



LAWS OF ALASKA

2003

Source

SCS CSHB 229(FIN)

Chapter No.

AN ACT

Relating to special medical parole and to prisoners who are severely medically or cognitively disabled; relating to a severe acute respiratory syndrome control program; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to special medical parole and to prisoners who are severely medically or cognitively
2 disabled; relating to a severe acute respiratory syndrome control program; and providing for
3 an effective date.

4
5 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
6 to read:

7 PURPOSE. (a) The purpose of sec. 2 of this Act is to clarify the law and expressly
8 establish a comprehensive program for health care decisions to control severe acute
9 respiratory syndrome (SARS) in this state, including reporting, examinations, orders, and
10 detention to protect the public health.

11 (b) The purpose of secs. 3 - 7 of this Act is to clarify standards for special medical
12 parole and to address prisoners who are severely medically or cognitively disabled.

13 * **Sec. 2.** AS 18.15 is amended by adding a new section to read:

14 **Article 1A. Severe Acute Respiratory Syndrome (SARS).**

1 **Sec. 18.15.112. SARS control program authorization.** (a) A severe acute
2 respiratory syndrome (SARS) control program is authorized in the department. The
3 SARS control program shall be administered in the same manner and has the same
4 powers, authority, obligations, and limited immunities as does the program for the
5 control of tuberculosis under AS 18.15.120 - 18.15.149, except for the following:

6 (1) the provisions of the control program described in AS 18.15.120(1)
7 and (7);

8 (2) reports to state medical officers under AS 18.15.131;

9 (3) examinations of persons under AS 18.15.133;

10 (4) title to and inventory of equipment allotted to private institutions
11 under AS 18.15.140;

12 (5) the screening of school employees under AS 18.15.145.

13 (b) In this section, "SARS" or "severe acute respiratory syndrome" means the
14 infectious disease caused by the SARS-CoV or the SARS coronavirus and the
15 mutations of that disease.

16 * **Sec. 3.** AS 33.16.085(a) is amended to read:

17 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a
18 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a
19 prisoner who is serving a term of at least 181 days, may, upon application by the
20 prisoner or the commissioner, be released by the board on special medical parole if the
21 board determines **that**

22 (1) **the** [FOR A] prisoner **has not been** convicted of [(A)] an offense
23 **under AS 11.41.410 - 11.41.425 or 11.41.434 - 11.41.438 and** [OTHER THAN A
24 VIOLATION OF AS 11.41.434 - 11.41.438 THAT] the prisoner is severely medically
25 **or cognitively** disabled [OR A QUADRIPLAGIC] as certified in writing by a
26 physician licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY
27 DISABLED OR A QUADRIPLAGIC AT THE TIME THE PRISONER
28 COMMITTED THE OFFENSE OR PAROLE OR PROBATION VIOLATION FOR
29 WHICH THE PRISONER IS PRESENTLY INCARCERATED; OR

30 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT
31 THE PRISONER IS A QUADRIPLAGIC AS CERTIFIED BY A

1 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A
2 QUADRIPLAGIC AT THE TIME THE PRISONER COMMITTED THE
3 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE
4 PRISONER IS PRESENTLY INCARCERATED]; [AND]

5 (2) [THAT] a reasonable probability exists that

6 (A) the prisoner will live and remain at liberty without
7 violating any laws or conditions imposed by the board;

8 (B) because of the prisoner's severe medical or cognitive
9 disability [BEING SEVERELY MEDICALLY DISABLED OR A
10 QUADRIPLAGIC], the prisoner will not pose a threat of harm to the public if
11 released on parole; and

12 (C) release of the prisoner on parole would not diminish the
13 seriousness of the crime;

14 **(3) the prisoner**

15 **(A) was not suffering from the severe medical or cognitive**
16 **disability at the time the prisoner committed the offense or parole or**
17 **probation violation for which the prisoner is presently incarcerated; or**

18 **(B) was suffering from the severe medical or cognitive**
19 **disability at the time the prisoner committed the offense or parole or**
20 **probation violation for which the prisoner is presently incarcerated and**
21 **the medical or cognitive disability has progressed so that the likelihood of**
22 **the prisoner's committing the same or a similar offense is low;**

23 **(4) the care and supervision that the prisoner requires can be**
24 **provided in a more medically appropriate or cost-effective manner than by the**
25 **department;**

26 **(5) the prisoner is incapacitated to an extent that incarceration**
27 **does not impose significant additional restrictions on the prisoner;**

28 **(6) the prisoner is likely to remain subject to the severe medical or**
29 **cognitive disability throughout the entire period of parole or to die and there is**
30 **no reasonable expectation that the prisoner's medical or cognitive disability will**
31 **improve noticeably; and**

1 **(7) an appropriate discharge plan has been formulated that**
2 **addresses basic life domains of the prisoner, including care coordination,**
3 **housing, eligibility for public benefits, and health care, including necessary**
4 **medication.**

5 * **Sec. 4.** AS 33.16.087(a) is amended to read:

6 (a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE
7 FIRST DEGREE] requests notice of a scheduled hearing to review or consider special
8 medical parole for a prisoner convicted of that crime, the board shall send notice of the
9 hearing to the victim at least 30 days before the hearing. The notice must be
10 accompanied by a copy of the prisoner's or commissioner's application for parole
11 submitted under AS 33.16.085. **The** [HOWEVER, THE] copy of the application sent
12 to the victim **must** [MAY NOT] include the prisoner's proposed residence and
13 employment addresses.

14 * **Sec. 5.** AS 33.16.900(11) is amended to read:

15 (11) "severely medically **or cognitively** disabled" means that a person
16 has a medical condition, **or a cognitive condition,** that substantially **reduces**
17 [ELIMINATES] the [PHYSICAL] ability to commit an offense similar to the offense
18 for which the person was convicted or to commit an offense in violation of AS 11.41
19 that is punishable as a felony, and the person is likely to

20 (A) remain subject to the **severe** medical **or cognitive**
21 condition throughout the entire period of parole; or

22 (B) die from the medical **or cognitive** condition;

23 * **Sec. 6.** AS 33.16.900(12) is amended to read:

24 (12) "special medical parole" means the release by the board before the
25 expiration of a term, subject to conditions imposed by the board and subject to its
26 custody and jurisdiction, of a prisoner who is severely medically **or cognitively**
27 disabled [OR A QUADRIPLÉGIC].

28 * **Sec. 7.** AS 33.30.017(c) is amended to read:

29 (c) The provisions of (b) of this section do not apply to prisoners

30 (1) who are

31 (A) developmentally disabled; or

1 (B) severely medically **or cognitively** disabled, as that term is
2 defined in AS 33.16.900;

3 (2) who are housed in a mental health unit or psychiatric unit of a state
4 correctional facility; or

5 (3) while placed in a state correctional facility awaiting classification
6 under classification procedures for the purpose of making the appropriate assignment
7 of the prisoner.

8 * **Sec. 8.** Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).