

SENATE No. 520

The Commonwealth of Massachusetts

REPORT OF THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY OF THE LAWS RELATING TO PARDONS AND PAROLES AND TO DEFECTIVE DELINQUENTS.

MARCH 27, 1947.

To the Honorable Senate and House of Representatives:

Pursuant to chapter 21 of the Resolves of 1946, and continued under chapter 85 of the Resolves of 1946, "Resolve providing for Investigation and Study by a Special Unpaid Commission of the Laws relating to Pardons and Paroles and to Defective Delinquents," your Commission reports two bills, one, "An Act abolishing the Existing Parole Board and creating a New Parole Board and defining its Powers and Duties," amending chapter 27 of the General Laws by striking out section 5 as most recently amended by section 1 of chapter 399 of the Acts of 1937, and providing in said bill for a new parole board consisting of five members, one of whom shall be a woman. Appointments to said board shall be by the Governor, with the advice and consent of the Council, for periods of five years. Provision is made for a salary of \$7,000 for the chairman and \$6,000 for each of the other members. Your Commission feels that by making the parole board a full-time board, salaries com-

mensurate with the duties and responsibilities should be paid, and that the salary should be sufficient to enable the proper type of person, who is qualified, to give full time and attention to the duties of the parole board. Your Commission held a number of hearings and considered the report of Warden Lewis E. Lawes, dated March 25, 1946, and the recommendations contained therein, discussed matters contained in the final report of the Pardon and Parole Commission established under the Resolves of 1939, chapters 12 and 37, printed as House Document No. 1000 of 1940, and the report of the Survey of Defective Delinquents and related problems, made by the Department of Correction during May, 1945, and, having heard all members of the Parole Board and the heads of all correctional institutions of the Commonwealth, the Commission feels that all persons interviewed agree that there should be established a full-time parole board, and that your Commission has accordingly prepared a bill providing for a full-time parole board.

Your Commission has held many hearings since its inception. We have had the assistance and advice of the Parole Board; of the Commissioner of Corrections and his department; of the Commissioner of Mental Health and members of his staff; and the assistance of several eminent psychiatrists. Your Commission has inquired into the laws of many other States and into the federal law. We feel that a constant change in the law, to keep pace with changes in social life, is demanded and would recommend the continuation of this Commission in this particular field for the continued study of those within our borders who are or may become potentially dangerous to the citizens at large. A close perusal of case histories, with reference to a condition that is becoming appalling today, indicates that there is little, if any, hope at the present time of reformation of the person who has become a menace to society by reason of his instability with reference to biological traits. Generally speaking, feeble-minded women are, potentially, prostitutes, and feeble-

minded men are, potentially, six offenders and potential users of brute force. However, your Commission has found that we are dealing today with the border-line case which cannot be classified as feeble-mindedness, nor can such a person be classified as insane. Deviation from normal exists with reference to sex matters, and becomes not a question of feeble-mindedness or insanity within the usual definition of those terms, but does relate definitely to the types who under certain circumstances act in an abnormal manner with reference to the sex urge. Case histories show that the reformation or reclaiming of these types is successful only in less than one per cent and present medical reports indicate that surgery is not the answer to this problem at the present time. The advances in medicine and surgery may at some time in the future bring some hope of reclamation of these types; but since the cure is not available at the present time, and, in all case histories studied, your Commission learned that once a male becomes an adult physically and shows a tendency toward becoming a sexual psychopath, a mere prison sentence for a definite time results only in the release of these dangerous persons upon the public until they are again apprehended. In other words, generally, they are all repeaters. Your Commission feels that the inclusion in our present law of a definition of a sex offender and the inclusion of a sexual psychopath is definitely needed. Therefore we have recommended the addition of the language in the appended bill, which follows the Minnesota law, and have, together with the changes made in the defective delinquent law by your Commission, in chapter 557 of the Acts of 1946, and the amendments of 1947 thereto, provided against the incarceration of any innocent person by virtue of an examination prior to commitment, the subsequent examination by two psychiatrists within thirty days, and the yearly examination thereafter. This we feel is a proper safeguard against the innocent person or the harmless person being confined without

hope of release. We have in mind that the courts may use this section of the law as a means of ridding our State of the type of criminal that has caused more fear than perhaps any other type of offender.

J. ELMER CALLAHAN.
JOSEPH L. MURPHY.
CHARLES D. DRISCOLL.
P. GILBERT SULLIVAN.
JOHN B. O'HARE.
BURT DEWAR.
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PROPOSED LEGISLATION.

APPENDIX A.

AN ACT REGULATING COMMITMENT, CARE AND TREATMENT OF DEFECTIVE DELINQUENTS, SEXUAL PSYCHOPATHS AND DRUG ADDICTS.

1 Chapter 123 of the General Laws is hereby amended
2 by striking out section 113, as amended, and inserting
3 in place thereof the following section:—

4 *Section 113.* At any time prior to the final disposi-
5 tion of the case in which the court may commit an
6 offender to the state prison, the reformatory for
7 women, any jail or house of correction, the Massa-
8 chusetts reformatory, the state farm, the industrial
9 school for boys, industrial school for girls, the Lyman
10 school, any county training school, or to the custody
11 of the department of public welfare for any offence
12 not punishable by death, a district attorney, proba-
13 tion officer or officer of the department of correction,
14 public welfare or mental diseases, may file in court
15 an application for the commitment of the defendant
16 in such a case to a department for defective delin-
17 quents, established under sections one hundred and
18 seventeen and one hundred and twenty-four, or to a
19 department for the care and treatment of drug addicts
20 established by the governor and council under said
21 sections. On the filing of such an application, the
22 court shall give notice to the department of mental
23 health, and said department shall cause such person
24 to be examined by two experts in insanity with a view
25 to determining whether or not he is mentally defec-
26 tive, and shall file a written report with the clerk of

27 the court in which the case is pending, and the report
28 shall be accessible to the court, the probation officer,
29 the district attorney and to the defendant and his
30 attorney. The court may continue the original case
31 from time to time to await disposition thereof. If,
32 on a hearing on an application for commitment as a
33 defective delinquent, or a sexual psychopath, the
34 court finds the defendant to be mentally defective or
35 a sexual psychopath as hereinafter defined, and after
36 examination into his record, character and personality
37 finds that he has shown himself to be an habitual de-
38 linquent or sexual psychopath, or shows tendencies
39 toward becoming such, and that such delinquency or
40 psychopathic condition is or may become a menace
41 to the public, and that he is not a proper subject for
42 the schools for feeble-minded or for commitment as
43 an insane person, the court shall make and record a
44 finding to the effect that the defendant is a defective
45 delinquent or a sexual psychopath, and may commit
46 him to such a department for defective delinquents or
47 sexual psychopaths according to his age and sex as
48 hereinafter provided. If, on a hearing on an applica-
49 tion for commitment as a drug addict, it appears that
50 the defendant is addicted to the intemperate use of
51 stimulants or narcotics the court may commit him to
52 a department for the care and treatment of drug ad-
53 dicts, if and when such a department is provided.

54 The term "sexual psychopath" means a person in
55 whom there exists such conditions of emotional in-
56 stability or impulsiveness of behaviour, or lack of cus-
57 tomary standards of good judgment, or failure to
58 appreciate the consequences of his acts, or a combina-
59 tion of any such conditions as to render such person
60 irresponsible for his conduct with respect to sexual
61 matters and thereby dangerous to other persons.

APPENDIX B.

AN ACT ABOLISHING THE EXISTING PAROLE BOARD AND
CREATING A NEW PAROLE BOARD AND DEFINING ITS
POWERS AND DUTIES.

1 SECTION 1. Chapter 27 of the General Laws is
2 hereby amended by striking out section 5, as most
3 recently amended by section 1 of chapter 399 of the
4 acts of 1937, and inserting in place thereof the following
5 section:—

6 *Section 5.* There shall be in the department a
7 parole board, consisting of five members, one of whom
8 shall be a woman. Upon the expiration of the term
9 of office of a member, his or her successor shall be
10 appointed by the governor, with the advice and con-
11 sent of the council, for five years. The governor shall
12 designate one of the men members as chairman, and
13 said chairman shall receive a salary of seven thousand
14 dollars. The other members of the board shall each
15 receive a salary of six thousand dollars. All members
16 of the board shall devote their whole time in office
17 hours to the work of the board. Not more than three
18 members of the board shall be members of the same
19 political party. With the approval of the commis-
20 sioner, said board may expend annually from the
21 appropriation for contingent and other expenses of
22 the department a sum not exceeding two hundred
23 dollars for examination by physicians of prisoners
24 whose cases come before said board for action.

1 SECTION 2. Chapter 127 of the General Laws is
2 hereby amended by inserting after section 133, as
3 amended, the following section: —

4 *Section 133A.* The board, or a member designated
5 by the chairman for the purpose, shall interview each
6 prisoner within six months of his confinement, and
7 thereafter such prisoner shall be so interviewed not
8 less than twice prior to the expiration of his minimum
9 sentence. Such member of the board shall confer
10 with the warden or superintendent and chaplain of the
11 institution in which such prisoner is confined and
12 shall report his findings in writing to the board.

1 SECTION 3. The parole board existing on the
2 effective date of this section is hereby abolished, and
3 all books and papers of said board shall upon said
4 date be turned over to the parole board created by
5 this act. All unexpended balances of moneys hereto-
6 fore appropriated for said board shall be immediately
7 available for expenditure by said new parole board.
8 The employees of said parole board are hereby trans-
9 ferred to serve under the said new parole board without
10 impairment of their civil service status.

1 SECTION 4. The powers and duties of the parole
2 board abolished by this act shall hereafter be exer-
3 cised and performed by the parole board created by
4 this act, and when used in any statute, rule or regula-
5 tion, the phrase "board of parole" or any words
6 connoting the same shall mean the said parole board
7 created by this act, unless a contrary intent clearly
8 appears.

1 SECTION 5. The governor, with the advice and
2 consent of the council, shall forthwith appoint four

3 men and one woman to serve as the parole board
4 created by this act for one, two, three, four and five
5 years, respectively, as the governor may designate.
6 Upon the expiration of their respective terms, their
7 successors shall be appointed as provided in section
8 one of this act.

1 SECTION 6. Section five of this act shall take
2 effect as soon as said act has the force of law con-
3 formably to the constitution and all other provisions
4 thereof shall take effect upon the appointment of
5 the initial members of said parole board as provided
6 in said section five and their qualification.

The first part of the history is a general account of the state of the world in the year 1781. It is divided into three parts: the first part contains a general account of the world; the second part contains a general account of the European states; and the third part contains a general account of the European states.

The second part of the history is a general account of the European states. It is divided into three parts: the first part contains a general account of the European states; the second part contains a general account of the European states; and the third part contains a general account of the European states.

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