

1980

# c 275 Ministry of Correctional Services Act

Ontario

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## CHAPTER 275

## Ministry of Correctional Services Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Parole;
- (b) "compassionate allowance" means an allowance made under section 13 of this Act and the regulations;
- (c) "correctional institution" means a correctional institution established or continued under section 14 and does not include a training school established or authorized under the *Training Schools Act*, or a lock-up established under section 206 of the *Municipal Act*; R.S.O. 1980,  
cc. 508, 302
- (d) "Deputy Minister" means the Deputy Minister of Correctional Services;
- (e) "inmate" means a person confined in a correctional institution or otherwise detained in lawful custody pursuant to a court order;
- (f) "Minister" means the Minister of Correctional Services;
- (g) "Ministry" means the Ministry of Correctional Services;
- (h) "parole" means authority granted to an inmate to be at large during the inmate's term of imprisonment;
- (i) "parolee" means an inmate who has been granted parole under this Act;
- (j) "probation" means the disposition of a court authorizing an offender to be at large subject to conditions prescribed in a probation order or a community service order;
- (k) "probation order" includes community service order;

- (l) "probationer" means a person who is bound by a probation order or a community service order;
- (m) "regulations" means the regulations made under this Act;
- (n) "remission" means statutory or earned remission, as the case requires. 1978, c. 37, s. 1.

## PART I

### MINISTRY OF CORRECTIONAL SERVICES

Ministry  
continued

**2.**—(1) The ministry of the public service known as the Ministry of Correctional Services is continued.

Minister  
to preside

(2) The Minister shall preside over and have charge of the Ministry.

Deputy  
Minister

(3) The Lieutenant Governor in Council shall appoint a Deputy Minister of Correctional Services who shall be the deputy head of the Ministry. 1978, c. 37, s. 2.

Duties of  
Minister

**3.** The Minister is responsible for the administration of this Act and any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council. 1978, c. 37, s. 3.

Functions  
of  
Ministry

**4.** It is the function of the Ministry to supervise the detention and release of inmates, parolees and probationers and to create for such persons a social environment in which they may achieve changes in attitude by providing training, treatment and services designed to afford an inmate, parolee or probationer the opportunity for successful personal and social adjustment in the community, and, without limiting the generality of the foregoing, the objects of the Ministry are to,

- (a) provide for the secure custody of persons awaiting trial or convicted of an offence;
- (b) establish, maintain and operate correctional institutions;
- (c) provide programs and facilities designed to assist in the rehabilitation of inmates;
- (d) establish and operate a system of parole;

(e) provide probation services; and

(f) provide programs for the prevention of crime.  
1978, c. 37, s. 4.

5. Such officers and employees as are required from <sup>Staff</sup> time to time for the proper conduct of the Ministry may be appointed under the *Public Service Act*. 1978, c. 37, s. 5. <sup>R.S.O. 1980, c. 418</sup>

6. The expenditures of the Ministry shall be paid out <sup>Expenditures</sup> of moneys appropriated therefor by the Legislature. 1978, c. 37, s. 6.

7. Where, under this or any other Act, a power or duty <sup>Delegation of Minister's powers</sup> is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister, or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation. 1978, c. 37, s. 7.

8.—(1) The Minister, with the approval of the Lieutenant <sup>Agreements</sup> Governor in Council, may, on behalf of the Crown in right of Ontario, make agreements with the Crown in right of Canada or of any province of Canada or with any municipality respecting,

(a) the exchange of services provided by the Ministry;

(b) the transfer of inmates;

(c) any matter relating to the supervision and rehabilitation of an inmate, parolee or probationer; or

(d) any matter for the administration of which the Minister is responsible.

(2) The Minister, for and in the name of the Crown, <sup>Idem</sup> may enter into any contract or agreement that he considers advisable for the purpose of carrying out the provisions of this Act.

(3) The employees of the Ministry under the direction <sup>Idem</sup> of the Minister or the Deputy Minister may enter into contracts or agreements for and in the name of the Crown to carry out the responsibilities of the Ministry under this Act. 1978, c. 37, s. 8.

9. Every person providing volunteer services to the <sup>Volunteers</sup> Ministry shall serve under the direction of an employee of the Ministry. 1978, c. 37, s. 9.

Confiden-  
tiality

**10.** Every person employed in the administration of this Act, including any person making an inspection, investigation or inquiry under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inspection, investigation or inquiry and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act, the *Parole Act* (Canada), the *Penitentiary Act* (Canada), the *Prisons and Reformatories Act* (Canada) or the *Criminal Code* (Canada) or the regulations thereunder;
- (b) to the Ombudsman of Ontario or Correctional Investigator of Canada;
- (c) in statistical form if the person's name or identity is not revealed therein;
- (d) with the approval of the Minister. 1978, c. 37, s. 10.

R.S.C. 1970,  
cc. P-2, P-6,  
P-21; C-34Employee  
as  
constable

**11.** The Minister may designate, in writing, any employee of the Ministry as a constable for such purposes as the Minister may set forth in the designation. 1978, c. 37, s. 11.

Protection  
from  
personal  
liability

**12.—(1)** No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under his authority for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty or for any act of an inmate, parolee or probationer while under his custody and supervision.

Idem

R.S.O. 1980,  
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1978, c. 37, s. 12.

Com-  
passionate  
allowance

**13.** The Lieutenant Governor in Council may pay a compassionate allowance in such manner and amounts as is prescribed in the regulations as compensation to an inmate for permanent disability arising from an injury suffered while engaged in an authorized activity at a correctional in-

stitution or to any other person for injury or damage inflicted upon that person by an inmate while under the custody and supervision of the Ministry. 1978, c. 37, s. 13.

PART II

CORRECTIONAL INSTITUTIONS

**14.**—(1) The correctional institutions existing before the day this Act comes into force continue to exist as correctional institutions. Correc-tional institu-tions

(2) The Lieutenant Governor in Council may, by order, establish or discontinue a correctional institution. Idem

(3) The Lieutenant Governor in Council may, by order, designate any place as a correctional institution for the temporary custody of inmates for such period as is stated in the order and may, by order, exempt the place so designated from the application of any provision or provisions of this Act. 1978, c. 37, s. 14. Designated correc-tional insti-tutions

**15.** The Minister may designate any facility as a community resource centre for the rehabilitation and supervision of inmates, parolees or probationers in a community setting away from a correctional institution and the Minister may withdraw a designation from such a facility. 1978, c. 37, s. 15. Community resource centre

**16.**—(1) The court before which a person is convicted under an Act of the Legislature of an offence punishable by imprisonment may sentence the person to imprisonment in a correctional institution. Sentence to correc-tional insti-tution

(2) A person who has been sentenced to imprisonment in a correctional institution may be detained in any other correctional institution or in the custody of a provincial bailiff or other employee of the Ministry for the purpose of conveyance to the correctional institution to which the person was sentenced. 1978, c. 37, s. 16. Custody during conveyance

**17.** Where the Minister has reason to believe that a correctional institution is insecure or unfit for the safe custody of inmates, the Minister may, by order, direct that one or more inmates confined in the institution be conveyed to another correctional institution for such period as is stated in the order and the Minister's order is sufficient authority to convey the inmate or inmates to the correctional institution. 1978, c. 37, s. 17. Insecure institu-tions

Admissions  
and  
transfers

**18.** The Minister may designate in writing one or more employees of the Ministry to control and direct admissions to correctional institutions and who from time to time by warrant may transfer an inmate from one correctional institution to another. 1978, c. 37, s. 18.

Provincial  
bailiffs

**19.—(1)** The Minister may appoint provincial bailiffs who may convey an inmate in custody at a correctional institution to another correctional institution or penitentiary in which the inmate is lawfully directed to be confined.

Warrant

(2) A provincial bailiff may convey an inmate under the authority of a warrant issued under section 18 and such a warrant is sufficient authority for the director or superintendent to deliver the inmate named therein to the bailiff.

Powers

(3) A provincial bailiff has the powers of a constable when conveying an inmate under this section. 1978, c. 37, s. 19.

Director,  
superintendent

**20.—(1)** There shall be a director or superintendent for each correctional institution to be responsible for the administration of the institution.

Duties

(2) The director or superintendent, as the case may be, shall receive into the institution every person delivered under lawful authority for detention therein and is responsible for the custody and supervision of such person until the term of imprisonment is completed or until the person is by warrant transferred or otherwise discharged in due course of law.

Deputy  
director,  
deputy  
superintendent

(3) The Deputy Minister may designate a deputy director or deputy superintendent for each correctional institution to be responsible for the administration of the institution when the director or superintendent by reason of absence, illness or other cause, is unable to carry out his duties. 1978, c. 37, s. 20.

Use of  
correctional  
institution  
lock-up

**21.** The Minister may designate a correctional institution for use by a municipality as a lock-up and, where the Minister makes such a designation, the municipality shall pay to the Treasurer of Ontario annually such rate per day for persons in custody in the lock-up as is fixed by the Minister for the year. 1978, c. 37, s. 21.

Inspection,  
investigation

**22.** The Minister may designate any person as an inspector to make such inspection or investigation as the Minister may require in connection with the administration of this Act, and the Minister may and has just cause to dismiss any employee of the Ministry who obstructs an inspection or

investigation or withholds, destroys, conceals or refuses to furnish any information or thing required by an inspector for the purposes of the inspection or investigation. 1978, c. 37, s. 22.

**23.** The Minister may, by order, appoint a person to make an inquiry into any matter to which this Act applies as may be specified in the Minister's order and the person so appointed shall report the result of the inquiry to the Minister and, for the purposes of the inquiry, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. 1978, c. 37, s. 23.

Ministerial inquiry

R.S.O. 1980, c. 411

**24.—(1)** Where a person confined in a correctional institution requires hospital treatment that cannot be supplied at the institution, the director or superintendent shall arrange for the person to receive such treatment at a public hospital and shall report the matter to such persons as the Minister may require.

Hospital treatment

(2) Where a person confined in a correctional institution requires hospitalization in a psychiatric facility under the *Mental Health Act*, the director or superintendent shall arrange for the person to be so hospitalized and shall report the matter to such persons as the Minister may require.

Psychiatric treatment

R.S.O. 1980, c. 262

(3) Where a director or superintendent is unable to have a person hospitalized, he shall notify an employee of the Ministry designated by the Minister for the purpose and the employee shall then make arrangements to have the person hospitalized.

Idem

(4) The Minister may, by order, direct that an examination be made of an inmate by a psychiatrist or psychologist in a manner prescribed by the regulations for the purpose of assessing the emotional and mental condition of the inmate. 1978, c. 37, s. 24.

Mental examination

**25.** The Minister may establish rehabilitation programs under which inmates may be granted the privilege of continuing to work at their regular employment, obtaining new employment, attending academic institutions, or participating in any other program that the Minister may consider advisable in order that such persons may have a better opportunity for rehabilitation. 1978, c. 37, s. 25.

Rehabilitation programs



Work  
outside  
institution

**26.**—(1) The Minister may authorize an inmate or group of inmates to participate in a work project or rehabilitation program outside the correctional institution in which the inmate or inmates are confined and the Minister may authorize the absence of the inmate or group of inmates from the correctional institution for that purpose on such terms and conditions as the Minister may specify.

Idem

(2) Every inmate who is absent from a correctional institution under subsection (1) shall comply with such terms and conditions as are specified by the Minister.

Offence

(3) Every inmate who contravenes subsection (2) without lawful excuse, the proof of which lies upon him, is guilty of an offence and on conviction is liable to imprisonment for a term of not more than one year. 1978, c. 37, s. 26.

Temporary  
absence

**27.**—(1) Where, in the opinion of an officer of the Ministry, designated by the Lieutenant Governor in Council for the purpose, it is necessary or desirable that an inmate be temporarily absent from a correctional institution for medical or humanitarian reasons or to assist him in his rehabilitation, the officer may authorize the temporary absence of the inmate on such terms and conditions as he may specify.

Idem

(2) Every inmate temporarily absent under subsection (1) shall comply with such terms and conditions as are specified and shall return to the correctional institution at the expiration of the period for which he is authorized to be at large.

Offence

(3) Every inmate who contravenes subsection (2) without lawful excuse, the proof of which lies upon him, is guilty of an offence and on conviction is liable to imprisonment for a term of not more than one year. 1978, c. 37, s. 27.

Remission

**28.**—(1) Every inmate may be credited with remission of his sentence and is subject to the forfeitures of such remission equivalent to that provided for in the *Prisons and Reformatories Act* (Canada) except that a sentence shall not be reduced, by reason of remission, to less than two days.

R.S.C. 1970,  
c. P-21

Restora-  
tion of  
forfeiture  
remission

(2) Where an inmate has forfeited the whole or any part of his remission, an officer of the Ministry designated by the Lieutenant Governor in Council for the purpose may, where he is satisfied that it is in the interest of the inmate's rehabilitation, remit the whole or any part of such forfeiture.

(3) Where an inmate offers to surrender the whole or any part of his remission and where, in the opinion of the director or superintendent, it is necessary or desirable that the inmate remain confined in the correctional institution for medical or humanitarian reasons or to assist him in his rehabilitation for a period of time after the day on which the inmate is eligible to be released by reason of remission, the director or superintendent, as the case may be, may authorize the surrender of remission by the inmate.

Surrender of remission

(4) Where an inmate surrenders remission under subsection (3), the inmate shall remain confined in the correctional institution for such further period that corresponds to the amount of remission surrendered, under the same control and supervision and with the same privileges as if he were not eligible to be released at that time.

Super-  
vision,  
privileges  
continued

(5) Notwithstanding subsection (3), a director or superintendent may withdraw an authorization and an inmate may withdraw a surrender of remission at any time after the day on which the inmate was eligible for release from the correctional institution, and where such withdrawal is made in writing, the inmate shall be released from the institution forthwith. 1978, c. 37, s. 28.

With-  
drawal

**29.** Where the date of release from custody of an inmate falls upon a weekend or holiday and the director or superintendent is of the opinion that release during the weekend or holiday would inconvenience the inmate in obtaining transportation, lodging or any other service necessary for his adjustment to community life outside the correctional institution, the director or superintendent may release the inmate on the day preceding the weekend or holiday. 1978, c. 37, s. 29.

Early  
release

**30.—(1)** No officer or employee of the Ministry shall, without the approval of the Minister, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of a correctional institution or community resource centre, or have an interest, directly or indirectly, in furnishing, supplying or transporting the same or in any contract relating thereto.

Employees  
not to be  
interested  
in  
contracts

(2) No officer or employee of the Ministry shall, without the approval of the Minister, buy from or sell to any inmate, parolee or probationer anything whatsoever or take or receive to his own use or for the use of any other person, any fee or gratuity from any inmate in a correctional institution or

Employees  
not to trade,  
etc., with  
persons in  
custody

from any visitor thereto or any parolee or probationer or from any other person in respect of an inmate, parolee or probationer.

Offence

(3) Every person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1978, c. 37, s. 30.

## PART III

### PAROLE

Board of Parole

**31.** The Board of Parole is continued and shall be composed of such full-time and part-time members appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council may consider necessary. 1978, c. 37, s. 31.

Chairman

**32.**—(1) The Lieutenant Governor in Council may designate one of the members of the Board to be the chairman thereof.

Quorum

(2) Three members of the Board constitute a quorum. 1978, c. 37, s. 32.

Remuneration of part-time members

**33.** The members of the Board who are part-time members shall serve without salary but may be paid such expenses and allowances for attendance at Board meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council. 1978, c. 37, s. 33.

Granting of parole

**34.** Subject to the regulations, the Board may order the release from custody on parole of any inmate convicted of an offence under any Act of the Legislature, any Act of the Parliament of Canada or against a municipal by-law upon such conditions as the Board may determine. 1978, c. 37, s. 34.

Jurisdiction

**35.** The Board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court. 1978, c. 37, s. 35.

**36.** Where parole is granted, the term of parole shall include any portion of remission standing to the credit of the parolee when he is released. 1978, c. 37, s. 36. <sup>Remissions</sup>

**37.** When required by the Board, it is the duty of every person having information relevant to the suitability of an inmate to be paroled to submit such information to the Board in writing in the form prescribed by the regulations. 1978, c. 37, s. 37. <sup>Information re parolees</sup>

**38.** --(1) Where a member of the Board, or such other person as is designated by the Board for the purpose, believes on reasonable and probable grounds that a parolee has failed to observe any of the conditions of his parole, he may authorize the arrest and return to a correctional institution of the parolee by a warrant in writing signed by him. <sup>Apprehension</sup>

(2) Where a parolee has been returned to a correctional institution under subsection (1), the Board shall review the parole as soon as possible thereafter, and shall decide either to revoke the parole or to release the parolee and allow him to continue on parole. <sup>Review</sup>

(3) Where parole is revoked under subsection (2), the parolee shall, notwithstanding that parole was granted before the coming into force of this Act, serve the portion of his term of imprisonment, including any remission, that remained unexpired at the time parole was granted, less, <sup>Calculation of term if parole revoked</sup>

- (a) the period of time spent on parole after the 20th day of June, 1978;
- (b) the period of time during which parole was suspended and the parolee was in custody; and
- (c) any remission earned after the 20th day of June, 1978 applicable to the period during which the parole was suspended and the parolee was in custody. 1978, c. 37, s. 38.

**39.** The Board shall in each year make a report in writing to the Lieutenant Governor in Council of the history and proceedings of the Board during the twelve-month period ending on the 31st day of March of such year. 1978, c. 37, s. 39. <sup>Annual report</sup>

**40.** Nothing in this Act shall be construed as affecting or impairing or as intending or purporting to affect or impair the powers of the Governor General of Canada or <sup>Interpretation</sup>

the Lieutenant Governor of Ontario to grant a reprieve, pardon or commutation of sentence in any case. 1978, c. 37, s. 40.

## PART IV

### ADULT PROBATION

Interpre-  
tation

**41.** In this Part, "court" means a court of criminal jurisdiction. 1978, c. 37, s. 41.

Appoint-  
ment of  
probation  
officers  
R.S.O. 1980,  
c. 418

**42.—(1)** Such probation officers as are considered necessary for the purposes of this Act shall be appointed under the *Public Service Act*.

Jurisdiction

(2) Every probation officer appointed in accordance with subsection (1) is a probation officer in and for the Province of Ontario and shall perform his duties in such part of Ontario as is assigned to him from time to time by the Minister.

Idem

(3) There shall be a supervisor of probation services to be responsible throughout Ontario for the supervision and administration of probation services provided by the Ministry. 1978, c. 37, s. 42.

Duties of  
probation  
officer

**43.—(1)** It is the duty of a probation officer,

- (a) to procure and report to a court such information pertaining to a person found to have committed an offence as the court may require for the purpose of making a disposition of the case;
- (b) to make recommendations in the report referred to in clause (a) as to the disposition of the case upon being requested by the court;
- (c) to comply with any direction made to the probation officer by a court in a probation order.

Variation  
of  
direction

(2) Where a probation officer is of the opinion that compliance with a direction issued by a court is inconvenient or impossible, the probation officer may apply to the court for a variation of its direction, and the court, upon consideration of the reasons for the application, may vary its direction to the probation officer as it considers appropriate in the circumstances.

(3) In addition to the duties of a probation officer referred to in subsection (1), a probation officer shall perform such other duties as are assigned to him by the Minister. 1978, c. 37, s. 43.

Duties  
assigned  
by  
Minister

44. Where a probationer is convicted of an offence constituting a breach of condition of a probation order and,

Breach of  
probation  
order

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the probationer otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,

- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the judge presiding is the judge who made the original order, in lieu of imposing the penalty under clause (d), revoke the probation order and impose the sentence that was suspended upon the making of the probation order. 1978, c. 37, s. 44.

## PART V

### GENERAL PROVISIONS

45. The *Statutory Powers Procedure Act* does not apply to proceedings for the discipline or transfer of inmates in correctional institutions, for the grievances of inmates, or for the authorization of temporary absences for inmates or to proceedings of the Board notwithstanding anything in that Act. 1978, c. 37, s. 45.

Application of  
R.S.O. 1980,  
c. 484

Member of  
Legislative  
Assembly

**46.** Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution, community resource centre or other facility established or designated under this Act for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly unless the Minister determines that the institution, community resource centre or facility is insecure or an emergency condition exists therein. 1978, c. 37, s. 46.

Regula-  
tions

**47.** The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation, management, inspection and classification of correctional institutions;
- (b) respecting the operation, management and inspection of community resource centres;
- (c) designating correctional institutions as reformatories for the purpose of the *Prisons and Reformatories Act* (Canada);
- (d) respecting the treatment, training, employment, discipline, control, grievances and privileges of inmates;
- (e) requiring the maintenance of records and providing for their destruction;
- (f) respecting the retention and disposal of inmate property;
- (g) providing for the granting of compassionate allowances;
- (h) providing for and establishing criteria for the granting of temporary absences or parole;
- (i) establishing rules of procedure for the Board;
- (j) providing for the appointment and remuneration of Board members;
- (k) respecting the duties and powers of directors, superintendents, probation officers, parole officers, correctional officers, volunteers and any other employee of the Ministry;
- (l) providing for the assessment of inmates;

R.S.C. 1970,  
c. P-21

- (m) providing for and prescribing fees and charges to recover costs incurred by the Ministry;
- (n) prescribing forms and providing for their use. 1978, c. 37, s. 47.



