

prior to the expiration of any period of probation the Attorney General or the District Attorney has reasonable cause to believe that a person charged with an offense against the State of Alaska may be presently insane or otherwise so mentally incompetent as to be unable to understand the proceedings against him or properly to assist in his own defense, he shall file a motion for a judicial determination of such mental competency of the accused, setting forth the ground for such belief with the trial court in which proceedings are pending. Upon such a motion or upon a similar motion in behalf of the accused, or upon its own motion, the court shall cause the accused, whether or not previously admitted to bail, to be examined as to his mental condition by at least one qualified psychiatrist, who shall report to the court. For the purpose of the examination the court may order the accused committed for such reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. If the report of the psychiatrist indicates a state of present insanity or such mental incompetency in the accused, the court shall hold a hearing, upon due notice, at which evidence as to the mental condition of the accused may be submitted, including that of the reporting

psychiatrist, and make a finding with respect thereto. No statement made by the accused in the course of any examination into his sanity or mental competency provided for by this section, whether the examination shall be with or without the consent of the accused, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding. A finding by the judge that the accused is mentally competent to stand trial shall in no way prejudice the accused in a plea of insanity as a defense to the crime charged; such finding shall not be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

Sec. 2. Whenever the trial court shall determine in accordance with Section 1 of this Act that an accused is or was mentally incompetent, the court may commit the accused to the custody of the Commissioner of Health and Welfare or his authorized representative, until the accused shall be mentally competent to stand trial or until the pending charges against him are disposed of according to law.

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 11, 1960

CHAPTER 105

AN ACT

Providing for a probation system; amending Sec. 66-16-31, ACLA 1949, as repealed and re-enacted by Sec. 1, Ch. 195, SLA 1955 and as amended by Sec. 1, Ch. 37, SLA 1957; and providing for an effective date.

(C.S.H.B. 318)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Definitions. When used in this Act, unless the context otherwise requires:

(a) "Probation" is a procedure under which a defendant, found guilty of a crime upon verdict or plea, is released by the Superior Court subject to conditions imposed by the court and subject to the supervision of the probation service as hereinafter provided.

(b) "Commissioner" means the Commissioner of the Department of Health and Welfare of the State of Alaska, or his designee.

Sec. 2. Duties of the Commissioner. The Commissioner, in addition to other duties imposed by law, shall be charged as follows with those duties and responsibilities necessary to the administration of a probation system and the enforcement of the probation laws in the Superior Court.

(a) He shall appoint and make available to the Superior Court, where necessary, qualified probation officers and assistants.

(b) He shall fix probation officers' and assistants' salaries, assign them to the various judicial districts, and shall provide for their necessary expenses including clerical services and travel. He may assign to all probation officers and personnel any duties concerning the administration of the parole system as provided in the Parole Administration Act.

Sec. 3. Probation Officers as Officers of Court. All probation officers made available to the courts under this Act shall be officers of the Superior Court and subject to the authority of the Superior Court.

The appointment of a probation officer shall be entered on the journal of the court in the judicial district where the probation officer shall be assigned, and one copy of the journal entry sent to the Administrative Director of Courts.

Sec. 4. Duties of Probation Officers. The probation officer shall furnish to each probationer under his supervision a written statement of the conditions of probation and shall instruct him regarding the same.

He shall keep informed concerning the conduct and condition of each probationer under his supervision and shall report thereon to the court placing such person on probation.

He shall use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition.

He shall keep records of his work; shall keep accurate and complete accounts of all moneys collected from persons under his supervision; shall give receipts therefor, and shall make at least monthly returns thereof; shall make such reports to the court and the Commissioner as the court and the Commissioner may at any time require; and shall perform such other duties as the court may direct.

Each probation officer shall perform such duties with respect to persons on parole as the Commissioner shall request,

and in such service shall be termed a parole officer.

Sec. 5. Report of Probation Officer; Arrest of Probationer. When directed by the court, the probation officer shall report to the court, with a statement of the conduct of the probationer while on probation. The court may thereupon discharge the probationer from further supervision and may terminate the proceedings against him, or may extend the probation, as shall seem advisable.

Whenever during the period of his probation, a probationer goes from the judicial district in which he is being supervised to another judicial district, jurisdiction over him may be transferred, in the discretion of the court, from the court for the district from which he goes to the court for the other district, with the concurrence of the latter court. Thereupon the court for the district to which jurisdiction is transferred shall have all power with respect to the probationer that was previously possessed by the court for the district from which the transfer is made, except that the period of probation shall not be changed without the consent of the sentencing court. This process under the same conditions may be repeated whenever during the period of his probation the probationer goes from the district in which he is being supervised to another district.

At any time within the probation period, the probation officer may for cause arrest the probationer whenever found, without a warrant. At any time within the probation period, or within the maximum probation period permitted by Ch. 37, SLA 1957, the court for the district in which the probationer is being supervised or if he is no longer under supervision, the court for the district in which he was last under supervision, may issue a warrant for his arrest for violation of probation occurring during the probation period. Such warrant may be executed in any district by the probation officer or any peace officer in the district in which the warrant was issued or of any district in which the probationer is found. If the probationer shall be arrested in any district other than that in which he was last supervised, he shall be returned to the district in which the warrant was issued, unless jurisdiction over him is transferred as above

provided to the district in which he is found, and in that case he shall be detained pending further proceedings in such district.

As speedily as possible after arrest the probationer shall be taken before the court for the district having jurisdiction over him. Thereupon the court may revoke the probation and require him to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

Sec. 6. Amendment. Section 66-16-31, ACLA 1949, as repealed and re-enacted by Sec. 1, Ch. 195, SLA 1955 and as amended by Sec. 1, Ch. 37, SLA 1957 is amended to read as follows:

Sec. 66-16-31. Suspension of Sentence and Probation. Upon entering a judgment of conviction of any offense not punishable by life imprisonment, or at any time within sixty (60) days from the date of entry of such judgment of conviction, the Superior Court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence and place the defendant on probation for such period and upon such terms and conditions as the court deems best.

Upon entering a judgment of conviction of any offense not punishable by life imprisonment, if the maximum punishment provided for such offense is more than six months, the Superior Court when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may impose a sentence in excess of six months and provide that the defendant be confined in a jail-type institution or a treatment institution for a period not exceeding six months and that the execution of the

remainder of the sentence be suspended and the defendant placed on probation for such period and upon such terms and conditions as the court deems best.

Probation may be granted whether the offense is punishable by fine or imprisonment or both. If an offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

The court may revoke or modify any condition of probation, or may change the period of probation.

The period of probation, together with any extension thereof, shall not exceed five years.

While on probation and among the conditions thereof, the defendant may be required:

- (a) to pay a fine in one or several sums;
- (b) to make restitution or reparation to aggrieved parties for actual damages or loss caused by the offense for which conviction was had; and
- (c) to provide for the support of any persons, for whose support he is legally responsible.

The defendant's liability for any fine or other punishment imposed as to which probation is granted, shall be fully discharged by the fulfillment of the terms and conditions of probation.

Sec. 7. Short Title. This Act may be cited as the "Probation Administration Act."

Sec. 8. Effective Date. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.