended the section involved is followed by a committee comment, which points out or explains the proposed change. Unless there is such a comment, the committee wishes to be understood as intending no change of meaning. (Bill 256-S)

plies only to cases where sentence was originally withheld under 57.01 (1), not to cases where sentence was imposed and execution stayed, and applies only to cases where department of public welfare has revoked probation and returned probationer to court for sentence under 57.03 (1). During period of probation under 57.01 department of public welfare has exclusive jurisdiction to revoke such probation or to discharge probationer from further supervision, under 57.03 (1) and (2). Upon expiration of such period of probation, probationer may be returned to trial court, which then has jurisdiction under 57.01 (2) to discharge probationer or to extend probation for such further period as court may then fix or, in case sentence was originally withheld, to sentence probationer and commit him to institution to which he is sentenced. But this jurisdiction cannot be exercised until expi-

ration of maximum period for which probationer might originally have been sentenced as prescribed by statute under which such probationer was convicted or by repeater statute, whichever is applicable. Department is not required to revoke probation upon first violation, however slight, but may exercise sound discretion in that regard, since 57.03 (1) says board "may" revoke, not "shall". 15 Atty. Gen. 158 disapproved in part. 31 Atty. Gen. 204.

Courts of record have no power to suspend execution of sentence of imprisonment in default of payment of fine and costs imposed in criminal case without placing defendant on probation under 57.04, Stats. 1943. If unlawful stay of execution is granted, period of imprisonment runs notwithstanding and defendant may not be committed or held after expiration thereof. 32 Atty. Gen. 228.

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. [57.02 (2) Stats. 1945; 1947 c. 477]

Comment of Interim Committee, 1947: 57.02 is a restatement of 57.02 (2) without change of meaning, except to require copies of the record in all cases. (Bill 256-S)

Note: Money collected and deposited by probation and parole department of state

board of control is public deposit within meaning of chapter 34, Stats. Said department is protected against loss of such money same as are other public deposits in case of bank failure. 27 Atty. Gen. 388.

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. [57.02 (3), (4) Stats. 1945; 1947 c. 477]

Comment of Interim Committee, 1947: 57.025 is a restatement of 57.02 (3) and (4) with these changes: The jurisdiction of the municipal and district courts is restated so as to place both courts on an equal footing concerning probation and to avoid either court having control over the activities of the other in regard to probation. The provisions that the chief probation officer must

reside in Milwaukee county and fixing his minimum salary are deleted. Probation of misdemeanants is made more definite. The last sentence of (8) gives definite authority in the statutes for the present practice. "Adult" is changed to "person" in new (9) and "or before" is inserted in the last sentence. (Bill 256-S)

57.03 Return to court; discharge. (1) If a probationer in its 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. [1943 c. 93; 1947 c. 477]

Comment of Interim Committee, 1947: 57.03 is restated without change of meaning except to delete the unused provision for the probation officer taking the prisoner before the department. The limitation on the period of probation need not be repeated here and is omitted. It is stated in 57.01 and 57.04. (Bill 256-S)

Note: In the case of a minor sentenced to the state reformatory and sentence suspended under 57.05 (1) the provisions in 57.03 (1) Stats. 1941, did not apply but the provisions in 57.05 (2) applied so that, on the minor's violation of the conditions of his probation, the state board of control could but return him to the court which had sentenced him and hence the order of the board committing the minor to the reformatory to serve his sentence was unauthorized. State ex rel. Currie v. McCready, 238 W 142, 297 NW 771.

One who is convicted of embezzlement and is sentenced by trial court and placed on probation to board of control, upon violation of said probation should be brought before board instead of circuit court for revocation of probation and to be placed in prison. Order of circuit court revoking probation is null and void, as court has no jurisdiction. 22 Atty. Gen. 86.

Where A was sentenced to state prison for two years and at time of sentence sentence was suspended and defendant was placed on probation to state board of con-

trol, subsequent sentence for violation of parole "for balance of said two year term as provided by law" is construed to mean that two-year sentence starts on date prisoner is received at state prison as provided by this section. 27 Atty. Gen. 821.

Pursuant to (1), probation violator already sentenced may be taken to penal institution pursuant to interlocutory order revoking probation and there held for hearing before parole board at its next session at institution. After such hearing, order of revocation may be made final, but statute does not require that hearing be held before probationer is taken to institution, since he may be taken and detained without any order or warrant whatever by probation officer, and issuance of interlocutory revocation order does not prejudice him but on contrary works to his benefit since his sentence commences to run when he is received at institution instead of being delayed until such time as board might be able to act on his case. 30 Atty. Gen. 477.

See note to 57.01, citing 31 Atty. Gen. 204. Where a probationer is received at the state prison pursuant to a sentence for a new offense and his probation is subsequently revoked, the suspended sentence for which he was on probation is deemed to have commenced running on the date he was first received at the prison pursuant to his second conviction and sentence. 33 Atty. Gen. 83.

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 2 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. [1943 c. 93; 1947 c. 477]

Comment of Interim Committee, 1947: 57.04 as revised substantially extends the power of probation. Present 57.04 covers probation, but limits the power to courts of record, and extends only to adult misdemeanants. Old 57.05 relates to probation of minors. As revised, 57.04 covers both adult and minor misdemeanants, while new 57.01 covers both adult and minor felons. During 1945 there were 19,000 inmates in the county jails of the state, and the great majority of these were sentenced by municipal, police and justices of the peace courts, rather than by courts of record. The committee recommends that all courts, whether courts of record or otherwise, should have the right to suspend judgment or stay execution and place the defendant on probation. In case the court imposes a fine with the alternative of going to jail in case of nonpayment of the fine, the defendant should be given the opportunity to pay the fine in such instalments as the court shall fix. In case the defendant is responsible for theft or loss of or damage to property, or injury to person, he may also be required to make restitution to the aggrieved party in such instalments as may be fixed by the court. Probation should be for a period of not less than one year nor more than two years. Upon payment of the fine, and making restitution, the judgment should be satisfied and the probation cease. * * * (Bill 256-S)

Note: After sentencing man to serve jail sentence under 57.04, Stats. 1935, court has no power to put him on probation or discharge him after he has served part of his term. 24 Atty. Gen. 648.

Department of public welfare has no authority to grant a discharge to person on probation under 57.04, Stats. 1943, either during the term of probation or at its expiration. Discharge at end of term is automatic. Power to discharge probationer before end of term is vested exclusively in court by 57.04 (3). Person placed on probation for abandonment under 351.30 (4) without having been convicted may not be placed in custody of department. 57.04 applies only if there has been a conviction. No supervision of such probationer is contemplated by 351.30 and revocation may only be had for violation of the court's order to pay support money, under 351.30 (5). 33 Atty. Gen. 201.

Violation of municipal ordinance is not a "misdemeanor" within the meaning of this section, even if the act forbidden by the ordinance is also a violation of the state criminal law. Accordingly, the department of public welfare has no authority to receive and supervise on probation persons convicted of violating municipal ordinances. 34 Atty. Gen. 412.

[57.05 Stats. 1945 repealed by 1947 c. 477]

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. [57.06 (1) to (3) Stats. 1945; 1947 c. 477]

Comment of Interim Committee, 1947: In a questionnaire which was widely distributed, paragraph 14 states the procedure for paroles under sections 57.06 and 57.07; and then submits this question: "Shall the law be amended eliminating the requirement of approval by the governor?" In the answers received 77 said yes, 46 no, and 36 don't know. In view of the many and varied duties of the governor and the vast number of paroles issued, it is apparent that the governor cannot personally examine the details and facts on which the paroles are granted or denied. He must rely on some person or agency to advise him. The proper agency for that purpose is the department. * * * The "prison for women" is omitted; see 57.07. (Bill 256-S)

Note: See note to art. VII, s. 3, Const., citing *In re Zabel*, 219 W 49, 261 NW 669.

Board of control cannot parole prisoner from state prison without giving required written notice to district attorney who participated in trial of prisoner. The board cannot parole prisoner from state prison after denial of former application for parole without giving new notice to judge and to district attorney who participated in trial of prisoner. *State ex rel. Zabel v. Hannan*, 219 W 257, 262 NW 625.

Amendment to (1) made by chapter 384, laws of 1933, refers to minimum of indeterminate sentence. 23 Atty. Gen. 143.

A, who is serving sentence of from 3 to 5 years in state prison as second offender and who is out on conditional pardon for part of his term, may be paroled after he has served one-half of his sentence, including that part when he was out on conditional pardon. (Stats. 1933) 23 Atty. Gen. 172.

Person sentenced to term of from one to 3 years on one count and from 3 to 5 years on other counts, sentences running concurrently, may be paroled after serving 2 years under 57.06, Stats. 1933. 24 Atty. Gen. 263.

Board of control may furnish medical care to paroled prisoners under certain circumstances. 25 Atty. Gen. 488.

One who was sentenced to life imprisonment and whose sentence has been commuted to 25 years must serve at least 12½ years before becoming eligible for parole under 57.06, Stats. 1935. 26 Atty. Gen. 155.

Time prisoner is out under parole later declared invalid because of technical procedural defects is counted toward service of his sentence when such absence from prison was not due to fault or crime of prisoner. (Stats. 1937) 26 Atty. Gen. 292.

Governor has power to commute life sentence to indeterminate sentence of one to 20 years. First offender whose sentence is so commuted is eligible for parole under 57.06 (1), Stats. 1937, after serving one year. 27 Atty. Gen. 91.

Rule for determining parole eligibility with respect to both indeterminate and determinate sentences imposed to run consecutively is that prisoner must serve minimum period of incarceration required under each separate sentence before he becomes eligible for parole and, for purposes of computing service of said required minimum periods, prisoner will be deemed to be serving his second minimum period at expiration of minimum period of incarceration upon first, and so on. Where prisoner receives additional consecutive sentence while incarcerated on prior conviction, same rule applies and after serving minimum required term on original sentence he will be deemed to commence serving minimum required term on second sentence, for parole purposes. (Stats. 1939) 29 Atty. Gen. 317.

When convict has been at liberty on parole under 57.06 or 57.07, Stats. 1941, or by

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. [1943 c. 313; 1945 c. 130, 343; 1947 c. 477]

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. [57.06 (4) Stats. 1945; 1947 c. 477]

Comment of Interim Committee, 1947: therefore made a separate section. It is Old 57.06 (4) [renumbered 57.071] applies to prisoners in any penal institution and is changed to apply during any war. The report provision is simplified. (Bill 256-S)

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. [1947 c. 477]

Comment of Interim Committee, 1947: to the probation or parole period of absconders. (Bill 256-S) 57.072 is a new provision intended to provide a uniform rule for "stopping the clock" as

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. [1943 c. 93; 1945 c. 133; 1947 c. 477]

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 responsible 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. [1947 c. 477]

Comment of Interim Committee, 1947: The reason for 57.078 is quite obvious. Its constitutionality is asserted in a brief submitted to the committee by the revisor of statutes. The brief is printed in the May 1946 issue of the Wisconsin Law Review, Vol. 1946, page 231. (Bill 256-S)

reason of escape and is returned to prison with additional sentence imposed either for new offense or for escape, new sentence runs concurrently with remainder of original one only if sentencing court does not provide otherwise, but court has authority to provide that new sentence shall run consecutively with original one. Convict who violates parole has same status for most purposes as escaped prisoner. Running of his sentence is tolled from time of such violation and time spent in prison in another state or in hiding cannot be counted toward service of Wisconsin sentence under which he was paroled. 30 Atty. Gen. 218.

Parole eligibility date of person serving life term in state prison is computed, according to 57.06 (1) (a), Stats. 1943, by deducting from a term of 20 years, an amount equal to good time which the prisoner would have earned under both 53.11 (1) and 53.12 (1) had he been serving a term of 20 years. Loss of good time due to misconduct operates to postpone parole eligibility of life termers. 33 Atty. Gen. 262.

57.08 Applications for pardon; regulations. All applications for pardon of any convict serving sentence of one year or more, except for pardons to be granted within 10 days next before the time when the convict would be otherwise entitled to discharge pursuant to law, shall be made and conducted in the manner hereinafter prescribed, and according to such additional regulations as may from time to time be prescribed by the governor. [1947 c. 477]

Note: Upon facts stated it is doubtful whether or not governor's pardon would prevent deportation. 25 Atty. Gen. 479.

57.09 Notice of application. Notice of such application, stating the name of the convict, the crime of which he was convicted, the date and term of his sentence, the place of his imprisonment, and the date when the application will be filed with the governor, shall be served upon the judge and the district attorney, if they can be found, who participated in the trial of the convict, at least 3 weeks before the hearing of the application and shall be published at least once each week for 2 successive weeks before such hearing in some newspaper of general circulation in the county where the offense was committed, or, if there be no such newspaper such notice shall be posted in a conspicuous place on the door of the courthouse of such county for 3 weeks before such hearing and published once each week for 2 consecutive weeks before such hearing in some newspaper published in an adjoining county. [1947 c. 477]

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. [1947 c. 477]

Comment of Interim Committee, 1947: recommendation in murder cases, is omitted. 57.10 is restated without change of meaning. (Bill 256-S) except that old (5), requiring the judge's

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.

(3) 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. [1947 c. 477]

Comment of Interim Committee, 1947: **Note:** After prison sentence has expired 57.11 is restated without change of meaning, except that new (3) forfeits a pardon violator's good time but permits parole. (Bill 256-S) governor has no further jurisdiction over convict who was out on conditional pardon and did not live up to all conditions of that pardon. 25 Atty. Gen. 633.

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. [1947 c. 477]

Note: Prisoner in Waupun may be tried and sentenced while already serving term and governor may issue temporary permit to take prisoner out of prison for that purpose. 25 Atty. Gen. 162.

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. [1947 c. 477]

57.13 **Out-of-state parolee supervision; state compacts.** The governor of this state is authorized and directed to enter into a compact on behalf of this state with any state of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the congress of the United States of America, granted by an act entitled "An act granting the consent of congress to any two or more states to enter into agreements or compacts for co-operative effort and mutual assistance in the prevention of crime and for other purposes".

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this contract (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

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there; or

(b) 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.

(c) Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

(d) A resident of the receiving state, within the meaning of this section, 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.

(2) That 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.

(3) That the 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 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, however, 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.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all such states parties to this compact, without interference.

(5) That 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.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state.

(7) That this compact shall continue in force and remain binding upon such ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal or until finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending 6 months' notice in writing of its intention to withdraw the compact to the other states party thereto.

(8) If any section, sentence, subdivision or clause of this section is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this section.

(9) This section may be cited as the "Uniform Act for Out-of-State Parolee Supervision". [1939 c. 345; 1947 c. 477]

Note: The states adhering to the compact follows: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, this section, as of November 14, 1947, are as Florida, Idaho, Illinois, Indiana, Iowa, Kan-

sas Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

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. [1947 c. 477]

Comment of Interim Committee, 1947: 39 states have entered into the compact under the uniform act on out-of-state parolee supervision. New 57.135 is to authorize the placing of probationers and parolees in the states which have not entered into the compact, and to receive such persons from those states, on conditions equivalent to those prescribed by said act, with waiver of extradition in case of revocation of his probation or parole. (Bill 256-S)