

TITLE 64

**CORRECTIONS AND
REHABILITATION**

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CHAPTER

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CHAPTER 1 DISPOSITION OF CONVICTED DEFENDANTS

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§1-101. Recognition of custom in sentencing and probation. — In imposing or suspending the execution of sentences, or in suspending the imposition of sentence and granting probation, due recognition shall be given to the customs of the inhabitants of Pohnpei.

Source: S.L. No. 3L-89-95 §9-1, 4/6/95

§1-102. Consideration of character. — Before imposing or suspending the execution of sentence, the imposition of sentence upon a person found guilty of a criminal offense, or in suspending the imposition of sentence and granting probation, evidence of good or bad character, including any prior criminal record of the defendant, may be received and considered by the court.

Source: S.L. No. 3L-89-95 §9-3, 4/6/95

§1-103. Regarding payment of fines. — Where an offense is made punishable by fine, the court imposing the fine may make such directions as appear to be just with respect to the payment of the fine. In default of payment of the fine or any part thereof the court may order the defendant to be imprisoned for such period of time as it may direct. These directions may be given and orders for imprisonment made at any time, and may be modified if the court deems justice so requires, until the fine is paid in full or the imprisonment served which has been ordered in default of payment; PROVIDED that the accused shall be given an opportunity to be heard before any direction or order is given, made or modified, except when that is done at the time sentence is imposed; PROVIDED FURTHER that no defendant shall be imprisoned for a longer period of time than fixed by law for such offense.

Source: S.L. No. 3L-89-95 §9-5, 4/6/95

§1-104. Sentence restricting residence. — A court may, in lieu of or in addition to other lawful punishment, direct that a person found by it to be guilty of a criminal offense shall establish his place

of residence within a specified area and maintain it there under the supervision of a responsible adult for a period of time not exceeding the maximum period of imprisonment which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-7, 4/6/95

§1-105. Restitution, compensation or forfeiture. — If a defendant is convicted of wrongful or unlawful sale, purchase, use or possession of any article, or of a willful wrong causing damage to another, a court may, in lieu of or in addition to other lawful punishment, order restitution or compensation to the owner or person damaged or the forfeiture of the article to Pohnpei.

Source: S.L. No. 3L-89-95 §9-9, 4/6/95

§1-106. Closing of business. — If a defendant is convicted of an offense involving the sale of a harmful article or the operation of an unlawful business, the court may, in lieu of or in addition to other lawful punishment, order that his place of sale or business be vacated or closed for a specific time, not exceeding the maximum period of imprisonment which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-11, 4/6/95

§1-107. Labor without imprisonment. — In any case in which a court is authorized to impose sentence or imprisonment, the court may, if it deems best, instead of imposing imprisonment, sentence the accused to perform labor without compensation in accordance with his physical ability on any public project for a period not exceeding the maximum period which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-13, 4/6/95

§1-108. Designation of place of confinement. — Any court upon sentencing a person to imprisonment may designate in the commitment order a place of confinement within Pohnpei. The Governor may transfer the person to or designate any place of confinement within the Federated States of Micronesia.

Source: S.L. No. 3L-89-95 §9-15, 4/6/95

§1-109. Suspension of sentence. — The court which imposes a sentence upon a person convicted of a criminal offense may direct that the execution of the whole or any part of a sentence of imprisonment imposed by it shall be suspended on such terms as good behavior and on such conditions as the court may think proper to impose. A subsequent conviction by a court for any offense shall have the effect of revoking the suspension of the execution of the previous sentence unless the court otherwise directs.

Source: S.L. No. 3L-89-95 §9-17, 4/6/95

§1-110. Suspension of imposition of sentence. —

(1) Upon entering a judgment of conviction of any offense, the court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served, may suspend the imposition of sentence and may direct that the suspension continue for a period of time, not exceeding the maximum term of sentence which may be imposed, upon the terms and conditions which the court determines, and shall place the person on probation, under the charge and supervision of a probation officer or any other person designated by the court, during the suspension.

(2) Upon violation of any of the terms and conditions of probation at any time during the probationary period, the court may issue a warrant for the arrest of the person on probation and, after giving the person an opportunity to be heard and to rebut any evidence presented against him, may revoke and terminate the probation.

(3) Upon the revocation of the probation, the court may then impose any sentence that may have initially been imposed had the court not suspended imposition of sentence in the first instance, but shall credit time spent in probation against the sentence so imposed.

(4) The court may at any time during the period of probation modify its order of suspension of imposition of sentence. The court may at any time, when the ends of justice and the best interests of the public as well as the defendant will be served, and when the good conduct and reform of the person held on probation warrant it, terminate the period of probation and discharge the person held. If the court has not revoked the order of probation and announced sentence, the defendant shall, at the end of the term of probation, be discharged by the court.

(5) Upon discharge of the defendant without imposition of sentence, the court may upon motion of the defendant, vacate the judgment of conviction and the defendant shall not be deemed to have been convicted of the crime for any purpose.

Source: S.L. No. 3L-89-95 §9-19, 4/6/95

§1-111. Reprieves, commutations, pardons, and paroles. —

(1) *Authority.* The Governor may, after conviction and upon such terms and conditions as he shall deem best, grant reprieves, commutations, pardons, and paroles for offenses under Pohnpei law other than impeachment, and for such offenses under national law or local ordinance over which he may be granted such authority by the national or local government.

(2) *Regulations for procedure.* The Governor may, by the issuance of regulations, provide for the procedure for application, review, and award of reprieves, commutations, pardons, and paroles, respectively.

Source: S.L. No. 3L-89-95 §9-21, 4/6/95

Note: Absence of source even numbers is due to an error in the original legislation's numbering.

CORRECTIONS & REHABILITATION

CHAPTER 2 WORK-RELEASE PROGRAM

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§2-101. Short title. — This chapter is known and may be cited as the “Work-Release Program Act of 2000.”

Source: S.L. No. 5L-05-00 §1, 5/30/00

§2-102. Purpose and policy. — This chapter, desiring to provide programs of sufficiently high quality for the confinement, treatment, and rehabilitation of various types of offenders, declares it is the policy of the state to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this chapter is to provide for the development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders.

Source: S.L. No. 5L-05-00 §2, 5/30/00

§2-103. Definitions. —

- (1) “Council” means the advisory council as established by §2-106.
- (2) “Director” means the Director of the Pohnpei Department of Public Safety.
- (3) “Inmate” means a male or female offender who is under sentence to or confined in a prison or other correctional institution.
- (4) “Institution” means any prison, reformatory or other correctional facility (including, but not limited to, a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.
- (5) “State” means Pohnpei State.

Source: S.L. No. 5L-05-00 §3, 5/30/00; S.L. No. 5L-14-00 §3-60, 10/1/00

§2-104. Establishment of a work-release program. —

(1) The Governor may establish a work-release program for persons who are sentenced to the Department of Public Safety’s care and who are receiving care and treatment in an institution as defined by §2-103(3); PROVIDED that such program shall not interfere with other programs in which such person may be enrolled. The Director of the Department of Public Safety will coordinate and monitor the functions of the work-release program.

(2) In any case in which a court is authorized to impose sentence or imprisonment, the court, if it deems best, along with imposing imprisonment, may sentence the accused to a work-release program.

(3) After an inmate has served 120 days, the Governor is authorized to determine if a prisoner should be in a work-release program.

(4) Under a work-release plan, any such person may be authorized to secure a suitable employment outside of the institution and, unless otherwise authorized by the Department and the Council in special cases, return to and remain in such facility during non-working hours.

Source: S.L. No. 5L-05-00 §4, 5/30/00; S.L. No. 5L-14-00 §3-60, 10/1/00

§2-105. Prisoners' welfare fund. —

(1) There is hereby established a "prisoners' welfare fund" to be maintained by the Department of Treasury and Administration, separate and apart from all other funds of the state. Independent records and accounts shall be maintained in connection therewith. The prisoners' welfare fund shall be administered in accordance with the Financial Organization and Management Act, Title 11 Chapter 2.

(2) There shall be deposited into the prisoners' welfare fund all monies earned under the work-release program.

(3) Disbursements from the prisoners' welfare fund shall be used by the Director to reimburse the institution for any costs associated with the program, as well as costs of maintaining the institution.

(4) The Director shall file an annual accounting of the prisoners' welfare fund with the Governor and Legislature no later than 30 days after the close of each fiscal year.

Source: S.L. No. 5L-05-00 §5, 5/30/00

§2-106. Advisory council for the work-release program. — There is hereby established, under the auspices of the Governor's office, the advisory council for inmates eligible to enroll in a work-release plan.

(1) *Council: composition; compensation.*

(a) The Council shall be composed of five members appointed by the Governor, with the advice and consent of the Legislature. Three members shall constitute a quorum. Members shall have had training, experience or special knowledge concerning programs geared toward implementing §2-102.

(b) Members of the Council shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, for members of Pohnpei Government policy boards and commissions, when actually attending meetings of the Council, except that those members who are employees of the Pohnpei Government and other cooperative entities shall instead receive their regular salaries while performing functions of the Council. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

(2) *Council functions.* The Council shall recommend and advise the Governor on which inmates should be placed in a work-release program. The Council shall participate in recommending and advising the Director in coordinating and monitoring functions of the work-release program. The Council shall generally work towards the establishment and effectuation of a cohesive, comprehensive system for the development and delivery of programs and services for inmates on a statewide basis.

(3) *Council duties.* The Council shall have the following powers, duties, and responsibilities:

(a) Serve in an advisory capacity to the Governor, the Legislature, and the Director on matters relating to programs and services for the committed persons;

(b) Assist the Governor and the Director in determining program and policy needs and priorities for the state in establishing and implementing a comprehensive program for inmates in accordance with the goals and objectives expressed in this chapter;

(c) Assist the Director in formulating short-term and long-range goals for the program and services for inmates;

(d) Assist the Director in the evaluation of general and specific policies relating to the needs of inmates;

(e) Develop a Prison Impact Assessment Report to be transmitted to the Governor's office and to the Legislature, which report may include, but not be limited to, how to improve upon the existing facilities and other recommendations and comments; and

(f) Carry out other functions, duties, and responsibilities of an advisory nature reasonably related to the coordination, evaluation, and conducting of research on programs of committed persons.

Source: S.L. No. 5L-05-00 §6, 5/30/00

§2-107. Meetings of the Council. — The Council shall hold its first meeting at the call of the Governor within 30 days of the appointment of a quorum. Thereafter, meetings shall be held at least twice every calendar quarter at the call of the chairman or of a quorum. The Council shall elect from among its members a chairman, vice-chairman, and secretary-treasurer, and determine the powers and duties of each officer and the rules of procedure under which it will operate.

Source: S.L. No. 5L-05-00 §7, 5/30/00

§2-108. Eligibility. — Any inmate confined to the Pohnpei State Prison or any institution belonging to the Government of Pohnpei shall be eligible to participate in a work-release program; PROVIDED, HOWEVER, that an inmate shall not be eligible for a work-release program if any of the following are applicable:

(1) The inmate is found by the court and/or the Governor to constitute a risk to either himself or other members of the community.

(2) The inmate has a past history of violent behavior.

(3) The inmate has been determined to be a dangerous and repetitive offender.

(4) The sentencing judge states at the time of the sentence that the inmate shall not be eligible for a work-release program.

Source: S.L. No. 5L-05-00 §8, 5/30/00

§2-109. Work schedule: removal or revocation of work privilege. — The Director shall devise a work schedule suitable for employment and the institution. The Director, with notification to the employer, may remove or revoke any work privilege accorded to an inmate enrolled in a work-release program due to such inmate's lack of participation, commission of another crime or for other special circumstances that may endanger the life or safety of another person or the public.

Source: S.L. No. 5L-05-00 §9, 5/30/00

TITLE 65 [RESERVED]

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