

HOUSE BILL NO. 142

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BROWN, Robinson, Elton, Brice, Davies, B.Davis

Introduced: 2/1/95

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the care, custody, and treatment of juveniles who are to be
2 charged or prosecuted as adults or who have been convicted of offenses as
3 adults."

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

5 * **Section 1.** AS 12.55.015(a) is amended to read:

6 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
7 sentence on a defendant convicted of an offense, may singly or in combination

8 (1) impose a

9 (A) fine when authorized by law and as provided in
10 AS 12.55.035; or

11 (B) a day fine when authorized by law and as provided in
12 AS 12.55.036, if the court does not impose a term of periodic or continuous
13 imprisonment or place the defendant on probation;

14 (2) order the defendant to be placed on probation under conditions

1 specified by the court that may include provision for active supervision;
2 (3) impose a definite term of periodic imprisonment;
3 (4) impose a definite term of continuous imprisonment;
4 (5) order the defendant to make restitution under AS 12.55.045;
5 (6) order the defendant to carry out a continuous or periodic program
6 of community work under AS 12.55.055;
7 (7) suspend execution of all or a portion of the sentence imposed under
8 AS 12.55.080;
9 (8) suspend imposition of sentence under AS 12.55.085;
10 (9) order the forfeiture to the commissioner of public safety of a deadly
11 weapon that was in the actual possession of or used by the defendant during the
12 commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;
13 (10) order the defendant, while incarcerated,
14 (A) to participate in or comply with the treatment plan of a
15 rehabilitation program that is related to the defendant's offense or to the
16 defendant's rehabilitation if the program is made available to the defendant by
17 the Department of Corrections; or
18 (B) if the defendant is a minor convicted as an adult under
19 AS 47.10.010(e) or after waiver of juvenile jurisdiction under
20 AS 47.10.060(a), to participate in a rehabilitation program or in a program
21 of remedial education; however, this subparagraph does not apply to
22 require a defendant to participate in a rehabilitation program or in a
23 program of remedial education if the defendant is a minor who has been
24 convicted of first degree murder under AS 11.41.100.

25 * Sec. 2. AS 12.55 is amended by adding a new section to read:

26 Sec. 12.55.057. EDUCATION OF MINORS CONVICTED AS ADULTS.

27 The court may order a defendant who is a minor convicted as an adult under
28 AS 47.10.010(e) or after waiver of juvenile jurisdiction under AS 47.10.060(a), who
29 is of school age as that term is defined by AS 14.03.070, and who has neither
30 completed the 12th grade of school nor attained a general equivalency diploma, to be
31 engaged in productive employment under AS 33.30.191(d)(2) by enrolling in a

1 program of remedial education that affords the minor an opportunity to attain an
2 educational level equivalent to the completion of the 12th grade in the public school
3 system, as measured by the general equivalency diploma test. The provisions of this
4 section do not apply to a minor who has been convicted of first degree murder under
5 AS 11.41.100.

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

7 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

8 (1) establish, maintain, operate, and control correctional facilities
9 suitable for the custody, care, and discipline of persons charged or convicted of
10 offenses against the state or held under authority of state law, **including correctional**
11 **facilities for juveniles committed to the custody of the commissioner when the**
12 **juvenile has been charged, prosecuted, and convicted as an adult;**

13 (2) classify prisoners;

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

16 (A) protect the public;

17 (B) maintain health;

18 (C) create or improve occupational skills;

19 (D) enhance educational qualifications;

20 (E) support court-ordered restitution; and

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

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

26 (5) provide necessary psychological or psychiatric treatment if a
27 physician or other health care provider, exercising ordinary skill and care at the time
28 of observation, concludes that

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

31 (B) the potential for harm to the prisoner by reason of delay

1 or denial of care is substantial;

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

4 (7) provide for fingerprinting in correctional facilities in accordance
5 with AS 12.80.060.

6 * **Sec. 4.** AS 33.30.061 is amended by adding a new subsection to read:

7 (c) Notwithstanding another provision of this chapter, for juveniles who are
8 committed to the commissioner's custody when the juvenile has been convicted as an
9 adult under AS 47.10.010(e) or has been convicted as an adult after waiver of juvenile
10 jurisdiction under AS 47.10.060, the commissioner

11 (1) shall designate the correctional facility to which a juvenile is to be
12 committed to serve a term of imprisonment or period of temporary commitment;

13 (2) may, under this subsection,

14 (A) designate a facility without regard to whether it is
15 maintained by the state, is located within the judicial district in which the
16 juvenile was convicted, or is located in the state;

17 (B) set aside a wing, section, or other discrete portion of a
18 correctional facility for the exclusive confinement of juvenile offenders;

19 (3) except when incarceration of a juvenile with adult prisoners is
20 authorized by AS 33.30.301(b), or except when transfer of the juvenile to a
21 correctional facility, or a portion of a correctional facility, that houses adult prisoners
22 is authorized by AS 33.30.196(d), may not designate under this subsection a
23 correctional facility in which adult prisoners are housed as the place to which the
24 juvenile is to be committed unless the designation is to a wing, section, or other
25 discrete portion of a correctional facility for the exclusive confinement of juveniles
26 set aside under (2)(B) of this subsection.

27 * **Sec. 5.** AS 33.30.071 is amended by adding a new subsection to read:

28 (d) The commissioner of public safety is responsible for the custody, care, and
29 discipline of a juvenile to be charged and prosecuted as an adult under
30 AS 47.10.010(e) or after waiver of juvenile jurisdiction under AS 47.10.060, (1)
31 pending the juvenile's arraignment, (2) if the juvenile is not released before trial under

1 AS 12.30.020 - 12.30.025, (3) if the juvenile is not released after conviction under
2 AS 12.30.040, or (4) if the juvenile's release before trial or after conviction is revoked
3 for the juvenile's failure to meet all conditions of release. When the commissioner
4 of public safety is charged with responsibility for a juvenile under this subsection, the
5 juvenile may not be confined to a correctional facility or other facility for holding
6 prisoners that houses adult prisoners unless the place of confinement is to a portion
7 of a correctional facility described in AS 33.30.061(c)(2)(B).

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

9 (c) The commissioner may direct a prisoner to participate in a type of
10 productive employment listed in (d)(1) and (d)(4) - (6) of this section while the
11 prisoner is confined in a correctional facility. A prisoner who refuses to participate
12 in productive employment inside a correctional facility when directed under this
13 **subsection** [SECTION] is subject to disciplinary sanctions imposed in accordance
14 with regulations adopted by the commissioner. **Under the authority granted in this**
15 **subsection, the commissioner shall, when required by a court order entered**
16 **under AS 12.55.057, direct a prisoner who is a juvenile and who was convicted**
17 **as an adult under AS 47.10.010(e) or after waiver of juvenile jurisdiction under**
18 **AS 47.10.060(a) who is of school age, as that term is defined by AS 14.03.070,**
19 **and who has neither completed the 12th grade of school nor attained a general**
20 **equivalency diploma, to be engaged in productive employment under (d)(2) of**
21 **this section by enrolling in a program of remedial education that affords the**
22 **prisoner an opportunity to attain an educational level equivalent to the**
23 **completion of the 12th grade in the public school system, as measured by the**
24 **general equivalency diploma test. The commissioner shall provide educational**
25 **opportunities to juveniles under this subsection in locations within a correctional**
26 **facility in which adult prisoners are not present.**

27 * **Sec. 7.** AS 33.30 is amended by adding a new section to read:

28 Sec. 33.30.196. REMEDIAL AND REHABILITATION SERVICES FOR
29 JUVENILES CONVICTED AS ADULTS. (a) Notwithstanding another provision of
30 this chapter, the commissioner shall direct a juvenile convicted as an adult under
31 AS 47.10.010(e) or convicted after waiver of juvenile jurisdiction under AS 47.10.060

1 to have, as an integral part of the juvenile's rehabilitation program,

2 (1) an initial educational and vocational assessment and an evaluation
3 of the juvenile's fitness for participation in a training program emphasizing job
4 seeking skills, whether ordered by a court under AS 12.55 or as determined by the
5 department; and

6 (2) the benefit of counseling, education, and treatment programs that
7 are related to the juvenile's offense or the juvenile's rehabilitation, as determined by
8 the department or as ordered by a court under AS 12.55.015.

9 (b) In addition to the commissioner's obligation imposed by (a) of this
10 section, the commissioner shall direct a juvenile convicted as an adult under
11 AS 47.10.010(e) or convicted after waiver of juvenile jurisdiction under AS 47.10.060
12 who is of school age, as that term is defined by AS 14.03.070, and who has neither
13 completed the 12th grade of school nor attained a general equivalency diploma, to
14 be enrolled in a program of remedial education that affords the juvenile an
15 opportunity to attain an educational level equivalent to the completion of the 12th
16 grade in the public school system, as measured by the general equivalency diploma
17 test.

18 (c) The commissioner shall provide the benefits of the program described

19 (1) in (a)(2) of this section to a juvenile convicted as an adult until the
20 minor is 20 years of age;

21 (2) in (b) of this section to a juvenile convicted as an adult until the
22 date that is the earlier of the

23 (A) minor's 20th birthday; or

24 (B) day on which the minor obtains the general equivalency
25 diploma.

26 (d) A juvenile convicted as an adult under AS 47.10.010(e) or after waiver
27 of juvenile jurisdiction under AS 47.10.060 who refuses to participate in a remedial
28 or rehabilitation service described in (a) or (b) of this section inside a correctional
29 facility when directed under (a) or (b) of this section may be transferred to a
30 correctional facility that houses adult prisoners.

31 (e) The provisions of this section do not apply to a minor who has been

1 convicted of first degree murder under AS 11.41.100.

2 * **Sec. 8.** AS 33.30 is amended by adding a new section to read:

3 Sec. 33.30.301. LIMITATION ON INCARCERATION OF JUVENILES. (a)

4 Except as provided in AS 33.30.196(d) and (b) of this section, a prisoner who is a
5 juvenile and who has been convicted as an adult may not be placed in a cell with a
6 prisoner who is an adult.

7 (b) The provisions of (a) of this section do not apply to a prisoner who is a
8 juvenile and who has been convicted of first degree murder under AS 11.41.100.

9 * **Sec. 9.** AS 44.28.020 is amended to read:

10 Sec. 44.28.020. DUTIES OF DEPARTMENT. The Department of
11 Corrections shall administer the state programs of corrections, including

- 12 (1) state [ADULT] penal institutions;
13 (2) probation and parole supervision; and
14 (3) extraditions and detainers.

15 * **Sec. 10.** AS 47.10.130(a) is amended to read:

16 (a) **Except as provided by AS 33.30.071(d), 33.30.196(d), 33.30.301(b), and**
17 **(c) of this section, a** [A] minor may not be incarcerated in a correctional facility that
18 houses adult prisoners.