

## CHAPTER 125.

[S. S. B. 254.]

## PROBATION.

AN ACT relating to crimes, the granting and regulating of probation, creating probation officers, permitting suspension of imposition and execution of sentences, dismissal of information or indictment in certain cases; amending chapter 114 of the Laws of 1935, being sections 10249-1 to 10249-8, both inclusive, of Remington's Revised Statutes; repealing section 6 of chapter 114 of the Laws of 1935, being section 10249-6 of Remington's Revised Statutes; and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. That chapter 114 of the Laws of 1935, the same being sections 10249-1 to 10249-8, both inclusive, of Remington's Revised Statutes, be amended by adding thereto the following sections immediately after section 5 thereof:

Adds §§ 5a,  
5b, 5c, 5d, 5e,  
5f, to ch. 114,  
Laws 1935.

Section 5-a. After conviction by plea or verdict of guilty of a felony offense, the court upon application or its own motion, may summarily grant or deny probation, or at a subsequent time fixed may hear and determine, in the presence of the defendant, the matter of probation of the defendant, and the conditions of such probation, if granted: *Provided, however*, Probation shall not be granted to any person who is not eligible under the law to receive a suspended sentence. The court may, in its discretion, prior to the hearing on the granting of probation refer the matter to the Board of Prison Terms and Paroles or such officers as the Board may designate for investigation and report to the court at a specified time, upon the circumstances surrounding the crime and concerning the defendant, his prior record, and his family surroundings and environment. In case there are no regularly employed parole officers working under the supervision of the Board of Prison Terms and Paroles in the

Court  
may grant  
or deny  
probation.

county or counties wherein the defendant is convicted by plea or verdict of guilty, the court may, in its discretion, refer the matter to the prosecuting attorney or sheriff of the county for investigation and report.

Court may suspend imposing of sentence.

Section 5-b. The court in granting probation, may suspend the imposing or the execution of the sentence and may direct that such suspension may continue for such period of time, not exceeding the maximum term of sentence, except as hereinafter set forth and upon such terms and conditions as it shall determine.

Imprisonment or fine.

The court in the order granting probation and as a condition thereof, may in its discretion imprison the defendant in the county jail for a period not exceeding one (1) year or may fine defendant any sum not exceeding one thousand dollars (\$1,000) plus the costs of the action, and may in connection with such probation impose both imprisonment in the county jail and fine and court costs. The court may also require the defendant to make full or partial restitution and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the Board of Prison Terms and Paroles or such officer as the Board may designate and as a condition of said probation to follow implicitly the instructions of the Board of Prison Terms and Paroles. The Board of Prison Terms and Paroles will promulgate rules and regulations for the conduct of such person during the term of his probation.

Restitution.

Probation revoked for violation of terms.

Section 5-c. Whenever the state parole officer or other officer under whose supervision the probationer has been placed shall have reason to believe such probationer is violating the terms of his probation, or engaging in criminal practices, or is abandoned to improper associates, or living a vicious

life, he shall cause the probationer to be brought before the court wherein the probation was granted. For this purpose any peace officer or state parole officer may re-arrest any such person without warrant or other process. The court may thereupon in its discretion without notice revoke and terminate such probation. In the event the judgment has been pronounced by the court and the execution thereof suspended, the court may revoke such suspension, whereupon the judgment shall be in full force and effect, and the defendant shall be delivered to the sheriff to be transported to the penitentiary or reformatory as the case may be. If the judgment has not been pronounced, the court shall pronounce judgment after such revocation of probation and the defendant shall be delivered to the sheriff to be transported to the penitentiary or reformatory, in accordance with the sentence imposed.

Section 5-d. The court shall have authority at any time during the course of probation to (1) revoke, modify, or change its order of suspension of imposition or execution of sentence; (2) it may at any time, when the ends of justice will be subserved thereby, and when the reformation of the probationer shall warrant it, terminate the period of probation, and discharge the person so held.

Authority of court.

Section 5-e. Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, may at any time prior to the expiration of the maximum period of punishment for the offense for which he has been convicted be permitted in the discretion of the court to withdraw his plea of guilty, and enter a plea of not guilty, or if he has been convicted after a plea of guilty, the court may in its discretion set aside the verdict of guilty; and in either case, the court may thereupon dismiss

Release from penalties and disabilities.

the information or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted. The probationer shall be informed of this right in his probation papers: *Provided*, That in any subsequent prosecution, for any other offense, such prior conviction may be pleaded and proved, and shall have the same effect as if probation had not been granted, or the information or indictment dismissed.

State parole  
and  
probation  
officers.

Section 5-f. In order to carry out the provisions of this act the state parole officers working under the supervision of the Board of Prison Terms and Paroles shall be known as state parole and probation officers.

Repeals § 6,  
ch. 114,  
Laws 1935.

SEC. 2. That section 6 of chapter 114 of the Laws of 1935, the same being section 10249-6 of Remington's Revised Statutes, be and the same is hereby repealed.

Partial  
invalidity.

SEC. 3. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this act as a whole, or of any section, provision or part thereof not adjudged invalid or unconstitutional.

Effective  
date.

SEC. 4. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect April 1, 1939.

Passed the Senate February 21, 1939.

Passed the House March 5, 1939.

Approved by the Governor March 15, 1939.