March 11, 2025

The Honorable Scott Kawasaki, Chair
Senate State Affairs Committee
Alaska Capitol Building
Juneau, AK 99801

Re: Senate Bill 62: BOARD OF PAROLE: MEMBERSHIP, REPORT

Dear Chair Kawasaki and Members of the Senate State Affairs Committee,

The ACLU of Alaska writes to express our support for Senate Bill 62, which would take positive steps to ensure that incarcerated individuals appearing before the Alaska Board of Parole ("the Board") receive fair consideration, and that the Board is operating in a transparent manner.

Alaska's Constitution requires the state to base its criminal administration on the principle of reformation, as well as on protecting the public, condemning criminal conduct, and respecting the rights of victims. The Board is responsible for upholding these constitutional requirements in considering eligible applicants' suitability for discretionary parole or special medical parole, in conducting parole revocation proceedings, and in the imposition of conditions for release.

However, these principles are not all being served by the Board, which has taken an increasingly punitive approach in recent years. During the past four years, the Board has granted discretionary parole in only 27 percent of hearings held,[i] a dramatic departure from historical trends. Additionally, the Board is not transparent about its activity and decision-making. Even a recent legislative audit found that the Board was unable to provide specific reasons why its parole approval rate decreased.[ii]

The changes proposed in SB 62 are needed to ensure that the Board is acting in the interests of Alaska's public safety. Additionally, considering that it costs the state $202.21 per day to incarcerate somebody in an institution, compared to $13.44 per day on probation and parole, the changes are needed to ensure Alaska is using public funds responsibly.[iii]

A wider range of expertise is necessary to assess parole applicants

The current statutory criteria for appointment to the Board require generally only that members are qualified "to make decisions that are compatible with the welfare of the community and of individual members" and "are able to consider the character and background of offenders and the circumstances in which offenses were committed."[iv] The only specific criterion is that "[a]t least one person appointed to the board must have experience in the field of criminal justice."

Of the five current members of the Board, all have some experience in the field of criminal justice; four of them worked for the Department of Corrections. Plainly, current law does not guarantee a diverse range of expertise. **Having different experiences at the table would ensure that the Board is best equipped to accurately evaluate whether a prisoner will further their rehabilitation by being on parole and will not pose a danger to the public.**

For example, requiring that the Board include a licensed physician, psychologist, or psychiatrist would help the Board professionally assess an applicant's mental wellbeing and growth. A member with drug or alcohol

addiction recovery experience would bring an informed view of whether an applicant with a substance misuse disorder has a viable plan to manage the disorder upon release. And a member who is selected as a victim advocate would be well positioned to evaluate how release would affect the welfare of the community. Designating these roles as Board seats would ensure that necessary perspectives are considered when making parole decisions.

Other states have taken similar steps. Oklahoma, for example, requires two members of its parole board to have five years of training or experience in mental health services, substance abuse services, or social work. Connecticut, Iowa, Massachusetts, North Dakota, South Dakota, and Rhode Island all explicitly guarantee that at least one board member represents a field outside law enforcement.

Greater transparency is needed to ensure accuracy and fair consideration

There are four statutory and 23 regulatory criteria that factor into the Board's discretionary parole decisions.[v] Currently, the Board does not publish any information on how it evaluates and balances these criteria when granting or denying parole applications.

While each applicant must be considered on their own, the Board is inconsistent in its rulings, and we have observed different outcomes for similarly situated applicants. Inconsistent and unexplained decision-making does not serve public safety, because it risks granting parole to people who may still pose a threat of harm to the public, while denying parole to people who are ready to return safely to their communities.

SB 62 would provide more transparency by requiring the Board to prepare an annual report detailing its operations and all parole hearings it has conducted that year, including a summary of the statutory or regulatory criteria the board most frequently used in making its decisions. It would also require the Board to report demographic information that is important to track given longstanding racial disparities in Alaska's prison population. Having this information available to the legislature and the public would add a critical measure of accountability to the Board's parole decisions.

Further reforms should be considered

We urge the committee to advance SB 62 because its provisions would create a more fair and transparent parole system.

However, we also believe additional reforms should be considered. First, we support a provision to repeal a statutory requirement that **conditions parole release on the Board's determination that release "would not diminish the seriousness of the crime."**[vi] State law currently authorizes the Board to release an applicant on discretionary parole if it determines that a "reasonable probability" exists that this and three other criteria are met. The other three criteria appropriately focus the Board on how the individual has developed in the years since the crime. **The fourth criterion is the only one that looks backward, and gives the Board inappropriate quasi-judicial authority.**

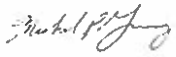
Existing statutes defining crimes, criminal procedure, sentencing ranges, and parole eligibility already establish how serious the state finds certain offenses. The legislature also authorizes each sentencing judge to set a period greater than the statutory minimum that the prisoner must serve before becoming eligible for release on discretionary parole. When a judge declines to set a longer minimum period, it is a judicial determination that, based on the facts of the case, parole release after serving the minimum time mandated by the legislature would not diminish the seriousness of the crime. These sentencing decisions are appropriately within the sphere of the judiciary, as designed in our constitution.

Yet current law — which provides no guidance at all for how the Board should approach the fourth criterion — allows the Board to substitute its views about minimum times to serve for the views of the legislative and judicial branches. Continuing to give the Board this authority erroneously undermines legislative and judicial authority, exceeds the authority of the executive branch, and contributes to inconsistent decision-making.

Additionally, we believe that the legislature should consider measures that increase the number of people the Board considers for geriatric parole and special medical parole. In the last decade, the Board has held just two geriatric parole hearings and 25 special medical hearings.[vii] Alaska's prison population continues to age, and providing healthcare to an aging population is extremely expensive in an institutional setting. The state should do more to identify people who are eligible for these types of parole; it will reduce costs of providing for their care while not presenting a public safety risk.

Thank you for your consideration of our views. If you have any questions, please do not hesitate to contact me at mgarvey@acluak.org.

Sincerely,



Michael P. Garvey
Policy Director

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[i] Alaska Board of Parole, *Discretionary Hearings 2024* (page 3), available at https://doc.alaska.gov/Parole/documents/Discretionary%20Hearings%202024.pdf

[ii] https://legaudit.akleg.gov/wp-content/docs/audits/sunset/ACN%2008-20139-24%20Sunset%20Review%20of%20Board%20of%20Parole.pdf (page 10)

[iii] Department of Corrections presentation to House Finance Subcommittee (Feb. 11, 2025), available at https://www.akleg.gov/basis/get_documents.asp?session=34&docid=983 (page 6).

[iv] AS 33.16.030

[v] Alaska Administrative Code, 22 ACC 20.165

[vi] AS 33.16.100(4)

[vii] https://doc.alaska.gov/Parole/documents/Discretionary%20Hearings%202024.pdf (page 5)