HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 175(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/7/96
Offered: 4/29/96

Sponsor(s): SENATORS DONLEY, Pearce, Halford, Leman, Kelly, Sharp, Green, Torgerson, Miller, Taylor, Phillips

REPRESENTATIVES Ogan, Mulder, Porter

A BILL

FOR AN ACT ENTITLED

"An Act relating to correctional institutions and their administration, and to services provided to prisoners; amending the definition of ‘severely medically disabled’ applicable to prisoners seeking special medical parole; and amending provisions of the correctional industries program, and extending the termination date of the Correctional Industries Commission and the program."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. Sections 3 - 5 of this Act may be known as the "Alaska No Frills Prison Act."

* Sec. 2. AS 33.16.900(10) is amended to read:

(10) "severely medically disabled" means that a person has a medical condition that substantially eliminates the physical ability to commit an offense similar to the offense for which the person was convicted or to commit an offense in violation of AS 11.41 that is punishable as a felony, [REQUIRES THE PERSON SUFFERING FROM THE CONDITION TO BE CONFINED TO BED] and the person
is likely to

(A) remain subject to the medical condition [BE CONFINED TO BED] throughout the entire period of parole; or

(B) [TO] die from the medical condition;

* Sec. 3. AS 33.30.011 is amended to read:

Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; each correctional facility operated by the state shall be established, maintained, operated, and controlled in a manner that is consistent with AS 33.30.015;

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

(A) protect the public;

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

(F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) subject to AS 33.30.028, provide necessary medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(B) psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(i) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) the potential for harm to the prisoner by reason of
delay or denial of care is substantial;

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner; and

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060.

* Sec. 4. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.015. WORK REQUIREMENT AND LIVING CONDITIONS FOR PRISONERS. (a) In implementing this chapter, the commissioner may not

(1) provide in a state correctional facility operated by the state

(A) living conditions and recreational opportunities to prisoners within a correctional facility that substantially exceed the conditions that may be required of the state by the Constitution of the United States or the constitution of the state;

(B) living quarters for a prisoner into which the view into the quarters is obstructed; however, the commissioner may not be required to renovate the cells of a correctional facility that, on the effective date of this Act, confines prisoners in cells equipped with doors that do not have bars or windows;

(C) food that exceeds in quality or quantity food that is available at United States military mess facilities to enlisted personnel undergoing basic training in the United States armed forces; however, in providing food that conforms to the requirement of this subparagraph, the commissioner shall use Alaska farm products and fish to the greatest extent practicable;

(D) equipment or facilities for publishing or broadcasting material the content of which is not subject to prior approval by the department as consistent with keeping order in the institution and prisoner discipline;

(E) cable television service in a correctional facility other than a level of basic cable television service that is available as a substitute for services that are broadcast to the public in the community in which a correctional facility is located;
(2) allow a prisoner held in a state correctional facility operated by the
state to

(A) possess a compact disc player;

(B) view movies rated "X," or "NC-17," or that do not have a
rating unless approved by the department;

(C) possess printed material that visually depicts a person's
genitals, anus, or female breast;

(D) receive instruction in person, or by broadcast or printed
medium, or engage in boxing, wrestling, judo, karate, or other martial art, or
in any activity that, in the commissioner's discretion, would facilitate violent
behavior;

(E) possess in the prisoner’s cell a coffee pot, hot plate,
appliance, or heating element for food preparation;

(F) possess apparel or appear in a state of dress, hygiene,
grooming, or appearance other than as permitted as uniform or standard in the
correctional facility;

(G) use a computer other than those approved by the
correctional facility; the use may be only as part of the prisoner’s employment,
education, or vocational training;

(H) smoke unless the prisoner smokes in an area that has been
designated under AS 18.35.320 to permit smoking.

(b) The commissioner may determine whether the provisions of (a) of this
section shall apply to correctional facilities that are not operated by the state and may
negotiate with a provider of services for the detention and confinement of persons held
under authority of state law under contract or agreement whether the work
requirements and living conditions set out in (a) of this section shall apply to persons
held under authority of state law at a facility operated under contract or agreement.

(c) On and after January 1, 1997, the commissioner may not allow a prisoner
who, under AS 33.30.011(2), has been classified as maximum custody, to possess a
television in the prisoner’s cell.

(d) Subject to (e) of this section, on and after January 1, 1998, the
commissioner may allow a prisoner who, under AS 33.30.011(2), has been classified as other than maximum custody to possess a television in the prisoner’s cell only if the prisoner

(1) either is incapable of obtaining or has attained a high school diploma or general education development diploma or the equivalent;

(2) is actively engaged in an educational, vocational training, or employment program;

(3) has satisfied or is on a regular and current payment schedule for all restitution orders entered by the court as part of the prisoner’s sentence and, if applicable, is actively engaged in a treatment plan, counseling, or rehabilitation program ordered by the court as part of the prisoner’s sentence; and

(4) pays for the expense of providing the television or cable television service.

(e) The commissioner shall use appropriate technology to screen programs received by prisoners under (d) of this section.

* Sec. 5. AS 33.30.071(c) is amended to read:

(c) Medical services for a prisoner who is unconscious or in immediate need of medical attention before admission to a correctional facility or commitment by a court to the custody of the commissioner of corrections shall be provided by the law enforcement agency having custody of the prisoner. The law enforcement agency may require the prisoner to compensate the agency for the cost or for a portion of the cost of medical services provided for any [A] preexisting medical condition [NOT ARISING OUT OF THE PRISONER’S ARREST].

* Sec. 6. AS 33.30.191(a) is amended to read:

(a) It is the policy of the state that prisoners be productively employed for as many hours each day as feasible [, NOT TO EXCEED 40 HOURS A WEEK UNLESS OVERTIME HAS BEEN SPECIFICALLY APPROVED BY THE COMMISSIONER].

* Sec. 7. AS 33.30.231(c) is amended to read:

(c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the security and orderly administration of the correctional facility and to protect the public, the commissioner shall monitor or record the [MAY AUTHORIZE THE USE OF
MONITORING OR RECORDING EQUIPMENT TO LISTEN TO A] telephone conversations [CONVERSATION] of prisoners. A prisoner incarcerated following conviction of a crime, if A] warning shall be [IS] posted by each [THE] telephone informing prisoners [THE PRISONER] that calls [A CALL] may be monitored or recorded. The monitoring or recording may be conducted of all calls or selectively or in some other limited manner as determined by the commissioner to be appropriate. A recording of a telephone call made under this subsection shall be kept confidential, and access to the recording and its contents is limited to persons who are acting within the scope of their official duties and whose access to specific recordings has been authorized by the facility superintendent. A telephone call between an attorney and a prisoner or between the office of the ombudsman and a prisoner may not be monitored or recorded except when authorized by a court. A person may not bring a civil action for damages for the failure to monitor or record a telephone conversation or for the failure to take action based upon a telephone conversation that was monitored or recorded.

* Sec. 8. AS 33.32.010 is amended to read:

Sec. 33.32.010. PURPOSE OF CHAPTER. It is the purpose of this chapter to:

(1) develop and operate agricultural, industrial, and service enterprises employing prisoners under the jurisdiction of the commissioner of corrections;

(2) provide realistic work experience and vocational training for prisoners under conditions as much like those that prevail in private industry as possible, consistent with proper penal administration, and to direct their efforts toward financial responsibility, acquiring or improving effective work habits and occupational skills, and increasing the probability of opportunities for employment after release; and

(3) operate a work program for prisoners that will be as nearly self-supporting as possible by generating a sufficient amount of money from the sale of products and services to pay all or most of the expenses of the program.

* Sec. 9. AS 33.32.015(b) is amended to read:

(b) The commissioner of corrections may

(1) subject to AS 36.30 (State Procurement Code), use, purchase, lease,
equip, and maintain buildings, machinery, and other equipment, and may purchase materials and enter into contracts that [WHICH] may be necessary for the correctional industries program;

(2) provide for prisoners to be employed in rendering services and producing articles, materials, and supplies needed by a state agency, a political subdivision of the state, an agency of the federal government, other states or their political subdivisions, or for use by nonprofit organizations;

(3) if the Correctional Industries Commission established in AS 33.32.070 approves, employ prisoners to provide services or products as needed by private industry if the services or products have potential for contributing to the economy of the state and will have minimal negative impact on an existing private industry or labor force in the state;

(4) authorize a prisoner to engage in vocational training or in productive employment within or outside a correctional facility, or enter into a contract under AS 33.30.191 for the employment of a prisoner if the Correctional Industries Commission determines that the employment will have minimal negative impact on an existing private industry or labor force in the state; and

(5) subject to the provisions of AS 36.30 (State Procurement Code), enter into joint cooperative ventures with private industry for the establishment and operation of "Free Venture" industries under AS 33.32.017 [,] if the Correctional Industries Commission determines at the time of inception that the "Free Venture" industry will not compete with an existing private industry or labor force in the state.

* Sec. 10. AS 33.32.015 is amended by adding a new subsection to read:

(c) This section does not require the commissioner of corrections to establish and administer a vocational training program under the correctional industries program.

* Sec. 11. Section 7, ch. 53, SLA 1982, as amended by sec. 1, ch. 25, SLA 1987, by sec. 4, ch. 77, SLA 1991, and by sec. 10, ch. 93, SLA 1995, is amended to read:

Sec. 7. AS 33.32 is repealed July 1, 2005 [1999].