

(3) kills or injures any animal belonging to another without legal privilege or consent of the owner.

Subsections (1) and (2) shall not be deemed applicable to accepted veterinary practices and activities carried on for scientific research.

#### 250.12. Violation of Privacy

(1) Unlawful Eavesdropping or Surveillance. A person commits a misdemeanor if, except as authorized by law, he:

(a) trespasses on property with purpose to subject anyone to eavesdropping or other surveillance in a private place; or

(b) installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in such place, or uses any such unauthorized installation; or

(c) installs or uses outside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.

"Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

(2) Other Breach of Privacy of Messages. A person commits a misdemeanor if, except as authorized by law, he:

(a) intercepts without the consent of the sender or receiver a message by telephone, telegraph, letter or other means of communicating privately; not extend to (i) overhearing of messages through a regularly installed instrument on a telephone party line or an extension, or (ii) interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or incident to other normal operation and use; or

(b) divulges without the consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged

in transmitting it.

## ARTICLE 251

### PUBLIC INDECENCY

#### 251.1. Open Lewdness

A person commits a petty misdemeanor if he does any lewd act which he knows is likely to be observed by others who would be affronted or alarmed.

#### 251.2. Prostitution and Related Offenses

(1) Prostitution. A person is guilty of prostitution, a petty misdemeanor, if he or she:

(a) is an inmate of a house of prostitution or otherwise engages in sexual activity as a business; or

(b) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

"Sexual activity" includes homosexual and other deviate sexual relations. A "house of prostitution" is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another. An "inmate" is a person who engages in prostitution in or through the agency of a house of prostitution. "Public place" means any place to which the public or any substantial group thereof has access.

(2) Promoting Prostitution. A person who knowingly promotes prostitution of another commits a misdemeanor or felony as provided in Subsection (3). The following acts shall, without limitation of the foregoing, constitute promoting prostitution:

(a) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business; or

(b) procuring an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate; or

(c) encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute; or

(d) soliciting a person to patronize a prostitute; or

(e) procuring a prostitute for a patron; or

(f) transporting a person into or within this state with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or

(g) leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or the promotion of prostitution, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means; or

(h) soliciting, receiving, or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this Subsection.

(3) Grading of Offenses Under Subsection (2). An offense under Subsection (2) constitutes a felony of the third degree if:

(a) the offense falls within paragraph (a), (b) or (c) of Subsection (2); or

(b) the actor compels another to engage in or promote prostitution; or

(c) the actor promotes prostitution of a child under 16, whether or not he is aware of the child's age; or

(d) the actor promotes prostitution of his wife, child, ward or any person for whose care, protection or support he is responsible.

Otherwise the offense is a misdemeanor.

(4) Presumption from Living off Prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution in violation of Subsection (2).

(5) Patronizing Prostitutes. A person commits a violation if he hires a prostitute to engage in sexual activity with him, or if he enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(6) Evidence. On the issue whether a place is a house of prostitution the following shall be admissible evidence: its general repute; the repute of the persons who reside in or frequent the place; the frequency, timing and duration of visits by non-residents. Testimony of a person against his spouse shall be admissible to prove offenses under this Section.

#### 251.3. Loitering to Solicit Deviate Sexual Relations

A person is guilty of a petty misdemeanor if he loiters in or near any public place for the purpose of soliciting or being solicited to engage in deviate sexual relations.

#### 251.4. Obscenity

(1) Obscene Defined. Material is obscene if, considered as a whole, its predominant appeal is to prurient interest, that is, a shameful or morbid interest, in nudity, sex or excretion, and if in addition it goes substantially beyond customary limits of candor in describing or representing such matters. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other specially susceptible audience. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(2) Offenses. Subject to the affirmative defense provided in Subsection (3), a person commits a misdemeanor if he knowingly or recklessly:

(a) sells, delivers or provides, or offers or agrees to sell, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene; or

(b) presents or directs an obscene play, dance or performance, or participates in that portion thereof which makes it obscene; or

(c) publishes, exhibits or otherwise makes available any obscene material; or

(d) possesses any obscene material for purposes of sale or other commercial dissemination; or

(e) sells, advertises or otherwise commercially disseminates material, whether or not obscene, by representing or suggesting that it is obscene.

A person who disseminates or possesses obscene material in the course of his business is presumed to do so knowingly or recklessly.

(3) Justifiable and Non-Commercial Private Dissemination. It is an affirmative defense to prosecution under this Section that dissemination was restricted to:

(a) institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material; or

(b) non-commercial dissemination to personal associates of the actor.

(4) Evidence; Adjudication of Obscenity. In any prosecution under this Section evidence shall be admissible to show:

(a) the character of the audience for which the material was designed or to which it was directed:

(b) what the predominant appeal of the material would be for ordinary adults or any special audience to which it was directed, and what effect, if any, it would probably have on conduct of such people;

(c) artistic, literary, scientific, educational or other merits of the material;

(d) the degree of public acceptance of the material in the United States;

(e) appeal to prurient interest, or absence thereof, in advertising or other promotion of the material; and

(f) the good reputation of the author, creator, publisher or other person from whom the material originated.

Expert testimony and testimony of the author, creator, publisher or other person from whom the material originated, relating to factors entering into the determination of the issue of obscenity, shall be admissible. The Court shall dismiss a prosecution for obscenity if it is satisfied that the material is not obscene.

## ARTICLE 301

### SUSPENSION OF SENTENCE; PROBATION

#### 301.1. Conditions of Suspension or Probation

(1) When the Court suspends the imposition of sentence on a person who has been convicted of a crime or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this Section, as it deems necessary to insure that he will lead a law-abiding life or likely to assist him to do so.

(2) The Court, as a condition of its order, may require the defendant:

(a) to meet his family responsibilities;

(b) to devote himself to a specific employment or occupation;

(c) to undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;

(d) to pursue a prescribed secular course of study or vocational training;

(e) to attend or reside in a facility established for the instruction, recreation or residence of persons on probation;

(f) to refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

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

(h) to make restitution of the fruits of his crime or to make reparation, in an amount he can afford to pay, for the loss or damage caused thereby;

(i) to remain within the jurisdiction of the Court and to notify the Court or the probation officer of any change in his address or his employment;

(j) to report as directed to the Court or the probation officer and to permit the officer to visit his home;

(k) to post a bond, with or without surety, conditioned on the performance of any of the foregoing obligations;

(l) to satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

[ (3) When the Court sentences a person who has been convicted of a felony or misdemeanor to be placed on probation, it may require him to serve a term of imprisonment not exceeding thirty days as an additional condition of its order. The term of imprisonment imposed hereunder shall be treated as part of the term of probation, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall not be credited toward service of such subsequent sentence. ]

(4) The defendant shall be given a copy of this Article and written notice of any requirements imposed pursuant to this Section, stated with sufficient specificity to enable him to guide himself accordingly.

#### 301.2. Period of Suspension or Probation; Modification of Conditions; Discharge of Defendant

(1) When the Court has suspended sentence or has sentenced a defendant to be placed on probation, the period of the suspension or probation shall be five years upon conviction of a felony or two years upon conviction of a misdemeanor or a petty misdemeanor, unless the defendant is sooner discharged by order of the Court. The Court, on application of a probation officer or of the defendant, or on its own motion, may discharge the defendant at any time. On conviction of a violation, a suspended sentence constitutes an unconditional discharge.

(2) During the period of the suspension or probation, the Court, on application of a probation officer or of the defendant, or on its own motion, may modify the requirements imposed on the defendant or add further requirements authorized by Section 301.1. The Court shall eliminate any requirement that imposes an unreasonable burden on the defendant.

(3) Upon the termination of the period of suspension or probation or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the Court and shall have satisfied his sentence for the crime.

301.3. Summons or Arrest of Defendant Under Suspended Sentence or on Probation; Commitment Without Bail; Revocation and Re-sentence

(1) At any time before the discharge of the defendant or the termination of the period of suspension or probation:

(a) the Court may summon the defendant to appear before it or may issue a warrant for his arrest;

(b) a probation or peace officer, having probable cause to believe that the defendant has failed to comply with a requirement imposed as a condition of the order or that he has committed another crime, may arrest him without a warrant;

(c) the Court, if there is probable cause to believe that the defendant has committed another crime or if he has been held to answer therefor, may commit him without bail, pending a determination of the charge by the Court having jurisdiction thereof;

(d) the Court, if satisfied that the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or if he has been convicted of another crime, may revoke the suspension or probation and sentence or re-sentence the defendant, as provided in this Section.

(2) When the Court revokes a suspension or probation, it may impose on the defendant any sentence that might have been imposed originally for the crime of which he was convicted, except that the defendant shall not be sentenced to imprisonment unless:

(a) he has been convicted of another crime; or

(b) his conduct indicates that his continued liberty involves undue risk that he will commit another crime; or

(c) such disposition is essential to vindicate the authority of the Court.

301.4. Notice and Hearing on Revocation or Modification of Conditions of Suspension or Probation

The Court shall not revoke a suspension or probation or increase the requirements imposed thereby on the defendant



except after a hearing upon written notice to the defendant of the grounds on which such action is proposed. The defendant shall have the right to hear and controvert the evidence against him, to offer evidence in his defense and to be represented by counsel.

#### [301.5. Order Removing Disqualification or Disability Based on Conviction

(1) When the Court has 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, the Court may order that so long as the defendant is not convicted of another crime, the judgment shall not constitute a conviction for the purpose of any disqualification or disability imposed by law upon conviction of a crime.

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

#### 301.6. Suspension or Probation Is Final Judgment for Other Purposes

A judgment suspending sentence or sentencing a defendant to be placed on probation shall be deemed tentative, to the extent provided in this Article, but for all other purposes shall constitute a final judgment.

### ARTICLE 302

#### 302.1. Time and Method of Payment; Disposition of Funds

(1) When a defendant is sentenced to pay a fine, the Court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable forthwith.

(2) When a defendant sentenced to pay a fine is also sentenced to probation, the Court may make the payment of the fine a condition of probation.

(3) The defendant shall pay a fine or any installment thereof to the [insert appropriate agency of the State or local subdivisions. In the event of default in payment, such agency

shall take appropriate action for its collection.

(4) Unless otherwise provided by law, all fines collected shall be paid over to the [State Department of Taxation and Finance] and shall become part of the general funds of the State and shall be subject to general appropriation.

### 302.2. Consequences of Non-Payment; Imprisonment for Contumacious Non-Payment; Summary Collection

(1) When a defendant sentenced to pay a fine defaults in the payment thereof or of any installment, the Court, upon the motion of [insert appropriate agency of the State or local subdivision] or upon its own motion, may require him to show cause why his default should not be treated as contumacious and may issue a summons or a warrant of arrest for his appearance. Unless the defendant shows that his default was not attributable to a willful refusal to obey the order of the Court, or to a failure on his part to make a good faith effort to obtain the funds required for the payment, the Court shall find that his default was contumacious and may order him committed until the fine or a specified part thereof is paid. The term of imprisonment for such contumacious non-payment of the fine shall be specified in the order of commitment and shall not exceed one day for each [five] dollars of the fine, thirty days if the fine was imposed upon conviction of a violation or a petty misdemeanor or one year in any other case, whichever is the shorter period. When a fine is imposed on a corporation or an unincorporated association, it is the duty of the person or persons authorized to make disbursements from the assets of the corporation or association to pay it from such assets and their failure so to do may be held contumacious under this Subsection. A person committed for non-payment of a fine shall be given credit towards its payment for each day of imprisonment, at the rate specified in the order of commitment.

(2) If it appears that the defendant's default in the payment of a fine is not contumacious, the Court may make an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment, or revoking the fine or the unpaid portion thereof in whole or in part.

(3) Upon any default in the payment of a fine or any installment thereof, execution may be levied and such other measures may be taken for the collection of the fine or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt. The levy of execution for the collection of a fine shall not discharge a defendant committed to imprisonment

for non-payment of the fine until the amount of the fine has actually been collected.

### 302.3. Revocation of Fine

A defendant who has been sentenced to pay a fine and who is not in contumacious default in the payment thereof may at any time petition the Court which sentenced him for a revocation of the fine or of any unpaid portion thereof. If it appears to the satisfaction of the Court that the circumstances which warranted the imposition of the fine have changed, or that it would otherwise be unjust to require payment, the Court may revoke the fine or the unpaid portion thereof in whole or in part.

## ARTICLE 303

### SHORT-TERM IMPRISONMENT

#### 303.1. State and Local Institutions for Short Term Imprisonment; Review of Adequacy; Joint Use of Institutions; Approval of Plan of New Institutions

(1) Within the appropriation allotted therefor, the several counties, cities and [other appropriate political subdivisions of the State] and the Department of Correction may construct, equip and maintain suitable buildings, structures and facilities for the operation and for the necessary expansion and diversification of local short-term institutions, including lockups, jails, houses of correction, work farms and such other institutions as may be required for the following purposes:

(a) the custody, control, correctional treatment and rehabilitation of persons sentenced or committed to imprisonment for a fixed term of one year or less;

(b) the custody, control and temporary detention of persons committed to the Department of Correction, until they are removed to the reception center or to another institution in the Department;

(c) the detention of persons charged with crime and committed for hearing or for trial;

(d) the detention of persons committed to secure their attendance as witnesses, and for other detentions authorized by law.

(2) The Director of Correction shall annually review, on

the basis of visitation, inspection and reports pursuant to Section 401.11, the adequacy of the institutions for short-term imprisonment in the several counties, cities and [other appropriate political subdivisions of the State] in the light of the number of persons committed thereto, the physical facilities thereof and programs conducted therein. No later than his next annual report, the Director shall report on any inadequacies of such facilities, including his recommendations for the alteration or expansion of existing institutions, for the construction of new institutions, for the combination of two or more local institutions of the same or of different political subdivisions of the State, or for such other measures to meet the situation as may be appropriate. In making his recommendations, the Director may indicate whether, in his opinion, the alteration, expansion or new construction can best be undertaken by the political subdivisions concerned, or by the Department of Correction.

(3) In reviewing the adequacy of the institutions for short term imprisonment, the Director of Correction shall consider whether the facilities available in the several political subdivisions of the State afford adequate opportunity for the segregation and classification of prisoners, for the isolation and treatment of ill prisoners, for the treatment of alcoholic and drug-addicted prisoners, for diversified security and custody, and for opportunities for vocational and rehabilitative training.

(4) Upon the recommendation or with the approval of the Director of Correction, counties, cities, and [other appropriate political subdivisions of the State~ having institutions for short term imprisonment may establish joint institutions, or combine two or more existing facilities for short-term imprisonment, and may make such agreements for the sharing of the costs of construction and maintenance as may be authorized by law.

(5) No county, city, or [other appropriate political subdivision of the State] shall construct or establish an institution for short-term imprisonment, unless the plans for the establishment and construction of such institution are approved by the Director of Correction.

### 303.2. Records of Prisoners; Classification; Transfer

(1) The Warden, or other administrative head of an institution for short-term imprisonment, shall establish and maintain, in accordance with the regulations of the Department of Correction, a central file in the institution containing an

individual file for each prisoner. Each prisoner's file shall as far as practicable include: (a) his admission summary; (b) his pre-sentence investigation report, if any; (c) the official records of his conviction and commitment, as well as earlier criminal records, if any; (d) progress reports from treatment and custodial staff; (e) reports of his disciplinary infractions and of their disposition; and (f) other pertinent data concerning his background, conduct, associations and family relationships. 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 [governing body of each] county, city [or other appropriate political subdivision of the State] having one or more institutions for short-term imprisonment shall appoint a Classification Committee consisting of [ ] members of the institutional staffs and of qualified citizens of the county, city or [other appropriate political subdivision]. If a physician has been appointed to serve the institutions, he shall be an ex officio member of the Committee. All Committee members shall serve without compensation but shall be paid their necessary expenses.

(3) As soon as practicable after a prisoner who has been sentenced to a definite term of thirty days or more is received in the institution, and no later than the expiration of the first third of his term, the Classification Committee shall study his file and interview him, and shall [determine] [aid the Warden or other administrative head of the institution in determining] the prisoner's program of treatment, training, employment, care and custody. The Classification Committee may also recommend the transfer of the prisoner to another institution which in its opinion is more suitable for him.

(4) The Warden or other administrative head of the institution may, on his own motion or upon the recommendation of the Classification Committee, apply to the Court for an order to transfer the prisoner to another institution for short-term imprisonment, within or outside of the county, city [or other appropriate political subdivision of the State].

### 303.3. Segregation of Prisoners; Segregation and Transfer of Prisoners With Physical or Mental Diseases or Defects

(1) In institutions for short-term imprisonment the following groups shall be segregated from each other:

(a) female prisoners from male prisoners; and

(b) prisoners under the age of twenty-two from older prisoners; and

(c) persons detained for hearing or trial from prisoners under sentence of imprisonment or committed for contumacious default in the payment of fines; and

(d) persons detained for hearing or trial or under sentence from material witnesses and other persons detained under civil commitment.

(2) 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 may transfer him to another institution in the county, city or [other appropriate political subdivision of the State] where proper treatment is available, or to a hospital, if any, operated by the county, city or [other appropriate political subdivision of the State] if such hospital has adequate facilities, including detention facilities when necessary, to receive and treat the prisoner. If proper treatment or facilities are not available in an institution or a hospital operated by the county, city, or [other appropriate political subdivision of the State] the Warden or other administrative head may transfer him to an institution or hospital operated by another county, city or [other appropriate political subdivision of the State], where such treatment and facilities are available, if such hospital or institution is ready to receive him, under such arrangements for reimbursement of costs as may be authorized by law. The Warden or other administrative head may request the Director of Correction to permit such prisoner to 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. The Director of Correction shall permit such transfer whenever such institutions in the Department have available room to receive the prisoner.

(3) When an institutional physician finds upon examination that a prisoner suffers from a physical disease or defect that cannot, in his opinion, be properly treated in any institution or hospital of the county, city or [other appropriate political

subdivision of the State] or of another county, city or [other appropriate subdivision of the State], or in the Department of Correction, such prisoner, upon the direction of the Warden or other administrative head [and with the approval of the Director of Correction], may receive treatment in, or may be transferred to, for the purpose of receiving treatment in, any other available hospital. The Warden or other administrative head, in accordance with regulations of the Department of Correction, shall make appropriate arrangements with other public or private agencies for the transportation to, and for the care, custody and security of the prisoner in such hospital. While receiving treatment in such hospital, the prisoner shall remain subject to the jurisdiction and custody of the institution to which he was committed, and shall be returned thereto when, prior to the expiration of his sentence, such hospital treatment is no longer necessary.

(4) When two psychiatrists approved by the Department of Mental Hygiene [or other appropriate department] find upon examination that a prisoner suffers from a mental disease or defect that cannot, in their opinion, be properly treated in any institution in the Department of Correction, such prisoner, upon the direction of the Warden or other administrative head [and with the approval of the Director of Correction], may be transferred for treatment, with the approval of the Department of Mental Hygiene [or other appropriate department], to a psychiatric facility in such department. The Warden or other administrative head, in accordance with the regulations of the Department of Correction, shall make appropriate arrangements with the Department of Mental Hygiene [or other appropriate department] for the transportation to, and for the custody and security of the prisoner in such psychiatric facility. A prisoner receiving treatment in such a psychiatric facility shall remain subject to the jurisdiction and custody of the institution to which he was committed, and shall be returned thereto when, prior to the expiration of his sentence, treatment in such facility is no longer necessary. A prisoner receiving treatment in a psychiatric facility in the Department of Mental Hygiene [or other appropriate department] who continues in need of treatment at the time of his release or discharge shall be dealt with in accordance with Subsection (5) of this Section.

(5) When two psychiatrists approved by the Department of Mental Hygiene [or other appropriate department] find upon examination that a prisoner about to be discharged from an institution suffers from a mental disease or defect of such a nature that his release or discharge will endanger the public safety or the safety of the prisoner, the Warden or other

administrative head, with the approval of the Director of Correction, shall transfer him to, or if he has already been transferred, permit him to remain in, the Department of Mental Hygiene [or other appropriate department] to be dealt with in accordance with law applicable to the civil commitment and detention of persons suffering from such disease or defect.

#### 303.4. Medical Care; Food and Clothing

(1) Upon admission to a facility for short-term imprisonment, each prisoner shall [whenever practicable] be given a physical examination, and if he is suspected of having a communicable disease, he shall be quarantined until he is known to be free from such disease. Each prisoner shall receive such medical and dental care as may be necessary during his period of commitment [, but at his request, he may be permitted to provide such care for himself at his own expense].

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

#### 303.5. Program of Rehabilitation

The Warden or other administrative head of an institution for short-term imprisonment shall establish, subject to regulation of the Department of Correction, an appropriate program for his 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 a program, the Warden or other administrative head 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.

#### 303.6. 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. The right to punish or to inflict



punishment shall not be delegated to any prisoner or group of prisoners and no Warden or other administrative head shall permit any such prisoner or group of prisoners to assume authority over any other prisoner or group of prisoners.

(2) Except in flagrant or serious cases, punishment for a breach of discipline shall consist of deprivation of privileges. In case of assault, escape, or attempt to escape, or other serious or flagrant breach of discipline, the Warden or other administrative head may order that a prisoner's reduction of term for good behavior in accordance with Section 303.8 be forfeited. For serious or flagrant breach of discipline, the Warden or other administrative head may confine the prisoner, in accordance with the regulations of the Department of Correction, to a disciplinary cell for a period not to exceed [ten] days, and may order that the 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.

(3) 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 of Correction consistent therewith.

(4) 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.

### 303.7. 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 institutional 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 the use of the county, city or [other appropriate political subdivision of the State], State [and for other purposes expressly authorized by law]. To accomplish these purposes, the Warden or other administrative head, with the approval of the Director of Correction, shall establish and maintain work programs, including, to the extent practicable, prison industries and prison farms in his

institution, and may enter into arrangements with the departments of the State, or of the county, city or other appropriate political subdivision of the State], 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 institutional physician.

(3) The Director of Correction shall make rules and regulations governing the hours and conditions of labor of prisoners in correctional institutions of the counties, cities or [other appropriate political subdivision of the State] 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 a prisoner shall not be sold, contracted or hired out, but prisoners may work for other departments of the State or of the county, city or [other appropriate political subdivision of the State] in accordance with arrangements made pursuant to Subsection (1) of this Section.

(5) All departments and agencies of the county, city or [other appropriate political subdivision of the State] and institutions and agencies which are supported in whole or in part by such political subdivision, shall purchase [or draw] from the correctional institution all articles and products required by them which are produced or manufactured by prison labor in such correctional institutions, unless excepted from this requirement by the [appropriate authority] of the county, city or [other appropriate political subdivision of the State] in accordance with rules and regulations of such [appropriate

authority] to carry out the purposes of this Subsection. Any surplus articles and products not so purchased shall be disposed of to the departments and agencies of the State and of other counties, cities or other appropriate political subdivisions of the State]. 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 of the State and its political subdivisions 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 Warden or other administrative head shall make appropriate arrangements for the compensation of prisoners for damages from injuries arising out of their employment.

#### 303.8. Reduction of Term for Good Behavior

For good behavior and faithful performance of duties, the term of imprisonment of a prisoner sentenced or committed for a definite term of more than thirty days shall be reduced by [five] days for each month of such term. Such reductions of terms may be forfeited, withheld or restored by the Warden or other administrative head of the institution, in accordance with the regulations of the Department of Correction.

#### 303.9. Privilege of Leaving Institution for Work and Other Purposes; Conditions; Application of Earnings

(1) When a defendant is sentenced or committed for a fixed term of one year or less, the Court may in its order grant him the privilege of leaving the institution during necessary and reasonable hours for any of the following purposes:

(a) to work at his employment;

(b) to seek employment;

(c) to conduct his own business or to engage in other self-employment, including, in the case of a woman, housekeeping and attending to the needs of her family;

(d) to attend an educational institution;

(e) to obtain medical treatment;

(f) to devote time to any other purpose approved by the Court.

(2) Whenever a prisoner who has been granted the privilege of leaving the institution under this Section is not engaged in the activity for which such leave is granted, he shall be confined in the institution.

(3) A prisoner sentenced to ordinary confinement may petition the Court at any time after sentence for the privilege of leaving the institution under this Section and may renew his petition in the discretion of the Court. The Court may withdraw the privilege at any time by order entered with or without notice.

(4) If the prisoner has been granted permission to leave the institution to seek or take employment, the Court's probation department shall assist him in obtaining suitable employment. Employment shall not be deemed suitable if the wages or working conditions or other circumstances present a danger of exploitation or of interference in a labor dispute in the establishment in which the prisoner would be employed.

(5) If a prisoner is employed for wages or salary, the [probation service] [Warden or other administrative head] shall collect the same, or shall require the prisoner to turn over his wages or salary in full when received, and shall deposit the same in a trust account and shall keep a ledger showing the status of the account of each prisoner. Earnings levied upon pursuant to writ of attachment or execution or in other lawful manner shall not be collected hereunder, but when the [probation service] [Warden or other administrative head] has requested transmittal of earnings prior to levy, such request shall have priority. When an employer transmits such earnings to the [probation service] [Warden or other administrative head] pursuant to this Subdivision he shall have no liability to the prisoner for such earnings. From such earnings the probation service shall pay the prisoner's board and personal expenses both inside and outside the institution, shall deduct so much of the costs of administration of this Section as is allocable to such prisoner, and shall deduct installments on fines, if any, and, to the extent directed by the Court, shall pay the support of the prisoner's dependents. If sufficient funds are available after making the foregoing payments, the [probation service] [Warden or other administrative head] may, with the consent of the prisoner, pay, in whole or in part, any unpaid debts of the prisoner. Any balance shall be retained, and shall be paid to the prisoner at the time of his discharge.

(6) A prisoner who is serving his sentence pursuant to this Section shall be eligible for a reduction of his term for good behavior and faithful performance of duties in accordance with Section 303.8 in the same manner as if he had served his term in ordinary confinement.

(7) The Warden or other administrative head may deny the prisoner the exercise of his privilege to leave the institution for a period not to exceed five days for any breach of discipline or other violation of regulations.

(8) The Court shall not make an order granting the privilege of leaving the institution under this Section unless it is satisfied [the Warden or other administrative head has certified] that there are adequate facilities for the administration of such privilege in the institution in which the defendant will be confined.

#### 303.10. Release from Institutions

When a prisoner sentenced or committed for a definite term of one year or less is discharged from an institution, he shall be returned any personal possessions taken from him upon his commitment, and the Warden or other administrative head shall furnish him with a transportation ticket, or with the cost of transportation, to the place where he was sentenced, or to any other place not more distant.

#### ARTICLE 304

##### LONG-TERM IMPRISONMENT

#### 304.1. Reception Center; Reception Classification Boards; Reception Classification and Reclassification; Transfer of Prisoners

(1) The Director of Correction shall, when practicable, establish, equip, and maintain one or more centers for the reception and classification of young adult offenders as defined in Section 6.05, and one or more such centers for other persons committed to the Department of Correction. When practicable, a reception center shall be a separate institution, but until it is established as such, it may be located in, or be contiguous to, another institution and may share its facilities. When a reception center shares the facilities of another institution, however, the administration and personnel of the center shall be independent of such other institution, and prisoners in such

center shall be segregated from prisoners in the institution whose facilities it shares.

(2) The Director of Correction shall appoint a Reception Classification Board for each reception center, which shall include a representative of the Director of Correction, a physician, a psychiatrist or clinical psychologist, a representative of the treatment services, a representative of the custodial services, and such other persons as the Director may designate. Members of a Reception Classification Board shall serve at the pleasure of the Director of Correction.

(3) Reception Classification Boards shall examine and study all persons committed to the Department of Correction and may retain any prisoner in the reception center only for such period as may be required to complete such examination and study and to effect his transfer to another institution. The Board shall investigate each prisoner's medical, psychological, social, educational and vocational condition and history, and the motivation of his offense.

Upon the conclusion of its study of a prisoner, a Reception Classification Board shall submit its report, including its recommendations and the reasons therefor, to the Director of Correction. The Board's recommendation shall include [the classification of the prisoner according to such system of prisoner classification as the Director of Correction may establish by regulation,] the institution or unit to which the prisoner's transfer is recommended, the degree and kind of custodial control recommended for the protection of society, and the program of treatment for the rehabilitation of the prisoner, including in such program such recommendations for medical and psychological treatment and educational and vocational training as may be appropriate. The Board's report may, in addition, contain the dissenting views, if any, of any of its members.

(4) Upon receipt of the Reception Classification Board's report, the Director of Correction shall designate the institution or unit to which the prisoner shall be transferred.

(5) A reception center shall forward copies of the report of its Reception Classification Board to the institution to which the prisoner is transferred, [and] to the Division of Parole [and to the clerk of the court which sentenced the prisoner,] to be made a part of such prisoner's files.

(6) The Director of Correction may at any time order a prisoner transferred to a reception center for further examination and study and for new recommendations concerning his

classification, custodial control and rehabilitative treatment, or he may order such prisoner's immediate transfer to another institution without such further examination and study.

#### 304.2. Institutions; Review of Adequacy; Use of Institutions of Another Jurisdiction

(1) Within the appropriation allotted therefor, the Director of Correction shall construct, equip and maintain suitable buildings, structures, and facilities for the operation, and for the necessary expansion and diversification, of the state correctional system, including prisons, reformatories, reception centers, parole and probation hostels, [state misdemeanor institutions] and such other institutions as may be required for the custody, control, correctional treatment and rehabilitation of persons committed to the Department of Correction.

(2) The Director of Correction shall annually review the adequacy of the state correctional system in the light of the number of persons committed thereto as well as in the light of the need for diversified facilities. No later than his next annual report, the Director shall report on any inadequacies of the state correctional system, including his recommendations for the alteration or expansion of the existing institutions, for the construction of new institutions, or for such other measures to meet the situation as may be appropriate, whenever the system fails to provide, when practicable, the following institutions:

(a) one or more maximum security institutions accommodating in each such institution or in separate units thereof no more than [ ] prisoners;

(b) one or more medium security institutions accommodating in each such institution or in separate units thereof no more than [ ] prisoners;

(c) one or more minimum security institutions accommodating in each such institution or in separate units thereof no more than [ I prisoners, which institutions may include unfenced farms, camps, colonies, housing for outside work areas, and similar facilities, and may, in addition to their regular uses, be employed also for parole preparation of prisoners and for the detention of prisoners during temporary suspension of parole, and for other similar purposes;

(d) special institutional facilities for the vocational and