

1960

## c 195 Jails Act

Ontario

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## CHAPTER 195

## The Jails Act

## 1. In this Act,

Interpre-  
tation

- (a) "Deputy Minister" means the Deputy Minister of Reform Institutions;
- (b) "Minister" means the Minister of Reform Institutions. R.S.O. 1950, c. 188, s. 1; 1958, c. 45, s. 1.

2. The jails in Ontario are prisons of the Supreme Court. R.S.O. 1950, c. 188, s. 2.

Prisons of  
Court

3.—(1) A jail erected in a provisional judicial district under the authority of the Lieutenant Governor in Council, or a building in a provisional judicial district declared so to be by the Lieutenant Governor in Council, is a common jail of the district.

Jails in  
districts

(2) The common jails and the industrial farms in the several districts are respectively common jails and industrial farms for all the districts, and any court or magistrate may direct the committal to any of them, either for safe custody or for punishment, of any person who may be lawfully committed by such court or magistrate to the common jail or industrial farm of the district in which the order for committal is made. R.S.O. 1950, c. 188, s. 3.

Jails and  
industrial  
farms com-  
mon for all  
districts

4. A person imprisoned in a lock-up in a district may be transferred by order of the Deputy Minister to the common jail in the district town of the district. R.S.O. 1950, c. 188, s. 4; 1958, c. 45, s. 2.

Transfer  
from lock-  
up to com-  
mon jail

5. The Lieutenant Governor may appoint a jailer of a common jail in a provisional judicial district who shall perform all the duties and be under and subject to all the liabilities that the jailers of the common jails in counties perform and are subject to, and shall give such security for the due performance of the duties of his office as the Lieutenant Governor in Council prescribes, and every such jailer shall be paid out of money appropriated by the Legislature for that purpose such sums of money annually as the Lieutenant Governor in Council thinks reasonable for the services performed. R.S.O. 1950, c. 188, s. 5.

Appoint-  
ment of  
jailer

Plans for  
jails

**6.** Every jail shall be constructed and built according to a plan approved by the Minister and sanctioned by the Lieutenant Governor in Council, and no jail built after the 4th day of March, 1868, in a county, otherwise than according to a plan so approved and sanctioned, or which does not, after its completion, receive the approval of the Minister, shall be deemed to be in law the jail of such county. R.S.O. 1950, c. 188, s. 7; 1958, c. 45, s. 4.

Consideration of  
plans

**7.** The Deputy Minister, before deciding upon the plan of a jail most proper to be adopted, or approving a jail after its completion, shall take into consideration,

- (a) the nature and extent of the ground upon which the jail has been or is to be built;
- (b) its relative situation to any street and buildings, and to any river or other water supply;
- (c) its comparative elevation and capability of being drained;
- (d) the material of which it has been or is to be constructed;
- (e) the necessity of guarding against cold and dampness, and of providing properly for ventilation and light for each corridor;
- (f) the proper classification of prisoners, having regard to age, sex, and cause of confinement;
- (g) the best means of ensuring their safe custody without the necessity of resorting to severe treatment;
- (h) the due accommodation of the jailer and turnkeys, so that they may have ready access to the prisoners and conveniently oversee them;
- (i) the prevention of any intercourse between prisoners and persons outside the walls of the building;
- (j) the prevention of nuisances from whatever cause, and the necessity of providing proper and sufficient sanitary conveniences;
- (k) the combining provision, as well for the reformation of convicts, as far as may be practicable, as for their employment, in order that the jail may really serve as a place of correction;
- (l) the admission of prisoners to air and exercise outside the walls of the building; and
- (m) the enclosure of the yard and premises with a secure wall. R.S.O. 1950, c. 188, s. 8; 1958, c. 45, s. 5.

8.—(1) If the Deputy Minister at any time finds that the common jail in any county or city is out of repair or is unsafe or unfit for the confinement of prisoners, or is not constructed or maintained in conformity with section 7, or does not afford sufficient space or room for the number of prisoners usually confined therein, he shall forthwith report the fact to the Lieutenant Governor, and shall at the same time furnish a copy of his report to the council of such county or city. R.S.O. 1950, c. 188, s. 9 (1); 1958, c. 45, s. 6 (1). Unfit jails

(2) The council shall thereupon appoint a special committee to confer with the Deputy Minister and to arrange with him as to the repairs, alterations or additions that are deemed necessary to remedy the defects reported upon, and to report the same to the council. R.S.O. 1950, c. 188, s. 9 (2); 1958, c. 45, s. 6 (2). Conference with Deputy Minister

(3) If the Deputy Minister and the committee do not agree upon what repairs, alterations and additions are necessary, the matter shall be referred to the Lieutenant Governor in Council to decide, and his decision shall be reported to the council. R.S.O. 1950, c. 188, s. 9 (3); 1958, c. 45, s. 6 (3). Case of disagreement

(4) It is the duty of the council, by by-law, to provide for the making of the repairs, alterations or additions so arranged for and reported or decided upon, and for the appropriation of any money that may be required for that purpose, and in default thereof the council may be proceeded against at the instance and prosecution either of the Attorney General or of any private prosecutor, to compel the making by the council of such repairs, alterations or additions. R.S.O. 1950, c. 188, s. 9 (4). By-law for repairs

(5) The Deputy Minister and the special committee of the county or city council shall, in arranging the particulars of the necessary repairs, alterations or additions, have due regard to the plan of the jail and to the ability of the council to meet the expense thereof, and in the case of alterations or additions, shall make the same as few and inexpensive as, in their opinion, the requirements of this Act and of the public service will admit. R.S.O. 1950, c. 188, s. 9 (5); 1958, c. 45, s. 6 (4). Repairs to be proportioned to circumstances and resources of council

9. The jailer shall furnish to the sheriff at the opening of every assize court a calendar in the form prescribed by the Minister of the prisoners then in his custody and shall have ready for delivery to the sheriff such of the prisoners in his custody as may be required at the assize court, the court of general sessions of the peace or the county or district court judges' criminal court. 1959, c. 46, s. 1. Duties of jailer re assize

10.—(1) Where the number of prisoners confined in the jail of a county during two years does not exceed on an aver- Transfer of prisoners



age six *per diem* for either of such years and the Deputy Minister reports to the Lieutenant Governor that it would be proper that an agreement be made for keeping the prisoners of such county in the jail of an adjoining county, the council of the first-mentioned county may agree with the council of the adjoining county for keeping and maintaining such prisoners in the jail of the adjoining county. R.S.O. 1950, c. 188, s. 11 (1); 1958, c. 45, s. 8.

How  
average  
reckoned

(2) The two years shall be the two years ending on the 31st day of December immediately preceding the making of the agreement. R.S.O. 1950, c. 188, s. 11 (2).

Sanction by  
Lieutenant  
Governor  
in Council

(3) If such agreement is made, the Lieutenant Governor in Council may sanction it, in which case he shall issue a proclamation declaring that from a day to be named therein the jail of the adjoining county shall also be the common jail of the first-mentioned county, and it shall so continue from that day until the Lieutenant-Governor in Council issues a proclamation terminating the agreement. R.S.O. 1950, c. 188, s. 12.

Prerequi-  
sites to  
sanction

(4) No such sanction shall be given until the Deputy Minister has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial in the first-mentioned county or in custody prior to their committal for trial or pending their removal to the county jail, reformatory or penitentiary has been provided in or near the county town of the first-mentioned county. R.S.O. 1950, c. 188, s. 13 (1); 1958, c. 45, s. 9 (1).

Magistrate  
may commit  
to jail of  
adjoining  
county

(5) Nothing in this section prevents the imprisonment of any such prisoner in the jail of the adjoining county if the committing magistrate deems it expedient that he should be imprisoned therein. R.S.O. 1950, c. 188, s. 13 (2); 1958, c. 45, s. 9 (2).

Lock-up

(6) The lock-up may be either the building theretofore used as the jail of the first-mentioned county or part thereof or some other building approved by the Deputy Minister. R.S.O. 1950, c. 188, s. 13 (3); 1958, c. 45, s. 9 (3).

Duty of  
county  
council as  
to lock-up

(7) It is the duty of the county council to see that the lock-up is always kept in a proper condition for the reception of prisoners. R.S.O. 1950, c. 188, s. 15; 1958, c. 45, s. 10.

Expenses of  
transferring  
prisoners

(8) The county at whose instance such first-mentioned proclamation has been issued shall bear all expenses incurred in respect of the conveying of prisoners to or from the jail of the adjoining county in excess of those that would have been incurred had the prisoners been detained in a jail in the county town of the first-mentioned county. R.S.O. 1950, c. 188, s. 14.

(9) An agreement made under this section shall continue, subject to any variation of the terms thereof by mutual agreement, for five years, and shall after such five years continue until varied by agreement, or if the councils are unable to agree, until varied by arbitration under *The Municipal Act*, but either council may at any time apply to the Lieutenant-Governor in Council to terminate the agreement.

Term for which agreement to be made

R.S.O. 1960, o. 249

(10) The Lieutenant Governor in Council may terminate the agreement upon the application of either of the councils interested or of his own motion from a day to be named in his proclamation in that behalf and from such day the jail of the adjoining county ceases to be the common jail of the first-mentioned county. R.S.O. 1950, c. 188, s. 16.

How terminated

(11) The issue of a proclamation under this section is conclusive evidence that the events have happened and that the conditions exist which authorize the issue thereof. R.S.O. 1950, c. 188, s. 17.

Effect of proclamation as evidence

**11.**—(1) The Lieutenant Governor in Council has, with respect to persons in custody undergoing imprisonment for offences against any law of Ontario or a by-law, or charged with any such offence, or for whose arrest a warrant has been issued, all the powers conferred upon him in respect of offences against the laws of Canada by the *Prisons and Reformatories Act* (Canada), the provisions of which apply *mutatis mutandis*. R.S.O. 1950, c. 188, s. 18 (1).

Transfer of prisoners

R.S.C. 1952, c. 217

(2) The cost of the maintenance of a prisoner transferred under this section shall be paid and borne by the county from the jail of which he is transferred, and in case of dispute as to the amount that is payable, shall be determined by the Deputy Minister. R.S.O. 1950, c. 188, s. 18 (2); 1958, c. 45, s. 11 (1).

Cost of maintenance

**12.** A person sentenced to imprisonment in a reformatory may be detained in the common jail until the proper officer requires the delivery to him of such person for conveyance to the reformatory in which he or she is to be imprisoned. R.S.O. 1950, c. 188, s. 19.

Detention in jail pending removal to reformatory

**13.**—(1) The Lieutenant Governor in Council may appoint provincial bailiffs, male or female, who shall be employed for the purpose of conveying any person confined in any of the common jails of Ontario or other place of custody and liable to be removed from there to a provincial institution in which the person is lawfully directed to be confined, and also in the performance of such other duties as are assigned to them by the Chief Inspector of the Department of Reform Institutions. R.S.O. 1950, c. 188, s. 20 (1); 1958, c. 45, s. 12 (1).

Appointment of bailiffs



**Temporary  
bailiffs**

(2) The Deputy Minister may authorize the employment of a suitable person to act as a temporary bailiff, and a temporary bailiff has the same powers and may perform the same duties as a provincial bailiff and shall be paid for such temporary services as the Minister directs. R.S.O. 1950, c. 188, s. 20 (2); 1958, c. 45, s. 12 (2).

**Warrant  
for removal**

(3) Such a bailiff may convey a person from the jail or other place of custody to such provincial institution without further authority than the warrant of the Deputy Minister, which shall be issued in duplicate, and the person shall be received into the institution and there detained subject to the rules, regulations and discipline thereof until discharged by due course of law or removed under competent authority. R.S.O. 1950, c. 188, s. 21; 1958, c. 45, s. 13.

**Powers of  
bailiffs**

(4) The bailiff, in the conveyance of the person to a provincial institution, may secure and convey him in and through any county or district through which the bailiff may have to pass, and until the person has been delivered to and placed in the institution, the bailiff has, in every part of Ontario, the same power and authority over and with regard to him, and to command the assistance of any person to prevent his escape, and to recapture him in case of an escape, as the sheriff of the county or district in which he was convicted or confined would have had in conveying him from one part to another of that county or district. R.S.O. 1950, c. 188, s. 22.

**Bailiffs to  
give and  
take receipts  
for persons  
in their  
charge**

(5) The bailiff shall give to the jailer one of the duplicates of the warrant and a receipt for every person delivered to him, and shall thereupon with all convenient speed convey and deliver up the person with the other duplicate to the superintendent or other official head of the provincial institution, who shall give his receipt in writing for every person so received by him to the bailiff, and every such person shall be kept in the institution until discharged by due course of law or removed under competent authority. R.S.O. 1950, c. 188, s. 23; 1958, c. 45, s. 14.

**Employ-  
ment of  
prisoners  
outside jail**

**14.**—(1) The Lieutenant Governor in Council may direct or authorize the employment beyond the limits of the common jail upon any work or duty, the nature of which is specified in the order in council, of any person who is sentenced to be imprisoned with hard labour in the jail under any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police. R.S.O. 1950, c. 188, s. 25.

**Discipline of  
jail to be  
observed  
during em-  
ployment**

(2) Such a prisoner shall, during such employment, be subject to the rules, regulations and discipline of the jail. R.S.O. 1950, c. 188, s. 26, *amended*.

(3) No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. R.S.O. 1950, c. 188, s. 27. <sup>Supervision</sup>

(4) Every street, highway or public thoroughfare on which prisoners pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be deemed to be a part of the jail for the purposes of this Act. R.S.O. 1950, c. 188, s. 28. <sup>What to be deemed part of jail</sup>

**15.**—(1) An account shall be kept of the amount earned by the labour of prisoners imprisoned in a common jail, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the prisoners. <sup>Division of earnings of prisoners</sup>

(2) The division shall be made by such officer, or other person, and at such time as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 188, s. 29. <sup>How and when made</sup>

(3) In the case of a county in which a city or separated town is situate, the share of such earnings that the city or town is entitled to receive from the county shall, in case the councils are unable to agree, be determined annually by arbitration under *The Municipal Act*. R.S.O. 1950, c. 188, s. 30. <sup>Division of earnings between county and city or town</sup>  
<sup>R.S.O. 1960, c. 249</sup>

**16.**—(1) No jailer, keeper or other officer of a jail, lock-up or industrial farm shall sell, lend, use, or give away, or knowingly permit or suffer any intoxicating liquor within the meaning of *The Liquor Control Act* to be sold, used, lent or given away to any prisoner or to any person committed to an industrial farm, or to be brought into it, other than as is prescribed by or given by the direction of a legally qualified medical practitioner. <sup>No intoxicating liquor to be given to prisoners by officers</sup>  
<sup>R.S.O. 1960 c. 217</sup>

(2) No person shall give, convey or supply to any prisoner confined in a jail or industrial farm, any intoxicating liquor within the meaning of *The Liquor Control Act* otherwise than as authorized by this Act. <sup>by any person</sup>

(3) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of \$100. <sup>Offence</sup>

(4) For a second offence of the like nature by such jailer, keeper or other officer, he shall also forfeit his office. R.S.O. 1950, c. 188, s. 31. <sup>Second offence by officer</sup>

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