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Probation and Parole

By JOHN C. KLOTTER*

FOR A NUMBER of years state officials and informed citizens interested in the state's correctional program have felt that the probation and parole laws of this state needed revising and have seen the need for an evaluation of the state's correctional program. It has been apparent that the probation and parole laws passed in 1936 were not adequate to meet the present needs.

In order to correct this situation Governor Lawrence W. Wetherby, in June, 1953, appointed a committee on probation and parole and directed it to make an evaluative study of the state's probation and parole program and to submit recommendations to him in sufficient time for possible legislative action by the 1954 Legislature. The membership of this original committee was: Mr. Charles G. Tachau, Louisville, Chairman; Hon. Lasserre Bradley, Lexington; Hon. T. C. Carroll, Shephardsville; Hon. A. Scott Hamilton, Louisville; Mr. Norman E. Isaacs, Louisville; Hon. Ralph H. Logan, Louisville; Hon. Ira D. Smith, Hopkinsville; Mr. George Stoll, Louisville; Mr. Howell V. Williams, Louisville.

This committee requested the staff of the National Probation and Parole Association to review the Kentucky Revised Statutes governing sentencing, probation and parole and the application of the sentencing and probation and parole laws in the state.¹ After a very complete study by the National Probation and Parole Association, recommendations were made to the Governor's committee.

Among the more important recommendations made by the National Probation and Parole Association were the following:

1. Sentencing should be the exclusive responsibility of the Circuit Court Judge. In making this recommendation the National Probation and Parole Association pointed

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¹ Ky. Rev. Stat. Chap. 439 deals with probation and parole.

- out that the judge has many more facts available in determining the sentence than the jury and that the sentences imposed by a judge would be more uniform.²
2. Probation should be used in more cases as the most economical and hopeful treatment for offenders.
 3. No person should be sentenced or placed on probation until a written report of investigation by a probation officer has been presented to and considered by the judge, and all persons placed on probation should be under the supervision of a probation officer.
 4. A qualified full-time Parole Board should be appointed with authority to grant paroles directly without the approval of the Governor.
 5. A conditional release law should be enacted which would provide supervision for those prisoners who were not paroled but discharged prior to the expiration of their sentence due to "good time" earned.
 6. The provision in the law which authorized a maximum of only forty probation and parole officers for the state should be repealed.
 7. A strong merit system for the personnel of the Division of Probation and Parole should be established.

Following the recommendations of the National Probation and Parole Association the committee drafted a bill patterned after the standard probation and parole act and including the changes recommended by the National Probation and Parole Association. This was submitted to the Governor for introduction at the 1954 session of the Kentucky Legislature, was approved by Governor Wetherby and introduced by Senator Richard Moloney of Fayette County. After introduction, however, the bill was held up in committee and was never voted out of the committee.

After the bill failed to pass in the 1954 Legislature, the committee which drafted the bill met and decided to continue in its attempts to improve the probation and parole laws and the probation and parole program in general. Other persons interested in the correctional program were invited to join. These included Hon. Leon J. Shaikun, Louisville; Hon. Coleman J. Wright, Shelbyville; Hon. Ben T. Cooper, Louisville; and Hon. Charles Keller, Louisville.

Working with the Director of Probation and Parole and other

² This reform was proposed long ago by Judge Charles Kerr in an article entitled "A Needed Reform in Criminal Procedure", 6 Ky. L.J. 107 (1918).

officials in the correction program, the committee re-drafted the legislation omitting the section granting sentencing power exclusively to the judges and embarked upon a program to interest the members of the Legislature and the public in the revised bill. Although the majority of the committee believed that the judges should have the exclusive sentencing power, they felt that the bill would have more chance of passing if this section were omitted.

The bill was introduced in the 1956 Legislature by the Hon. Leon J. Shaikun and was endorsed by Governor Chandler. It passed the Legislature and became law on May 18, 1956.³

The primary changes in the new law are as follows:

1. It establishes a three-man full-time Parole Board to be appointed by the Governor with staggered terms of office. The Board has the power to grant paroles directly, to grant final discharge from parole and to issue warrants for violation of parole.
2. It provides for conditional release for prisoners sentenced after the effective date of this act, making it necessary that those prisoners who are not paroled serve the "good time" they have earned under supervision of a probation and parole officer.
3. It establishes a merit system for the probation and parole officers similar to that established for the Kentucky State Police, and removes the provision that only forty probation and parole officers may be employed.
4. It provides that circuit courts cannot place defendants on probation until a report has been submitted by the probation and parole officer, and persons placed on probation must be under the supervision of the probation and parole officer.
5. It provides that the probation period shall not exceed five years unless extended by the court.
6. It gives the lower courts the authority to grant probation under certain conditions. Previous to the passage of this act only lower courts in cities of the second class could officially grant probation.

The new probation and parole law contains all of the major recommendations of the National Probation and Parole Association with the exception of the recommendation that the Circuit Judges have exclusive sentencing power.

³ Ky. Acts (1956), chap. 101.