

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

7th October, 1920.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Lee.

OFFENDERS PROBATION.

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A BILL INTITULED

AN ACT to make Provision for the Conditional Release of Offenders on Probation. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- 1. This Act may be cited as the Offenders Probation Act, 1920. Short Title.
- 2. In this Act, if not inconsistent with the context,— Interpretation.
 - “Court” means any Court having jurisdiction to try and determine any offence as herein defined, and includes a Judge of the Supreme Court or a Magistrate:
 - “Offence” means any offence punishable by imprisonment, whether on indictment or otherwise:
 - “Prisons Board” means the Prisons Board established under the Crimes Amendment Act, 1910.
- 3. (1.) For the purposes of the administration of this Act there shall be appointed an officer of the Public Service to be the Chief Probation Officer and another such officer to be the Deputy Chief Probation officer. Appointment of Probation Officers.
- (2.) There may also be appointed from time to time such other persons of either sex as may be deemed necessary to be Probation

Officers under this Act, who shall severally perform their duties in such district or districts as may be appointed in that behalf by the Minister of Justice.

(3.) The office of Probation Officer (including the Chief Probation Officer and his deputy) may be held in conjunction with any other office not deemed inconsistent therewith. 5

(4.) Probation Officers shall not as such be deemed to be permanent officers of the Public Service or subject to the provisions of the Public Service Act, 1912.

(5.) The Chief Probation Officer shall be charged with the general supervision of other Probation Officers in the performance of their duties under this Act. Subject to the direction of the Chief Probation Officer the Deputy Chief Probation Officer shall have and may exercise all the powers and functions of the Chief Probation Officer. 10

(6.) Probation Officers shall be paid out of moneys appropriated by Parliament such salaries and allowances as may be lawfully appointed in that behalf. 15

Probation Officers to have powers of constables.

4. Every Probation Officer shall in the exercise of his official duties as defined by this Act or by regulations thereunder have the powers, protection, and privileges of a constable. 20

Duties of Probation Officers.

5. (1.) It shall be the duty of a Probation Officer, when so required by the Court,—

(a.) To make inquiries as to the character and personal history of any person *accused or* convicted of an offence, and as to such other matters in relation to such person as the Court may direct, and to report fully thereon to the Court in writing; and 25

(b.) To keep a full record of such inquiries and of the results thereof. 30

(2.) It shall be the special duty of the Probation Officer, if satisfied in any case that the best interests of the public and of the offender would be served by the release of the offender on probation, to recommend to the Court that he be so released.

Evidence rebutting report of Probation Officer.

6. A copy of the report of a Probation Officer concerning any person *accused or* convicted of an offence as aforesaid shall, on the request of such person, be given to him before action is taken thereon by the Court, and he may tender evidence on any matter referred to therein. 35

Court may release offenders on probation.

7. (1.) When any person is convicted of an offence within the meaning of this Act the Court may, in its discretion, instead of sentencing him to any term of imprisonment, direct that he be released on probation in terms of this Act for any period not exceeding *five* years. 40

(2.) On the release on probation of any person as aforesaid a probationary license, in the prescribed form, shall be issued to him, setting forth the conditions subject to which he has been so released. 45

(3.) If any person released on probation under this Act fails to produce his probationary license for inspection when required so to do by a constable or a Probation Officer, he shall be deemed to have committed a breach of the conditions of that license. 50

New.

7A. It shall be the duty of the Registrar or Clerk of the Court by which any person is released on probation as aforesaid forthwith to forward to the Chief Probation Officer at Wellington, and to the local probation officer, a certified copy of the order of the Court.

Copy of order of Court to be sent to Chief Probation Officer and to local Probation Officer.

Struck out.

8. If any person released on probation under this Act has not previously been convicted of any offence within the meaning of this Act, the Court may forbid the publication of his name in any report or account of his trial or conviction or of his release on probation.

Court may prohibit publication of names of first offenders.

New.

8A. If any person accused of an offence within the meaning of this Act has not previously been convicted of any offence, the Court may prohibit the publication of his name in any report or account of his arrest, trial, or conviction, or of his release on probation.

Court may prohibit publication of names of accused persons.

9. (1.) No person shall be released on probation under this Act, except on the conditions following, namely :—

Conditions of release.

(a.) That he shall report himself in person where directed within twenty-four hours after his release on probation :

(b.) That he shall report himself in person, between the hours of nine in the morning and nine in the evening of such day or days (being not less than once in every month) as may be specified in that behalf in the order, or as may be required by the Probation Officer, and at such place or places as may be directed :

Provided that the Probation Officer may, if he thinks fit, authorize him to report in writing in lieu of in person on any occasion :

(c.) That he shall reside at an address notified to the Probation Officer, and that he shall sleep at such address unless the Probation Officer otherwise approves in writing :

(d.) That if he removes from such address he shall give to the Probation Officer at least forty-eight hours' notice of his intention so to do ; and if he removes to any place within the district of another Probation Officer, he shall within twenty-four hours after such removal notify the fact of his removal, and his address and employment, to the Probation Officer in that district :

(e.) That the nature and place of his employment shall be made known to and be approved by the Probation Officer :

(f.) That he shall not associate with any person or persons or with any class of persons with whom the Probation Officer has in writing warned him not to associate :

(g.) That he shall be of good behaviour and shall commit no offence against the law :

(h.) Such other special conditions as the Court may, in its discretion, impose.

(2.) It may be a condition of any release on probation under this Act that the person so released shall enter into recognizances to be of good behaviour, with or without sureties, and that he shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as may be directed by the Court.

(3.) Any of the conditions referred to in paragraphs (a) to (e) of subsection *one* hereof may at any time and from time to time be remitted by a Probation Officer, in his discretion, for a period not exceeding twenty-eight days at any one time.

Person on probation may be discharged on expiration of period of probation.

10. Upon the due and satisfactory fulfilment of all the conditions of his probationary license every person released on probation shall, at the expiration of the term of his probation, be deemed to be discharged in like manner as if he had been sentenced and had served the term of the sentence. 5

Person on probation may apply to Prisons Board for discharge from probation.

11. (1.) Any person released on probation under this Act may at any time after the expiration of half the term of his probation apply to the Prisons Board for the remission of any of the conditions of his probationary license or for his discharge from probation forthwith or as from some future date; and the Board, after considering the report of the Probation Officer upon such application, may make such order as it thinks proper. 10 15

(2.) In the event of an order being made by the Prisons Board for the discharge of any such person the term of probation shall be deemed to have expired on the date specified in that behalf in the order. 20

(3.) Every application under this section shall be in writing, and shall be forwarded by the Probation Officer of the district to the Chief Probation Officer for submission to the Prisons Board.

(4.) On the making of an order under this section by the Prisons Board the Chief Probation Officer shall transmit to the Registrar or Clerk of the Court in which the order of probation was made a certificate of the order made by the Prisons Board, and a memorial of such certificate shall be entered in the appropriate records of the Court. 25

Breach of probationary license.

12. (1.) Every person released on probation under this Act who commits a breach of the conditions of the probationary license commits an offence and is liable on summary conviction to imprisonment for *three* months or a fine of *ten* pounds. 30

(2.) Any term of imprisonment imposed under this section shall be in addition to and not concurrent with the term of probation or with any term of imprisonment imposed under the *next succeeding* section. 35

On breach of conditions of probationary license, offender may be imprisoned for original offence.

13. (1.) Every person who commits a breach of the conditions of his probationary license as aforesaid may be arrested without warrant by any Probation Officer or constable in any part of New Zealand, and brought before a Judge of the Supreme Court or a Magistrate as the case may require; and the Judge or Magistrate, after taking the evidence of the Probation Officer and considering the record of the facts adduced at the trial or hearing, and any other evidence that may be tendered, may, subject to the provisions of the *last preceding* section, thereupon either commit the offender to prison for any period allowed by law in respect of the offence whereof he was originally convicted or may again release him on probation. 40 45

(2.) If any such person is committed to prison, as provided in the *last preceding* subsection, the time between his release on probation and his committal to prison shall not be taken to be part of the term of his sentence. 50

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14. If any person committed for trial for any offence within the meaning of this Act is unable to obtain bail for his appearance when required, the committing Magistrate or Justices may, if he or they think fit, release him on probation instead of sending him to prison to await his trial, and in such case the provisions of this Act shall, with the necessary modifications, apply in respect of the person so released in like manner as if he had been convicted of the offence for which he was committed as aforesaid.

Person committed for trial and unable to procure bail may be released in terms of this Act.

15. Where, after the passing of this Act, any person convicted of an offence is ordered to come up for sentence when called on, or in any other case where the sentence of the Court is deferred, the person so convicted shall be subject to the foregoing provisions of this Act as if he had been released on probation under this Act, and the provisions of this Act shall, with the necessary modifications, apply accordingly.

Persons convicted of offences, but not sentenced, may be dealt with under this Act.

16. Every Probation Officer shall make to the Chief Probation Officer a monthly return in the prescribed form and manner showing the name, sex, and offence of each person released on probation within the district of the Probation Officer, together with such other particulars as may be required by regulations, and the result in each case after the term of probation has been completed.

Monthly returns to be furnished by Probation Officers.

17. (1.) Notwithstanding anything to the contrary in any Act, the following provisions shall apply with respect to persons accused of an offence within the meaning of this Act:—

Court may discharge offenders without sentence.

- (a.) A Court of summary jurisdiction, after hearing the evidence, may discharge any such person without sentencing him; or
- (b.) The Supreme Court, at any stage of the trial of any such person, may direct him to be discharged either before or after verdict.

(2.) A discharge under this section shall have all the effect of an acquittal of the accused.

18. Nothing in this Act shall be so construed as to annul, abridge, or alter any authority or jurisdiction which any Court or any Judge or Magistrate or Justices may possess under any Act other than this Act, or otherwise.

Saving of other powers.

19. The Governor-General may from time to time, by Order in Council, make regulations—

Regulations.

- (a.) Prescribing the duties of Probation Officers under this Act;
- (b.) Prescribing forms of probationary licenses under this Act;
- (c.) Prescribing forms of returns to be furnished by Probation Officers, and the manner in which such returns shall be made;
- (d.) Generally prescribing such matters and things as may be deemed necessary for the purpose of giving effect to the provisions of this Act.

20. (1.) The First Offenders' Probation Act, 1908, is hereby repealed, and with respect thereto the following provisions shall apply:—

Repeals and savings.

- (a.) All appointments, regulations, Orders in Council, orders, instruments, and generally all acts of authority which originated under the said Act and are subsisting or in

force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:

- (b.) All matters and proceedings commenced under the said Act, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act. 5
- (2.) Section four hundred and twenty-eight of the Crimes Act, 1908, is hereby amended as follows:— 10
- (a.) By adding to subsection five the words “or may release him on probation pursuant to any law for the time being in force relating to the release of offenders on probation”; and 15
- (b.) By adding to subsection six the words “or release him on probation as aforesaid.”