

## CHAPTER 81

## AN ACT

**Providing for parole of prisoners and creating a Board of Parole; and providing for an effective date.**

(C.S.H.B. 317)

**Be it enacted by the Legislature of the State of Alaska:**

**Section 1. Definitions.** As used in this Act:

a. "Parole" means the release of a prisoner to the community by the parole board prior to the expiration of his term, subject to conditions imposed by the board and to its supervision.

b. "The board" shall mean the Board of Parole.

c. "Commissioner" means the Commissioner of the Department of Health and Welfare of the State of Alaska or his designee.

**Sec. 2. State Board of Parole; Terms, Appointments, Compensation, Removal.** There is hereby created in the Department of Health and Welfare a Board of Parole to consist of three members to be appointed by the Governor. One of the members shall be an official within the Department of Health and Welfare with training in the field of probation and parole, who shall be Chairman of the board. The terms of the two members of the board, other than the Chairman shall be for four years and until successors are appointed and have qualified, except that the first two members shall be appointed for terms of two and four years respectively. Successors shall be appointed in the same manner as provided for the board members first appointed, for terms of four years, and a vacancy appearing before expiration of the term of office shall be similarly filled for the unexpired terms.

Two members of the board, other than the Chairman, shall not receive salaries but shall be compensated per day at an amount to be set by the Governor for every day they shall be in session, and a per diem and travel allowance as provided by law. The Chairman shall not receive a salary or compensation for any days he may attend a session of the board, but shall be paid a per diem allowance

and travel costs as provided by law. Upon their appointment, the Governor shall advise these persons of their duties under this Act and shall, as soon as practicable, call the first meeting of the members of the board. The necessary expenses of the board shall be paid by appropriation made to the Department of Health and Welfare.

**Sec. 3. Duties of the Board.** The board shall consider all prisoners serving sentences who may be eligible for parole. In considering a prisoner, the board shall consider any presentence report made to the sentencing court, the recommendations by the sentencing court and the prosecuting attorney, the report from the proper officers of the institution wherein the prisoner is incarcerated, the record of the prisoner and all pertinent information that will enable the board to come to a determination.

If it appears to the board from such review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board further determines that his release on parole is not incompatible with the welfare of society, the board may, in its discretion, authorize the release of such prisoner on parole.

Any order for parole issued shall contain therein the conditions imposed, including the fixing of the parolee's residence, which may be changed in the discretion of the board. The board may, in its discretion, revoke the parole granted to a prisoner for violation of laws or ordinances, or conditions imposed by the board.

The board shall adopt such rules not inconsistent with law as it may deem necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings and conditions of release to be imposed on parolees. The board shall meet as often as it is determined to be necessary, and the board

must meet at least twice yearly. Two members shall constitute a quorum for the conduct of business.

The board shall have authority to issue subpoenas, including duces tecum, and shall have authority to issue warrants to retake a parole violator.

Where a court of this or any state, or the United States, or other authority has issued a warrant charging a prisoner with a crime, the board may release him on parole to answer such warrant.

**Sec. 4. Orders, Records, Annual Report.** All decisions of the board shall receive not less than two affirmative votes.

The board shall keep a record of its acts and shall notify the Commissioner of its decisions relating to prisoners who have been considered for parole. At the close of each fiscal year the board shall submit to the Governor, to the Commissioner, and to the Attorney General, a report containing statistical and other data of its work, including research studies which it may make of probation, sentencing, parole or related functions, and a computation and analysis of dispositions in criminal matters by the courts throughout the state.

**Sec. 5. Protection of Records.** The preparole reports submitted to the board shall be privileged and shall not be disclosed directly or indirectly to anyone other than the board, the sentencing judge, the prosecuting attorney, or others entitled under this Act to receive such information; except that the board or court may, in its discretion, permit the inspection of such reports or parts thereof by the prisoner or his attorney, or other person having a proper interest therein, whenever the best interest or welfare of the particular prisoner make such action desirable or necessary.

**Sec. 6. Duties of the Commissioner; Delegation to Chairman.** The Commissioner shall be charged with the administrative duties and responsibilities necessary to

a. Conduct such investigations of prisoners eligible for parole as the board may request.

b. Supervise the conduct of parolees and institute such program for reform

and rehabilitation of parolees as the board may request.

c. Appoint and assign parole officers and personnel to the various judicial districts in the state and to train and supervise the parole officers and personnel.

d. Keep such records, files and accounts as the board may request.

The Commissioner may delegate all or part of such administrative duties and responsibilities to the Chairman of the Board.

The Commissioner may assign the duties devolving upon probation officers as provided in the Probation Administration Act to any and all personnel appointed under subsection (c) of this section.

**Sec. 7. Persons Eligible for Parole.** A state prisoner, other than a juvenile delinquent, wherever confined and serving a definite term or terms of over 180 days, whose record shows that he has observed the rules of the institution in which he is confined may, in the discretion of the board, be released on parole.

**Sec. 8. Release; Terms and Conditions.** A parolee may be permitted, in the discretion of the board, to return to his home if it be in the State of Alaska, or to go elsewhere in the State of Alaska, upon such terms and conditions, including personal reports from such paroled person as the board may prescribe; such parolee may be permitted, in the discretion of the board, to go into another state upon such terms and conditions as the board may prescribe, and subject to the provisions of any compact executed under the authority of Ch. 138, SLA 1957 and any amendments thereto. Any prisoner released on parole shall remain in the legal custody of the board until the expiration of the maximum term or terms to which he was sentenced, less good time allowances provided by law. While in the custody of the board, a person shall be subject to the disabilities imposed by the provisions of Sec. 65-2-9, ACLA 1949.

**Sec. 9. Retaking of Parole Violator; Time to Serve Undiminished.** A warrant for the retaking of any state prisoner who has violated his parole may be issued only by the board or any member thereof

and the warrant must issue within the maximum term or terms to which the parolee was sentenced. A parole violator may be retaken with or without a warrant for violation of any of the terms of parole. The unexpired term of imprisonment of any such parolee shall be served and shall begin to run from the date he is returned to the custody of the Commissioner under said warrant, and the time the prisoner was at liberty on parole shall not diminish the time he was sentenced to serve.

**Sec. 10. Execution of Warrant to Retake Parole Violator.** Any parole officer or any officer of any state prison facility, or a prison facility made available to the state under contract, or a peace officer authorized to serve criminal process within the State of Alaska shall execute such warrant by taking such prisoner and confining him in a prison facility designated by the Commissioner. A parolee who has violated his parole may be retaken by a parole officer without a warrant and returned to such prison facility designated by him.

**Sec. 11. Revocation Upon Retaking Parolee.** Upon the retaking of a parolee, a peace officer making the arrest shall notify the parole officer. The parole officer upon making the arrest, or being notified by a peace officer of an arrest, shall immediately notify the board, or a member thereof. If the retaking has been without a warrant, the parole officer shall submit to the board, or a member thereof, a report in writing indicating in what manner the parolee has violated the terms and conditions of his parole. The board shall cause the parolee to be brought before it without unreasonable delay for a hearing on the violation charged, under such rules as the board may adopt. If the violation is established, the board may then, or at any time within its discretion, revoke the order of parole and terminate such parole or change the terms and conditions thereof, or impose additional conditions. The parolee may waive the hearing provided for in this section.

If parole be revoked and terminated, the prisoner shall be subject to serving the entire remainder of the term to which he was sentenced as provided in Sec. 9 of this Act; the board may, in its discretion, however, require the prisoner to

serve only a part of the term to which he was sentenced. In the event the board does not terminate all or part of the parole, the parolee shall be released from confinement and continue on parole under such terms and conditions as the board may prescribe.

**Sec. 12. Fixing Eligibility for Parole at Time of Sentencing.** a. Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interests of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may:

(1) Designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than, but shall not be more than one third of the maximum sentence imposed by the court; or

(2) Fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may become eligible for parole at such time as the board of parole may determine.

b. Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsection (a), the Commissioner, under such regulations as the Board of Parole may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Board of Parole a summary report together with any recommendations which, in his opinion, would be helpful in determining the suitability of the prisoner for parole. This report may include, but shall not be limited to, data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The board of parole may make such other investigation as it may deem necessary.

It shall be the duty of the various parole officers and government bureaus and agencies to furnish the Board of Parole information concerning the prisoner, and, whenever not incompatible with the public interest, their views and recommendations with respect to the parole disposition of his case.

c. The Board of Parole having jurisdiction of the parolee may promulgate rules and regulations for the supervision, discharge from supervision, or recommitment of paroled prisoners.

Sec. 13. **Applicability to Persons on Parole or Incarcerated.** The provisions of this Act shall apply to all persons convicted and sentenced in the superior court and the district magistrate courts of this state from the effective date of this Act.

Sec. 14. **Administrative Procedure Act Inapplicable.** The provisions of the Administrative Procedure Act shall not apply to this Act.

Sec. 15. **Short Title.** This Act may be cited as the "Parole Administration Act."

Sec. 16. **Effective Date.** This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 6, 1960

## CHAPTER 82

### AN ACT

**Relating to soil conservation; repealing and re-enacting Sec. 47-4-4, ACLA 1949; repealing and re-enacting the introductory paragraph of Sec. 47-4-5, and amending Subsecs. 1, 7, and 9 of Sec. 47-4-5, ACLA 1949; and providing for an effective date.**

(H.B. 412)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Sec. 47-4-4, ACLA 1949 is repealed and re-enacted to read as follows:

Sec. 47-4-4. **Soil Conservation Board: Appointment: Qualifications.** There is created the Alaska Soil Conservation Board composed of three members appointed by the governor subject to the provisions of the State Organization Act of 1959. Members of the board shall be resident bona fide farmers selected from the major farming areas of the state. The term of office of members is three years, except that initial appointments shall be for terms of one, two, and three years, respectively. The governor shall fill vacancies by appointment for the unexpired term. Members receive no salary but receive the same per diem and travel expenses as are authorized for members of state boards. At the request of the commissioner of natural resources, the board shall meet and shall advise him in the exercise of his powers, duties, and functions.

Sec. 2. The introductory paragraph of Sec. 47-4-5, ACLA 1949, is hereby repealed and re-enacted to read as follows:

47-4-5. **Powers of Commissioner of Natural Resources.** The Commissioner of Natural Resources shall have the following powers:

Sec. 3. Subsection 1, 7 and 9 of Sec. 47-4-5, ACLA 1949 are hereby amended to read as follows:

(1) **Surveys and Investigations.** To conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the State; to publish the results of such surveys and investigations and to disseminate information concerning the results of such surveys and investigations to prospective settlers and the general public.

(7) **Acceptance of Contributions.** To accept contributions in money, services, materials, equipment, or otherwise, from the United States or any of its agencies, from any agency of the State, and from any other source, for use in carrying out the purposes of this Act.

(9) **Sub-Districts.** To create sub-districts of the Soil Conservation District of Alaska, upon the petition of 25 or more land occupiers setting forth the proposed boundaries of the sub-district, and after an adequately advertised favorable public hearing has been held at a convenient