

Suspended Sentence, Duty of Clerk of Court. Clerk of Court, Duty in Case of Suspended Sentence. County Attorney, Duty of in Case of Suspended Sentence. Prisoner Under Suspended Sentence, Under Control of State Board of Prison Commissioners. State Board of Prison Commissioners, Prisoner Under Suspended Sentence Under Control of.

After the certificate provided for in Sec. 5 of Senate Bill No. 57 has been made by the clerk of the court, nothing further is required of either the clerk of the court or the county attorney. A prisoner, after being sentenced and discharged under

the provisions of this law, is under the control of the state board of prison commissioners.

April 4th, 1913.

Hon. Robert C. Stong,
County Attorney,
Billings, Montana.

Dear Sir:

Replying to your letter of April 2nd, inquiring as to the duties of your office and the office of the clerk of the court in cases coming under Senate Bill No. 57, providing for suspended sentence in the case of persons convicted of certain offenses, I have this to say: Sec. 3 of the said bill says that:

"The effect of such order of probation shall be to place said defendant under the control and management of the state board of prison commissioners and he shall be subject to the same rules and regulations as applied to persons paroled from said institutions after a period of imprisonment therein."

Sec. 5 of the said bill provides that:

"It shall be the immediate duty of the clerk of said court to make a full copy of the judgment of the court, with the order for the suspension of the execution of sentence thereunder and the reasons therefor, and to certify the same to the state board of prison commissioners and to the institution to which said court would have committed the defendant but for the suspension of the sentence. Upon entry in the records of the court of the order for such probation, the defendant shall be released from custody of the court as soon as the requirements and conditions fixed by the board of prison commissioners have been properly and fully met."

It is my opinion, therefore, that there is nothing further required of the clerk of the court or of your office after the certificate provided for in Sec. 5 of said law has been made by the clerk of the court, and that a prisoner after being sentenced and discharged under the provisions of the law, is entirely under the control and custody of the state board of prison commissioners.

Very truly yours,

D. M. KELLY,
Attorney General.