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c 291 Probation Act

Ontario

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CHAPTER 291

The Probation Act

1. The Lieutenant-Governor in Council may appoint a probation officer and such assistants to such officer as may be deemed necessary for any county, including any city or separated town in such county, or for any district. Appointment. R.S.O. 1937, c. 399, s. 1.

2.—(1) For the purpose of giving effect to section 1081 of the *Criminal Code* (Canada) and amendments thereto, it shall be the duty of the probation officer and he shall have power with regard to any person convicted at a sittings of the Supreme Court for the trial of criminal cases or at the general sessions of the peace, or the county judges' criminal court, or at the court of any magistrate or justice of the peace or by a juvenile court in the county or district, Powers and duties. R.S.C. 1927, c. 36.

- (a) to procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court may require;
- (b) to supervise under the direction of the court before whom such person was convicted the employment, conduct and general condition under which the person so convicted may be placed during the period of probation imposed by the court;
- (c) to see that any person so convicted reports from time to time as the court may prescribe, and to report to the court if the person so convicted is or is not carrying out the terms on which sentence is suspended, and to see that such person, in case of such default, is brought again before the court for sentence;
- (d) to see that any person so released on suspended sentence duly makes restitution and reparation;
- (e) to see that any person so convicted while on probation duly carries out any order of the court requiring him to make due provision for the support of his wife and any other dependants for which he may be liable;
- (f) to do all such other things as may be directed by the court or by the regulations made under this Act.

To be
ex officio
provincial
constable.

(2) In the performance and exercise of the powers imposed by or under subsection 1, the probation officer and any assistant of the probation officer shall be *ex officio* a provincial police constable. R.S.O. 1937, c. 399, s. 2.

To be
officer of
court and
under judge,
etc.

3. For the purposes of this Act the probation officer and his assistants shall be deemed to be officers of every such court in the county or district for which they are appointed and shall be amenable to, and shall carry out the directions of the judge, magistrate or justice presiding in such court. R.S.O. 1937, c. 399, s. 3.

County to
provide
accommoda-
tion.

4.—(1) It shall be the duty of the council of any county for which a probation officer is appointed, to provide such office accommodation for the probation officer and his assistants as the regulations may require.

When city
to be
responsible.

(2) Where under any agreement or award or under any general or special Act it is the duty of the corporation of a city to provide accommodation for the courts and officers engaged in the administration of justice in the county, the corporation of the city shall provide such office accommodation for the probation officer and his assistants. R.S.O. 1937, c. 399, s. 4.

Expenses
of office,
how borne.

5. The salary or other remuneration of a probation officer and his assistants and the expenses of providing clerical or other assistance and any other necessary expenses of his office shall be payable out of the Consolidated Revenue Fund and all accounts and vouchers in connection with such office shall be examined and audited by the Auditor of Criminal Justice Accounts whose audit shall be final. R.S.O. 1937, c. 399, s. 5.

Regulations.

6. The Lieutenant-Governor in Council may make regulations which may be general or special in their application,

- (a) respecting the qualifications, duties and powers of probation officers and their assistants;
- (b) respecting the office and other accommodation and clerical and other assistance to be provided for a probation officer;
- (c) prescribing the reports and returns to be made by probation officers;
- (d) fixing the salary or other remuneration to be paid to a probation officer and his assistants;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 399, s. 6.

7.—(1) Where a person is charged with having committed an offence against any statute of Ontario the justice, magistrate or court before which such person is brought for trial may make such inquiries as he or it deems proper as to the character and reputation of the person charged and as to whether or not he has been previously convicted of any offence under the *Criminal Code* (Canada) or against a statute of Ontario, and if it appears that, regard being had to the age, character and antecedents of such person, that it is expedient that such person be released on probation of good conduct, such justice, magistrate or court may release the person charged under one or more of the following directions and conditions:

- (a) that such person enter into a recognizance with or without sureties to keep the peace, and be of good behaviour; Probation on certain conditions: R.S.C. 1927, c. 36. recog-nizance;
- (b) that such person be placed upon probation for such period and under such circumstances as the justice, magistrate or court before which he is brought may prescribe; probation;
- (c) that such person shall report from time to time during such period of probation to any probation officer that the justice, magistrate or court may designate; report to probation officer;
- (d) that such person shall be under the supervision and direction of such probation officer during the period of probation, and shall obey and carry out the instructions and directions of the probation officer; supervision and direc-tion;
- (e) that such person pay the costs of the prosecution or some portion of the same within such period and by such instalments as the justice, magistrate or court before which he is brought may direct; payment of costs;
- (f) that such person make restitution and reparation to any person or persons aggrieved or injured by the offence charged, for any actual damage or loss thereby caused; restitution;
- (g) that such person while on probation be ordered to provide for the support of his wife and any other dependant or dependants for which he is liable; support of family;
- (h) that such person perform and carry out any other direction and condition that the justice, magistrate or court before which he is brought may prescribe and deem proper to impose. other conditions and directions.
- (2) The justice, magistrate or court before which such person is brought, before directing the release or discharge of any such person, shall be satisfied that such person or his surety has Place of abode of person charged to be in jurisdiction.

a fixed place of abode or regular occupation in the county or place for which the justice, magistrate or court acts, or in which such person is likely to live during the period named for the observance of the conditions.

Failure to
carry out
conditions.

(3) If any justice, magistrate or court having power to deal with such person in respect of the charge against him, or if any justice, magistrate or court is satisfied by information on oath that such person has failed to observe any of the conditions of his recognizance, or has failed to observe and perform any direction or condition made in reference to probation or otherwise, a new information may be issued against such person for the original offence charged, and in addition an information may also be issued against such person for a breach of any of the directions and conditions so imposed.

Penalty.

(4) Upon summary conviction of a breach of any of the directions and conditions so made, such person may in addition to any penalty that may be imposed for the original offence, be liable to a penalty of not more than \$50.

When con-
currence of
Crown
attorney
required.

(5) Where the justice, magistrate or court finds that there has been a previous conviction against the person charged, the justice, magistrate or court may exercise the powers conferred by subsection 1, subject to the approval and concurrence of the Crown attorney. R.S.O. 1937, c. 399, s. 7.
