

SB 34 – PROBATION; PAROLE; SENTENCES; CREDITS
SECTIONAL ANALYSIS

March 1, 2019

Summary: This bill repeals the caps on sanctions for violations of probation and parole and the administrative sanctions program. It also returns discretion to probation and parole officers to make recommendations about early termination and eliminates the timelines which required that that recommendation happen by a certain time. It also reduces the time a probationer or parolee can get off of their probation or parole for good behavior to one day for every three days without a violation. If the person violates their probation or parole they will lose all credit accrued up to that point. The bill also returns discretionary parole eligibility and release factors to what they were prior to January 1, 2017. Finally, the bill prohibits a person from earning good time credit for time spent on electronic monitoring post-sentencing.

Section 1 Eliminates language related to caps on technical violations of probation under AS 12.55.110.

Section 2 Eliminates language related to caps on technical violations of probation under AS 12.55.110.

Section 3 Makes the recommendation of a probation officer for early termination of probation permissive and at the discretion of the probation officer. Also eliminates the timeline for when such a recommendation must be made. Maintains requirement that the probationer is in compliance with their conditions of probation and has completed all of the required treatment programs. Also maintains the prohibition on unclassified felony, sexual felony, and domestic violence offenders from being recommended for early termination.

Section 4 Reduces amount of time that a probationer may decrease their length of probation for good behavior to one day for every three days without a violation. Also requires the Department of Corrections to consult with the Department of Law and Department of Public Safety when establishing the program.

Section 5 Prohibits a sex offender from earning credit against their period of probation. Also mandates that a probationer lose all of the credits they have accrued if they are found in violation of probation, requiring the accrual to start over.

Section 6 Amends duties of a probation officer to require that a probation officer *consider* recommending early termination of probation. Also eliminates the requirement to use administrative sanctions before filing a petition to revoke.

Section 7 Requires an application for discretionary parole to be submitted to the parole board before a person can be considered for discretionary parole.

Section 8 Clarifies that a person who is ineligible for a good time deduction from their sentence is also ineligible for discretionary parole. Also, prohibits certain crimes from being considered for discretionary parole. These are the same crimes that were ineligible for discretionary parole prior to January 1, 2017:

- Non-sex class A felonies (Robbery 1, Assault 1, Arson 1);
- B felonies if the person had one or more prior felony convictions;
- C felonies if the person had two or more prior felony convictions; and
- B and C sex felonies (Sexual Assault 2, Sexual Abuse of a Minor 2, Distribution of Child Pornography).

Section 9 Raises the amount of time a person sentenced for an unclassified offense (murder, kidnapping) before they are eligible for discretionary parole from one-third to one-half of the active term of imprisonment or the mandatory minimum whichever is greater. Also requires persons convicted of B felony level drug distribution to serve one-half of the active term of imprisonment before they can be considered for discretionary parole.

Section 10 Eliminates a presumption of release and thereby returns discretion back to the parole board when determining release on discretionary parole.

Section 11 Allows the parole board to make a person, who does not meet the factors in section 10, ineligible for further consideration of discretionary parole or to have the person serve additional time before they can be considered again for discretionary parole.

Section 12 Conforming language regarding the requirement that a person fill out an application for discretionary parole.

Section 13 Outlines application process for discretionary parole. Ensures that the prisoner is furnished with a copy of the prepare report.

Section 14 Gives a parole officer the discretion to make a recommendation to the parole board that a person's parole be terminated. Maintains requirement that the probationer is in compliance with their conditions of probation and has completed all of the required treatment programs. Also maintains the prohibition on unclassified felony, sexual felony, and domestic violence offenders from being recommended for early termination.

Section 15 Eliminates language referencing technical violations of parole under AS 33.16.215.

Section 16 Allows the parole board to toll time while the parolee is in violation status. This is similar to how probation works when a probationer is in violation status. Under this provision,

the parolee's parole time will not continue to run while the parole violation is under consideration by the parole board.

Section 17 Reduces amount of time that a parolee may decrease their length of parole for good behavior to one day for every three days without a violation.

Section 18 Prohibits a sex offender from earning credit against their period of parole. Also mandates that a parolee lose all of the credits they have accrued if they are found in violation of parole, requiring the accrual to start over.

Section 19 Prohibits a person from earning good time for time spent on electronic monitoring post-sentence.

Section 20 Eliminates the requirement that the Department of Corrections submit a report to the Alaska Criminal Justice Commission regarding the sanctions imposed under the administrative sanctions program which is repealed in this bill.

Section 21 Repealed section.

Section 22 Applicability.

Section 23 Effective date. This bill takes effect on July 1, 2019.