

training of young adult offenders, as defined in Section 6.05, providing, if need be by separate units, for diversified security and custody;

(e) a medical-correctional facility to keep prisoners with difficult or chronic medical and psychiatric problems, which, if the number of persons committed to the Department reaches ], is a separate institution;

(f) one or more institutions for female prisoners committed to the Department, providing, if need be by separate units, for diversified security and custody;

(g) one or more state misdemeanor institutions for misdemeanants committed to the Department [for an extended term], providing, if need be by separate units, for diversified security and custody].

(3) When the Director of Correction finds that certain classes or categories of persons committed to the Department require specialized treatment, or treatment of a kind that it is not feasible to provide within the state correctional system, the Director of Correction shall seek to place such prisoners in institutions providing such treatment in another jurisdiction, and may agree to pay reimbursement therefor. A prisoner so transferred to an out-of-state institution shall be subject to the rules and regulations of such institution concerning the custody, conduct and discipline of its inmates, but shall remain subject to the provisions of this Code concerning his term, reduction of term for good behavior, and release on parole.

### 304.3. Central Prisoner File; Treatment, Classification

#### and Reclassification in Institutions

(1) The Warden or other administrative head of a correctional institution shall establish and maintain, in accordance with the regulations of the Department, a central file in the institution containing an individual file for each prisoner. Each prisoner's file shall include: (a) his admission summary; (b) his pre-sentence investigation report; (c) the report and recommendation of the Reception Classification Board; (d) the official records of his conviction and commitment as well as earlier criminal records, if any; (e) progress reports and admission-orientation reports from treatment and custodial staff; (f) reports of his disciplinary infractions, and of their disposition; (g) his parole plan, prepared in accordance with Section 305.7; and (h) other pertinent data concerning his background, conduct, associations, and family relationships. Each prisoner's file shall be carefully reviewed before any decision is made concerning his classification, reclassification, or parole release. The content of the prisoners' files shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to prisoners in the institution.

(2) The Warden or other administrative head in each correctional institution shall appoint a Treatment Classification Committee with himself or his representative as chairman, and consisting of representatives of the treatment, custodial, and parole services, of medical, psychiatric or psychological personnel, of personnel concerned with the education and vocational

training of inmates, and of such other persons as he may designate. Members of the Treatment Classification Committee shall serve at the pleasure of the Warden or other administrative head.

(3) When a prisoner is transferred to a correctional institution from a reception center or from any other institution, the Classification Committee of such receiving institution shall, within [two] months of receiving the prisoner, study his presentence investigation report, his criminal history and escape record, if any, the report of the Reception Classification Board, the admission-orientation reports of the custodial and treatment officers of the institution, the attitudes and preferences of the prisoner, and such other relevant information as may be available in the prisoner's file or from other sources and shall aid the Warden or other administrative head of the institution in determining the prisoner's program of treatment, training, employment, care and custody.

(4) The Classification Committee, or a subcommittee thereof designated by the Warden or other administrative head, shall review the program of each prisoner at regular intervals and whenever a member of the Committee so requests, and shall recommend to the Warden such changes in the prisoner's program of treatment, training, employment, care and custody as it considers necessary or desirable.

(5) Approximately [three] months before a prisoner will be considered by the Board of Parole for release on parole, the Classification Committee shall re-examine the prisoner's individual file, shall prepare a report summarizing and evaluating the prisoner's progress, and may recommend to the Warden or other administrative head (a) that the prisoner be reclassified for pre-parole preparation at that institution or at another institution after transfer thereto or (b) that the prisoner's reclassification for pre-parole preparation be postponed, for a definite or indefinite period of time, stating the reason for such recommendation in the record. A copy of the Classification Committee's report shall be forwarded to the Board of Parole and shall be available to such Board in advance of the prisoner's hearing before the Board of Parole.

(6) The Warden or other administrative head of the institution shall have final authority to determine matters of treatment classification within his institution and to recommend to the Director of Correction the transfer of any prisoner.

#### 304.4. Segregation and Transfer of Prisoners with Physical or Mental Diseases or Defects

(1) When an institutional physician finds that a prisoner suffers from a physical disease or defect, or when an institutional physician or psychologist finds that a prisoner suffers from a mental disease or defect, the Warden or other administrative head may order such prisoner to be segregated from other prisoners, and if the physician or psychologist, as the case may be, is of the opinion that he cannot be given proper treatment at that institution, the Warden or other administrative head shall recommend to the Director of Correction that such prisoner be transferred for examination, study and treatment to the medical-correctional facility, if any, or to another institution in the Department where proper treatment is available.

(2) The Warden or other administrative head in each correctional institution shall appoint

a Treatment Classification Committee with himself or his representative as chairman, and consisting of representatives of the treatment, custodial, and parole services, of medical, psychiatric or psychological personnel, of personnel concerned with the education and vocational training of inmates, and of such other persons as he may designate. Members of the Treatment Classification Committee shall serve at the pleasure of the Warden or other administrative head.

(3) When a prisoner is transferred to a correctional institution from a reception center or from any other institution, the Classification Committee of such receiving institution shall, within [two] months of receiving the prisoner, study his presentence investigation report, his criminal history and escape record, if any, the report of the Reception Classification Board, the admission-orientation reports of the custodial and treatment officers of the institution, the attitudes and preferences of the prisoner, and such other relevant information as may be available in the prisoner's file or from other sources and shall aid the Warden or other administrative head of the institution in determining the prisoner's program of treatment, training, employment, care and custody.

(4) The Classification Committee, or a subcommittee thereof designated by the Warden or other administrative head, shall re view the program of each prisoner at regular intervals and whenever a member of the Committee so requests, and shall recommend to the Warden such changes in the prisoner's program of treatment, training, employment, care and custody as it considers necessary or desirable.

(5) Approximately [three] months before a prisoner will be considered by the Board of Parole for release on parole, the Classification Committee shall re-examine the prisoner's individual file, shall prepare a report summarizing and evaluating the prisoner's progress, and may recommend to the Warden or other administrative head (a) that the prisoner be reclassified for pre-parole preparation at that institution or at another institution after transfer thereto or (b) that the prisoner's reclassification for pre-parole preparation be postponed, for a definite or indefinite period of time, stating the reason for such recommendation in the record. A copy of the Classification Committee's report shall be forwarded to the Board of Parole, and shall be available to such Board in advance of the prisoner's hearing before the Board of Parole.

(6) The Warden or other administrative head of the institution shall have final authority to determine matters of treatment classification within his institution and to recommend to the Director of Correction the transfer of any prisoner.

### 304.5. Medical Care, Food and Clothing

(1) Upon admission to a state correctional institution, each prisoner shall be given a physical examination, and shall be kept apart from other prisoners for a period of quarantine until he is known to be free from communicable disease and until he has been classified in accordance with Section 304.3. Each prisoner shall have regular medical and dental care.

(2) Each prisoner shall be adequately fed and clothed in accordance with regulations of the Department. No prisoner shall be required to wear stripes or other degrading apparel.

### 304.6. Program of Rehabilitation

The Director of Correction shall establish an appropriate program for each institution, designed as far as practicable to prepare and assist each prisoner to assume his responsibilities and to conform to the requirements of law. In developing such programs, the Director shall seek to make available to each prisoner capable of benefiting therefrom academic or vocational training, participation in productive work, religious and recreational activities and such therapeutic measures as are practicable. No prisoner shall be ordered or compelled, however, to participate in religious activities.

### 304.7. Discipline and Control

(1) The Warden or other administrative head of each correctional institution shall be responsible for the discipline, control and safe custody of the prisoners therein. No prisoner shall be punished except upon the order of the Warden or other administrative head of the institution or of a deputy designated by him for the purpose; nor shall any punishment be imposed otherwise than in accordance with the provisions of this Section.

(2) The Warden or other administrative head of each correctional institution shall appoint a Committee on Adjustment [disciplinary committee] from among the staff of the institution, which shall include a member of the treatment service, a member of the custodial service, and an institutional physician. The Warden or other administrative head may designate himself or a deputy as chairman of the Committee. The Committee shall give notice to any prisoner who has been reported for a breach of discipline, shall determine after a hearing whether the prisoner has committed an intentional breach of the rules, and shall recommend to the Warden or other administrative head an appropriate disposition of the matter subject to the provisions of this Section. No prisoner shall be punished until he has had such a hearing, but the recommendation of the Committee shall not be binding on the Warden or other administrative head or his deputy.

(3) Except in flagrant or serious cases, punishment for a breach of the rules shall consist of deprivation of privileges. In cases of assault, escape, or attempt to escape, or other serious or flagrant breach of the rules, the Committee on Adjustment [disciplinary committee] may recommend to the Warden or other administrative head, and he may order, that a prisoner's reduction of term for good behavior and faithful performance of duties be forfeited or withheld in accordance with Section 305.4. For serious or flagrant breach of the rules, the Committee on Adjustment [disciplinary committee], in accordance with the regulations of the Department, may also recommend, and the Warden or other administrative head may order, that the offender be confined in a disciplinary cell for a period not to exceed thirty days. The Committee on Adjustment [disciplinary committee] may recommend, and the Warden or other administrative head may order, that a prisoner, during all or part of the period of such solitary confinement, be put on a monotonous but adequate and healthful diet. A prisoner in solitary confinement shall be visited by a physician at least once every twenty-four hours.

(4) No cruel, inhuman, or corporal punishment shall be used on any prisoner, nor is the use of force on any prisoner justifiable except as provided by Article 3 of the Code and the rules and regulations of the Department consistent therewith.

(5) The Warden or other administrative head of an institution shall maintain a record of breaches of rules, of the disposition of each case, and of the punishment, if any, for each such breach. Each breach of the rules by a prisoner shall be entered in his file, together with the disposition or punishment therefor.

(6) The Committee on Adjustment shall recommend to the Warden or other administrative head that a prisoner who is considered to be incorrigible by reason of frequent intentional breaches of discipline, or who is detrimental to the discipline or the morale of the institution, be reported to the Director of Correction for transfer to another institution for stricter safekeeping and closer confinement.

#### 304.8. Employment and Labor of Prisoners

(1) To establish good habits of work and responsibility, for the vocational training of prisoners, and to reduce the cost of prison operation, prisoners shall be employed so far as possible in constructive and diversified activities in the production of goods, services and foodstuffs to maintain the institution and its inmates, for state use [and for other purposes expressly authorized by law]. To accomplish these purposes, the Director of Correction shall establish and maintain prison industries and prison farms in appropriate correctional institutions, and may enter into arrangements with other departments for the employment of prisoners in the improvement of public works and ways, and in the improvement and conservation of the natural resources owned by the state.

(2) No prisoner shall be required to engage in excessive labor, and no prisoner shall be required to perform any work for which he is declared unfit by the medical department.

(3) The Director shall make rules and regulations governing the hours and conditions of labor of prisoners in correctional institutions, and the rates of prisoners' compensation for employment. In determining the rates of compensation, such regulations may take into consideration the quantity and quality of the work performed by a prisoner, whether or not such work was performed during regular working hours, the skill required for its performance, as well as the economic value of similar work outside of correctional institutions. Prisoners' wage payments shall be set aside by the Warden or other administrative head in a separate fund. The regulations may provide for the making of deductions from prisoners' wages to defray part or all of the cost of prisoner maintenance, but a sufficient amount shall remain after such deduction to enable the prisoner to contribute to the support of his dependents, if any, to make necessary purchases from the commissary, and to set aside sums to be paid to him at the time of his release from the institution.

(4) The labor or time of any prisoner committed to the Department of Correction shall not be sold, contracted or hired out, but prisoners may work for other departments of the State in

accordance with arrangements made pursuant to Subsection (1) of this Section.

(5) All departments and agencies [and local subdivisions] of the State, and all institutions and agencies which are supported in whole or in part by the State shall purchase from the Department of Correction all articles and products required by them which are produced or manufactured by prison labor in state correctional institutions, unless excepted from this requirement by the Governor [or other appropriate authority] in accordance with rules and regulations promulgated by the Governor [or other appropriate authority] to carry out the purposes of this Subsection. The Governor [or other appropriate authority] may, by rule or regulation, provide for the manner in which standards and qualifications for such articles and products shall be set, for the manner in which the needs of departments, agencies and institutions shall be estimated in advance, for the manner in which the price for such articles and products shall be determined, and for the manner in which purchases shall be made and payment credited.

(6) Within the appropriation allotted therefor, the Director shall make appropriate arrangements for the compensation of prisoners for damages from injuries arising out of their employment

#### 304.9. Compassionate Leave; Pre-Parole Furlough

(1) The Director of Correction shall formulate rules or regulations governing compassionate leave from institutions and, in accordance with such rules or regulations, may permit any prisoner to leave his institution for short periods of time, either by himself or in the custody of an officer, to visit a close relative who is seriously ill, to attend the funeral of a close relative, to return to his home during what appears to be his own last illness, or to return to his home for other compelling reasons which strongly appeal to compassion.

(2) The rules or regulations shall provide for the manner in which compassionate leave shall be granted, for its duration, and for the custody, transportation and care of the prisoner during his leave. They shall also provide for the manner in which the expense connected with such leave shall be borne, and may allow the prisoner, or anyone in his behalf, to reimburse the state for such expense.

(3) The Director of Correction, on the recommendation of the Board of Parole, may grant a pre-parole furlough, not to exceed [two] weeks, to any prisoner whose parole release date has been fixed in accordance with Section 305.8 by the Board of Parole. The purpose of such a furlough shall be to enable the prisoner to secure employment, to find adequate living quarters for himself and his family, or, generally, to make more effective plans and arrangements towards his release on parole.

#### 304.10. Release from Institutions

When a prisoner is released from an institution, either on parole or upon final discharge, he shall be returned any personal possessions taken from him upon his commitment, and the Warden or other administrative head shall furnish him with decent clothing appropriate for the season of the year, a transportation ticket to the place where he will reside, the earnings set aside for him in the wage fund, and such additional sum of money as may be prescribed by regulation

of the Department to enable him to meet his immediate needs. If at the time of his release a prisoner is too ill or feeble or otherwise unable to use public means of transportation, the Warden or other administrative head may, subject to the rules and regulations of the Department, make special arrangements for his transportation to the place where he will reside.

## ARTICLE 305

### RELEASE ON PAROLE

#### 305.1. Reduction of Prison Term for Good Behavior

For good behavior and faithful performance of duties, the term of a prisoner sentenced to imprisonment for an indefinite term with a maximum in excess of one year, shall be reduced by [six] days for each month of such term. In addition, for especially meritorious behavior or exceptional performance of his duties, a prisoner may receive a further reduction, not to exceed [six] days, for any month of imprisonment. The total of all such reductions shall be deducted:

(1) from his minimum term of imprisonment, to determine the date of his eligibility for release on parole; and

(2) from his maximum term of imprisonment, to determine the date when his release on parole becomes mandatory.

#### 305.2. Reduction of Parole Term for Good Behavior

For good conduct in conformity with the conditions of parole, a parolee's parole term shall be reduced by [six] days for each month of such parole term. The total of such reductions shall be deducted:

(1) from his minimum parole term to determine the date of his eligibility for discharge from parole; and

(2) from the maximum of his parole term to determine the date when his discharge from parole becomes mandatory.

#### 305.3. Award of Reduction of Term for Good Behavior

(1) Reductions of term of imprisonment in accordance with Section 305.1 shall be awarded by the Warden of the institution [Deputy Director for Treatment Services]. In the case of reductions for especially meritorious behavior, or exceptional performance of duties, the award shall be made only upon the recommendation of the Committee on Adjustment [or similar committee] of the institution.

(2) Reductions of parole terms in accordance with Section 305.2 shall be awarded by the Board of Parole.

#### 305.4 Forfeiture, Withholding, and Restoration of Reduction of Term for Good Behavior

(1) Reductions of terms of imprisonment for good behavior and faithful performance of duties may be forfeited, withheld and restored by the Warden of the institution [Deputy Director for Treatment Services] after hearing by the Committee on Adjustment [or disciplinary committee] of the institution, but no reduction of a prison term shall be forfeited or withheld after a prisoner is released on parole.

(2) Reductions of parole terms for good behavior may be forfeited, withheld and restored by the Board of Parole.

#### 305.5. Report of Reductions Granted, Forfeited and Restored

The Warden of the institution [Deputy Director for Treatment Services] shall regularly report all reductions of prison terms for good behavior and faithful performance of duties, and all forfeitures and restorations of such reductions to the Director of Correction. On the basis of such report, the Director shall inform the Board of Parole and the Parole Administrator of all prisoners who are expected to become eligible for release on parole or whose release on parole will become mandatory within the next three months.

#### 305.6. Parole Eligibility and Hearing

Every prisoner sentenced to an indefinite term of imprisonment shall be eligible for release on parole upon completion of his minimum term less reductions granted in accordance with Section 305.1, or, if there is no minimum, at any time. Within sixty days before the expiration of such minimum less reductions, or, if there is no minimum, within ninety days of his commitment, the prisoner shall have a hearing before the Board of Parole or a member or members designated by the Board, or, when appropriate, before the Young Adult Division of the Board. The hearing shall be conducted in an informal manner, but a verbatim record of the proceedings shall be made and preserved.

#### 305.7. Preparation for Hearing; Assistance to Prisoner

(1) Each prisoner in advance of his parole hearing shall prepare a parole plan, setting forth the manner of life he intends to lead if released on parole, including such specific information as to where and with whom he will reside and what occupation or employment he will follow. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of his plan and in securing information for submission to the Board of Parole.

(2) A prisoner shall be permitted to advise with any persons whose assistance he reasonably desires, including his own legal counsel, in preparing for a hearing before the Board of Parole.

#### 305.8. Decision of Board of Parole; Reconsideration

(1) The Board of Parole shall render its decision regarding a prisoner's release on parole within a reasonable time after hearing. The decision shall be by majority vote [of a quorum] of the Board of Parole. The decision shall be based on the entire record before the Board, which

shall include the opinion of the member who presided at the hearing. In its decision the Board shall either fix the prisoner's release date, or it shall defer the case for later reconsideration.

(2) If the Board fixes the release date, such date shall be not less than sixty days nor more than six months from the date of the prisoner's parole hearing, or from the date of last reconsideration of his case by the Board, unless there are special reasons for fixing an earlier or later release date.

(3) If the Board defers the case for later reconsideration, it shall review the record at least once a year until a release date is fixed. The Board may in its discretion order a reconsideration or a rehearing of the case at any time.

(4) If the Board fixes no earlier release date, a prisoner's release on parole shall become mandatory at the expiration of his maximum term of imprisonment, less reductions allowed in accordance with Section 305.1.

### 305.9. Criteria for Determining Date of First Release on Parole

(1) Whenever the Board of Parole considers the first release of a prisoner who is eligible for release on parole, it shall be the policy of the Board to order his release, unless the Board is of the opinion that his release should be deferred because:

- (a) there is substantial risk that he will not conform to the conditions of parole; or
- (b) his release at that time would depreciate the seriousness of his crime or promote disrespect for law; or
- (c) his release would have a substantially adverse effect on institutional discipline; or
- (d) his continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life when released at a later date.

(2) In making its determination regarding a prisoner's release on parole, it shall be the policy of the Board of Parole to take into account each of the following factors:

- (a) the prisoner's personality, including his maturity, stability, sense of responsibility and any apparent development in his personality which may promote or hinder his conformity to law;
- (b) the adequacy of the prisoner's parole plan;
- (c) the prisoner's ability and readiness to assume obligations and undertake responsibilities;
- (d) the prisoner's intelligence and training;
- (e) the prisoner's family status and whether he has relatives who display an interest in

him, or whether he has other close and constructive associations in the community;

(f) the prisoner's employment history, his occupational skills, and the stability of his past employment;

(g) the type of residence, neighborhood or community in which the prisoner plans to live;

(h) the prisoner's past use of narcotics, or past habitual and excessive use of alcohol;

(i) the prisoner's mental or physical make-up, including any disability or handicap which may affect his conformity to law;

(j) the prisoner's prior criminal record, including the nature and circumstances, recency and frequency of previous offenses;

(k) the prisoner's attitude toward law and authority;

(l) the prisoner's conduct in the institution, including particularly whether he has taken advantage of the opportunities for self-improvement afforded by the institutional program, whether he has been punished for misconduct within six months prior to his hearing or reconsideration for parole release, whether he has forfeited any reductions of term during his period of imprisonment, and whether such reductions have been restored at the time of hearing or reconsideration;

(m) the prisoner's conduct and attitude during any previous experience of probation or parole and the recency of such experience.

#### 305.10. Data to Be Considered in Determining Parole Release

Before making a determination regarding a prisoner's release on parole, the Board of Parole shall cause to be brought before it all of the following records and information regarding the prisoner:

(1) a report prepared by the institutional parole staff, relating to his personality, social history and adjustment to authority, and including any recommendations which the institutional staff may make:

(2) all official reports of his prior criminal record, including reports and records of earlier probation and parole experiences;

(3) the pre-sentence investigation report of the sentencing Court:

(4) recommendations regarding his parole made at the time of sentencing by the sentencing judge or the prosecutor

(5) the reports of any physical, mental and psychiatric examinations of the prisoner;

(6) any relevant information which may be submitted by the prisoner, his attorney, the victim of his crime, or by other persons;

(7) the prisoner's parole plan;

(8) such other relevant information concerning the prisoner as may be reasonably available.

#### 305.11. Eligibility for Discharge from Parole

A parolee is eligible for discharge from parole upon the satisfactory completion of the minimum parole term less reductions for good behavior.

#### 305.12. Termination of Supervision; Discharge from Parole

If, in the opinion of the Board of Parole, a parolee does not require guidance and supervision, the Board may dispense with or terminate such supervision. When a parolee is eligible for discharge from parole in accordance with Section 305.11, the Board may discharge him from parole, if, in its opinion, such discharge is not incompatible with the protection of the public. A parolee's discharge from parole or from recommitment for violation of parole becomes mandatory upon completion of the maximum parole term less reductions for good behavior.

#### 305.13. Conditions of Parole

(1) When a prisoner is released on parole, the Board of Parole shall require as a condition of his parole that he refrain from engaging in criminal conduct. The Board of Parole may also require, either at the time of his release on parole or at any time and from time to time while he remains under parole, that he conform to any of the following conditions of parole:

(a) meet his specified family responsibilities;

(b) devote himself to an approved employment or occupation;

(c) remain within the geographic limits fixed in his Certificate of Parole, unless granted written permission to leave such limits;

(d) report, as directed, in person and within thirty-six hours of his release, to his parole officer;

(e) report in person to his parole officer at such regular intervals as may be required;

(f) reside at the place fixed in his Certificate of Parole and notify his parole officer of any change in his address or employment;

(g) have in his possession no firearm or other dangerous weapon unless granted written permission;

(h) submit himself to available medical or psychiatric treatment, if the Board shall so require;

(i) refrain from associating with persons known to him to be engaged in criminal activities or, without permission of his parole officer, with persons known to him to have been convicted of a crime;

(j) satisfy any other conditions specially related to the cause of his offense and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

(2) Before release on parole, a parolee shall be provided with a Certificate of Parole setting forth the conditions of his parole.

#### 305.14. Parole Residence Facilities

The Board of Parole may in appropriate cases require a parolee, as a condition of his parole, either at the time of his release on parole or at any time and from time to time while he remains under parole supervision, to reside in a parole hostel, boarding home, hospital, or other special residence facility, for such a period and under such supervision or treatment as the Board may deem appropriate.

#### 305.15. Revocation of Parole for Violation of Condition;

(1) When a parolee has been returned to the institution, the Board of Parole shall hold a hearing within sixty days of his return to determine whether his parole should be revoked. The parolee shall have reasonable notice of the charges filed. The institutional parole staff shall render reasonable aid to the parolee in preparation for the hearing and he shall be permitted to advise with his own legal counsel. At the hearing the parolee may admit, deny, or explain the violation charged, and he may present proof, including affidavits and other evidence, in support of his contention. A verbatim record of the hearing shall be made and preserved.

(2) The Board may order revocation of parole if it is satisfied, upon substantial evidence, that:

(a) the parolee has failed, without a satisfactory excuse, to comply with a substantial requirement imposed as a condition of his parole; and

(b) the violation of condition involves:

(i) the commission of another crime; or

(ii) conduct indicating a substantial risk that the parolee will commit another crime; or

(iii) conduct indicating that the parolee is unwilling to comply with proper conditions of parole.

(3) Parole revocation shall be by majority vote of the Board.

### 305.16. Sanctions Short of Revocation for Violation of Condition of Parole

(1) If the Parole Administrator has reasonable cause to believe that a parolee has violated a condition of parole, he shall notify the Board of Parole, and shall cause the appropriate district parole supervisor to submit the parolee's record to the Board. After consideration of the records submitted, and after such further investigation as it may deem appropriate, the Board may order:

(a) that the parolee receive a reprimand and warning from the Board;

(b) that parole supervision and reporting be intensified;

(c) that reductions for good behavior be forfeited or withheld;

(d) that the parolee be remanded, without revocation of parole, to a residence facility specified in Section 305.14 for such a period and under such supervision or treatment as the Board may deem appropriate;

(e) that the parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with Section 305.13;

(f) that the parolee be arrested and returned to prison, there to await a hearing to determine whether his parole should be revoked.

(2) If a parole officer or district parole supervisor has reasonable cause to believe that a parolee has violated or is about to violate a condition of his parole and that an emergency situation exists, so that awaiting action by the Board of Parole under Subsection (1) of this Section would create an undue risk to the public or to the parolee, such parole officer or district parole supervisor may arrest such parolee without a warrant, and may call on any peace officer to assist him in so doing. The parolee, whether arrested hereunder with or without a warrant, shall be detained in the local jail, lockup, or other detention facility, pending action by the Board of Parole. Immediately after such arrest and detention, the parole officer or district parole supervisor concerned shall notify the Board and submit a written report of the reason for such arrest. After consideration of such written report, the Board [or a member of the Board] shall, with all practicable speed, make a preliminary determination, and shall either order the parolee's release from detention or order his return to the institution from which he was paroled, there to await a hearing to determine whether or not his parole shall be revoked. The Board's preliminary determination to order the parolee's release from detention shall not, however, be deemed to bar further proceedings under Subsection (1) of this Section.

### 305.17. Duration of Re-imprisonment and Re-parole after Revocation

(1) A parolee whose parole is revoked for violation of the conditions of parole shall be recommitted for the remainder of his maximum parole term, after credit thereon for the period served on parole prior to the violation and for reductions for good behavior earned while on parole.

(2) A parolee whose parole has been revoked may be considered by the Board of Parole for re-parole at any time. He shall be entitled to a hearing and consideration for re-parole after serving a further period of imprisonment equal to one third of the remainder of his maximum parole term, or after serving a period of six months, whichever is longer.

(3) Except in the case of a parolee who has absconded from the jurisdiction or from his place of residence, action revoking a parolee's parole and recommitting him for violation of the conditions of parole must be taken before the expiration of his maximum parole term less reductions for good behavior. A parolee who has absconded from the jurisdiction, or from his place of residence, shall be treated as a parole violator and whenever he is apprehended shall be subject to recommitment or to supervision for the balance of his parole term remaining on the date when he absconded.

#### 305.18. Parole to Detainers

(1) If a warrant or detainer is placed against a prisoner by a court, parole agency or other authority of this or any other jurisdiction, the Parole Administrator shall inquire, and seek to determine, before such prisoner becomes eligible for parole, whether the authority concerned intends to execute or withdraw the writ when the prisoner is released.

(2) If the authority notifies the Parole Administrator that it intends to execute such writ when the prisoner is released, the Parole Administrator shall advise the authority concerned of the sentence under which the prisoner is held, the time of parole eligibility, any decision of the Board of Parole relating to the prisoner, and of the nature of his adjustment during imprisonment, and shall give reasonable notice to such authority of the prisoner's release date.

(3) The Board of Parole may parole a prisoner who is eligible for release to a warrant or detainer. If a prisoner is paroled to such a warrant or detainer the Board of Parole may provide, as a condition of his release, that if the charges on which the warrant or detainer is based are dismissed, or are satisfied after conviction and sentence, prior to the expiration of his maximum parole term, the authority to whose warrant or detainer he is released shall return him to serve the remainder of his maximum parole term or such part thereof as the Board may determine.

(4) If a person paroled to a warrant or detainer is thereafter sentenced and placed on probation, or released on parole in another jurisdiction prior to the expiration of his maximum parole term less reduction for good behavior in this State, the Board of Parole may permit him to serve the remainder of his parole term, or such part thereof as the Board may determine, concurrently with his new probation or parole term. Such concurrent terms may be served in either of the two jurisdictions, and supervision shall be administered in accordance with the provisions of the Interstate Compact for the Supervision of Parolees and Probationers.

#### 305.19. Finality of Determinations with Respect to Reduction of Terms for Good Behavior and Parole

No court shall have jurisdiction to review or set aside, except for the denial of a hearing when a right to be heard is conferred by law:

(1) the action of an authorized official of the Department of Correction or of the Board of Parole withholding, forfeiting or refusing to restore a reduction of a prison or parole term for good behavior; or

(2) the orders or decisions of the Board of Parole regarding, but not limited to, the release or deferment of release on parole of a prisoner whose maximum prison term has not expired, the imposition or modification of conditions of parole, the revocation of parole, the termination or restoration of parole supervision or the discharge from parole or from re-imprisonment before the end of the parole term.

## ARTICLE 306

### LOSS AND RESTORATION OF RIGHTS INCIDENT TO CONVICTION OR Imprisonment

#### 306.1. Basis of Disqualification or Disability

(1) No person shall suffer any legal disqualification or disability because of his conviction of a crime or his sentence on such conviction, unless the disqualification or disability involves the deprivation of a right or privilege which is:

(a) necessarily incident to execution of the sentence of the Court; or

(b) provided by the Constitution or the Code; or

(c) provided by a statute other than the Code, when the conviction is of a crime defined by such statute; or

(d) provided by the judgment, order or regulation of a court, agency or official exercising a jurisdiction conferred by law, or by the statute defining such jurisdiction, when the commission of the crime or the conviction or the sentence is reasonably related to the competency of the individual to exercise the right or privilege of which he is deprived.

(2) Proof of a conviction as relevant evidence upon the trial or determination of any issue, or for the purpose of impeaching the convicted person as a witness is not a disqualification or disability within the meaning of this Article.

#### 306.2. Forfeiture of Public Office

A person holding any public office who is convicted of a crime shall forfeit such office if:

(1) he is convicted under the laws of this State of a felony or under the laws of another jurisdiction of a crime which, if committed within this State, would be a felony; or

(2) he is convicted of a crime involving malfeasance in such office, or dishonesty; or

(3) the Constitution or a statute other than the Code so provides.

### 306.3. Voting and Jury Service

Notwithstanding any other provision of law, a person who is convicted of a crime shall be disqualified

- (1) from voting in a primary or election if and only so long as he is committed under a sentence of imprisonment; and
- (2) from serving as a juror until he has satisfied his sentence.

### 306.4. Testimonial Capacity; Testimony of Prisoners

(1) Notwithstanding any other provision of law, the fact that a person has been convicted of a crime or that he is under sentence therefor, whether of imprisonment or otherwise, does not render him incompetent to testify in a legal proceeding.

(2) Upon the order of the Court, the Warden or other administrative head of an institution in which a prisoner is confined shall arrange for the production of the prisoner to testify at the place designated in the order. Such order shall be issued whenever the Court is satisfied that the testimony of the prisoner is required in a judicial or administrative proceeding and that the ends of justice can not be satisfied by taking his deposition at the institution where he is confined.

(3) Subject to regulations of the Department of Correction as to institutions subject to its jurisdiction, the Warden or other administrative head of an institution in which a prisoner is confined may, in his discretion, permit the prisoner to leave the institution, either alone or in the custody of an officer, for the purpose of testifying in a legal proceeding in which he is a party or has been called as a witness. In granting such permission, the Warden or administrative head may require that the prisoner or party calling him to testify defray the reasonable costs of providing for his custody while absent from the institution.

(4) Subject to regulations of the Department of Correction as to institutions subject to its jurisdiction, the Warden or other

administrative head of an institution in which a prisoner is confined shall permit the prisoner to give testimony by deposition or in response to interrogatories, when such testimony is desired in a legal proceeding, and shall make suitable arrangements to facilitate the taking of such deposition in the institution.

### 306.5. Appointment of Agent, Attorney-in-Fact or Trustee for Prisoner

(1) A person confined under a sentence of imprisonment shall have the same right to appoint an agent, attorney-in-fact or trustee to act in his behalf with respect to his property or economic interests as if he were not so confined.

(2) Upon the application of a person confined or about to be confined under a sentence of

imprisonment, the Court [insert appropriate court of record] of the county where the prisoner resided at the time of sentence or where the sentence was imposed may appoint a trustee to safeguard his property and economic interests during the period of his commitment. The trustee shall have such power and authority as the Court designates in the order of appointment but, unless the order otherwise provides, shall have all the power and authority conferred by a general power of attorney.

### 306.6. Order Removing Disqualifications or Disabilities; Vacation of Conviction; Effect of Order of Removal or Vacation

(1) In the cases specified in this Subsection the Court may order that so long as the defendant is not convicted of another crime, the judgment shall not thereafter constitute a conviction for the purpose of any disqualification or disability imposed by law because of the conviction of a crime:

(a) in sentencing a young adult offender to the special term provided by Section 6.05(2) or to any sentence other than one of imprisonment; or

(b) when the Court has theretofore suspended sentence or has sentenced the defendant to be placed on probation and the defendant has fully complied with the requirements imposed as a condition-of such order and has satisfied the sentence; or

(c) when the court has theretofore sentenced the defendant to imprisonment and the defendant has been released on parole, has fully complied with the conditions of parole and has been discharged; or

(d) when the Court has theretofore sentenced the defendant, the defendant has fully satisfied the sentence and has since led a law-abiding life for at least [two] years.

(2) In the cases specified in this Subsection, the Court which sentenced a defendant may enter an order vacating the judgment of conviction:

(a) when an offender [a young adult offender] has been discharged from probation or parole before the expiration of the maximum term thereof [; or

(b) when a defendant has fully satisfied the sentence and has since led a law-abiding life for at least [five] years].

(3) An order entered under Subsection (1) or (2) of this Section:

(a) has only prospective operation and does not require the restoration of the defendant to any office, employment or position forfeited or lost in accordance with this Article; and

(b) does not preclude proof of the conviction as evidence of the commission of the crime, whenever the fact of its commission is relevant to the determination of an issue involving the rights or liabilities of someone other than the defendant; and

(c) does not preclude consideration of the conviction for purposes of sentence if the defendant subsequently is convicted of another crime; and

(d) does not preclude proof of the conviction as evidence of the commission of the crime, whenever the fact of its commission is relevant to the exercise of the discretion of a court, agency or official authorized to pass upon the competency of the defendant to perform a function or to exercise a right or privilege which such court, agency or official is empowered to deny, except that in such case the court, agency or official shall also give due weight to the issuance of the order; and

(e) does not preclude proof of the conviction as evidence of the commission of the crime, whenever the fact of its commission is relevant for the purpose of impeaching the defendant as a witness, except that the issuance of the order may be adduced for the purpose of his rehabilitation; and

(f) does not justify a defendant in stating that he has not been convicted of a crime, unless he also calls attention to the order.

## DEPARTMENT OF CORRECTION

### 401.1. Department of Correction; Creation; Responsibilities

There shall be in the state government a Department of Correction, which shall be charged with the following responsibilities:

(1) to maintain, administer, and to establish state correctional institutions, including prisons, reformatories, reception centers, parole and probation hostels, state misdemeanor institutions and such other facilities as may be required for the custody, control, correctional treatment and rehabilitation of committed offenders, and for the safekeeping of such other persons as may be remanded thereto in accordance with law;

(2) to administer the release of prisoners under parole supervision and to administer parole services in the institutions and in the community;

(3) to establish personnel standards and supervision policies for all probation services in the State, and to administer probation field services in any county or other governmental subdivision of this State which has no probation service of its own;

[Alternative: (3) to administer probation services in the community;] \*

(4) to develop policies and programs for the correctional treatment and rehabilitation of offenders committed to institutions in the Department;

(5) to establish standards for the management, operation, personnel and program of, and to exercise powers of supervision, visitation and inspection over, all institutions in the State for the detention of persons charged with or convicted of an offense, or for the safekeeping of such other persons as may be remanded thereto in accordance with law, and to close any such

institution which is inadequate.

#### 401.2. Director of Correction; Appointment; Powers and Duties

(1) The Department of Correction shall be under the direction of the Director of Correction, who shall be appointed by the Governor for a term of \_\_\_\_ years. His salary shall be fixed by the Governor within