

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MULDER, Foster

Introduced: 3/1/95

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing special medical parole for terminally ill prisoners."

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

3 * **Section 1.** AS 33.16.010(d) is amended to read:

4 (d) A prisoner released on special medical, discretionary, or mandatory parole
5 is subject to the conditions of parole imposed under AS 33.16.150. Parole may be
6 revoked under AS 33.16.220.

7 * **Sec. 2.** AS 33.16.010 is amended by adding a new subsection to read:

8 (e) A prisoner eligible under AS 33.16.085 may be released on special medical
9 parole by the Parole Board.

10 * **Sec. 3.** AS 33.16.060 is amended to read:

11 Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

12 (1) serve as the parole authority for the state;

13 (2) upon receipt of an application, consider the suitability for parole of
14 a prisoner who is eligible for special medical or discretionary parole;

15 (3) impose parole conditions on all prisoners released under

1 discretionary or mandatory parole;

2 (4) under AS 33.16.210, discharge a person from parole when custody
3 is no longer required;

4 (5) maintain records of the meetings and proceedings of the board;

5 (6) recommend to the governor and the legislature changes in the law
6 administered by the board;

7 (7) recommend to the governor or the commissioner changes in the
8 practices of the department and of other departments of the executive branch necessary
9 to facilitate the purposes and practices of parole;

10 (8) upon request of the governor, review and recommend applicants for
11 executive clemency; and

12 (9) execute other responsibilities prescribed by law.

13 (b) The board shall adopt regulations under the Administrative Procedure Act
14 (AS 44.62)

15 (1) establishing standards under which the suitability of a prisoner for
16 special medical or discretionary parole shall be determined;

17 (2) providing for the supervision of parolees and for recommitment of
18 parolees; and

19 (3) governing procedures of the board.

20 * **Sec. 4.** AS 33.16 is amended by adding new sections to read:

21 Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a
22 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or
23 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term
24 of at least 181 days, may, upon application by the prisoner or the commissioner and
25 in the discretion of the board, be released on special medical parole if the board
26 determines that

27 (1) the prisoner is suffering from a terminal illness; and

28 (2) a reasonable probability exists that

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

31 (B) the prisoner will not pose a threat of harm to the public if

1 released on parole; and

2 (C) release of the prisoner on parole would not diminish the
3 seriousness of the crime.

4 (b) If the board finds a change in circumstances or discovers new information
5 concerning a prisoner who has been granted a special medical parole release date, the
6 board may rescind or revise the previously granted parole release date.

7 (c) The board shall issue its decision to grant or deny special medical parole,
8 or to rescind or revise the release date of a prisoner granted special medical parole, in
9 writing and provide a basis for the decision. A copy of the decision shall be provided
10 to the prisoner.

11 Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH
12 SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or
13 arson in the first degree requests notice of a scheduled hearing to review or consider
14 special medical parole for a prisoner convicted of that crime, the board shall send
15 notice of the hearing to the victim at least 30 days before the hearing. The notice
16 must be accompanied by a copy of the prisoner's or commissioner's application for
17 parole submitted under AS 33.16.085. However, the copy of the application sent to
18 the victim may not include the prisoner's proposed residence and employment
19 addresses.

20 (b) A victim who requests notice under this section shall maintain a current,
21 valid mailing address on file with the board. The board shall send the notice required
22 by this section to the last known address of the victim. The victim's address may not
23 be disclosed to the prisoner or the prisoner's attorney.

24 (c) The victim has a right to attend meetings of the parole board in which the
25 status of the prisoner convicted of the crime against that victim is officially
26 considered and to comment, in writing or in person, on the proposed action of the
27 board. Copies of any written comments shall be provided to the prisoner and the
28 prisoner's attorney before action by the board.

29 (d) The board shall consider the comments presented under (c) of this section
30 in deciding whether to release the prisoner on special medical parole.

31 (e) If the victim requests, the board shall make every reasonable effort to

1 notify the victim as soon as practicable in writing of its decision to grant or deny
2 special medical parole. The notice under this subsection must include the expected
3 date of the prisoner's release, the geographic area in which the prisoner is required to
4 reside, and other pertinent information concerning the prisoner's conditions of parole
5 that may affect the victim.

6 * **Sec. 5.** AS 33.16.140 is amended to read:

7 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the
8 board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the
9 date parole custody ends, shall be furnished to each prisoner released on **special**
10 **medical,** discretionary, or mandatory parole.

11 * **Sec. 6.** AS 33.16.150(a) is amended to read:

12 (a) As a condition of parole, a prisoner released on **special medical,**
13 discretionary, or mandatory parole

14 (1) shall obey all state, federal, or local laws or ordinances, and any
15 court orders applicable to the parolee;

16 (2) shall make diligent efforts to maintain steady employment or meet
17 family obligations;

18 (3) shall, if involved in education, counseling, training, or treatment,
19 continue in the program unless granted permission from the parole officer assigned to
20 the parolee to discontinue the program;

21 (4) shall report

22 (A) upon release to the parole officer assigned to the parolee;

23 (B) at other times, and in the manner, prescribed by the board

24 or the parole officer assigned to the parolee;

25 (5) shall reside at a stated place and not change that residence without
26 notifying, and receiving permission from, the parole officer assigned to the parolee;

27 (6) shall remain within stated geographic limits unless written
28 permission to depart from the stated limits is granted the parolee;

29 (7) may not use, possess, handle, purchase, give, distribute, or
30 administer a controlled substance as defined in AS 11.71.900 or under federal law or
31 a drug for which a prescription is required under state or federal law without a

1 prescription from a licensed medical professional to the parolee;

2 (8) may not possess or control a firearm; in this paragraph, "firearm"
3 has the meaning given in AS 11.81.900;

4 (9) may not enter into an agreement or other arrangement with a law
5 enforcement agency or officer that will place the parolee in the position of violating
6 a law or parole condition without the prior approval of the board;

7 (10) may not contact or correspond with anyone confined in a
8 correctional facility of any type serving any term of imprisonment or a felon without
9 the permission of the parole officer assigned to a parolee;

10 (11) shall agree to waive extradition from any state or territory of the
11 United States and to not contest efforts to return the parolee to the state.

12 * **Sec. 7.** AS 33.16.150(b) is amended to read:

13 (b) The board may require as a condition of **special medical**, discretionary, or
14 mandatory parole, or a member of the board acting for the board under (e) of this
15 section may require as a condition of mandatory parole, that a prisoner released on
16 parole

17 (1) not possess or control a defensive weapon, a deadly weapon other
18 than an ordinary pocket knife with a blade three inches or less in length, or
19 ammunition for a firearm, or reside in a residence where there is a firearm capable of
20 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
21 weapon," "defensive weapon," and "firearm" have the meanings given in
22 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

23 (2) refrain from possessing or consuming alcoholic beverages;

24 (3) submit to reasonable searches and seizures by a parole officer, or
25 a peace officer acting under the direction of a parole officer;

26 (4) submit to appropriate medical, mental health, or controlled
27 substance or alcohol examination, treatment, or counseling;

28 (5) submit to periodic examinations designed to detect the use of
29 alcohol or controlled substances;

30 (6) make restitution ordered by the court according to a schedule
31 established by the board;

1 (7) refrain from opening, maintaining, or using a checking account or
2 charge account;

3 (8) refrain from entering into a contract other than a prenuptial contract
4 or a marriage contract;

5 (9) refrain from operating a motor vehicle;

6 (10) refrain from entering an establishment where alcoholic beverages
7 are served, sold, or otherwise dispensed;

8 (11) refrain from participating in any other activity or conduct
9 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
10 current circumstances, or perceived risk to the community, or from associating with
11 any other person that the board determines is reasonably likely to diminish the
12 rehabilitative goals of parole, or that may endanger the public.

13 * **Sec. 8.** AS 33.16.200 is amended to read:

14 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in
15 AS 33.16.210, the board retains custody of special medical, discretionary, and
16 mandatory parolees until the expiration of the maximum term or terms of
17 imprisonment to which the parolee is sentenced.

18 * **Sec. 9.** AS 33.16.900 is amended by adding a new paragraph to read:

19 (11) "special medical parole" means the release by the board before the
20 expiration of a term, subject to conditions imposed by the board and subject to its
21 custody and jurisdiction, of a prisoner who is suffering from a terminal disease.