

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 175(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/7/96

Offered: 4/29/96

Sponsor(s): SENATORS DONLEY, Pearce, Halford, Leman, Kelly, Sharp, Green, Torgerson, Miller, Taylor, Phillips

REPRESENTATIVES Ogan, Mulder, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to correctional institutions and their administration, and to
2 services provided to prisoners; amending the definition of 'severely medically
3 disabled' applicable to prisoners seeking special medical parole; and amending
4 provisions of the correctional industries program, and extending the termination
5 date of the Correctional Industries Commission and the program."

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

7 * **Section 1.** Sections 3 - 5 of this Act may be known as the "Alaska No Frills Prison Act."

8 * **Sec. 2.** AS 33.16.900(10) is amended to read:

9 (10) "severely medically disabled" means that a person has a medical
10 condition that substantially eliminates the physical ability to commit an offense
11 similar to the offense for which the person was convicted or to commit an offense
12 in violation of AS 11.41 that is punishable as a felony, [REQUIRES THE PERSON
13 SUFFERING FROM THE CONDITION TO BE CONFINED TO BED] and the person

1 is likely to

2 (A) **remain subject to the medical condition** [BE CONFINED
3 TO BED] throughout the entire period of parole; or

4 (B) [TO] die from the **medical** condition;

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

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

7 (1) establish, maintain, operate, and control correctional facilities
8 suitable for the custody, care, and discipline of persons charged or convicted of
9 offenses against the state or held under authority of state law; **each correctional**
10 **facility operated by the state shall be established, maintained, operated, and**
11 **controlled in a manner that is consistent with AS 33.30.015;**

12 (2) classify prisoners;

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

15 (A) protect the public;

16 (B) maintain health;

17 (C) create or improve occupational skills;

18 (D) enhance educational qualifications;

19 (E) support court-ordered restitution; and

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

22 (4) **subject to AS 33.30.028,** provide necessary

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

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

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

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

1 delay or denial of care is substantial;
2 (5) establish minimum standards for sex offender treatment programs
3 offered to persons who are committed to the custody of the commissioner; and
4 (6) provide for fingerprinting in correctional facilities in accordance
5 with AS 12.80.060.

6 * **Sec. 4.** AS 33.30 is amended by adding a new section to read:

7 Sec. 33.30.015. WORK REQUIREMENT AND LIVING CONDITIONS FOR
8 PRISONERS. (a) In implementing this chapter, the commissioner may not

9 (1) provide in a state correctional facility operated by the state

10 (A) living conditions and recreational opportunities to prisoners
11 within a correctional facility that substantially exceed the conditions that may
12 be required of the state by the Constitution of the United States or the
13 constitution of the state;

14 (B) living quarters for a prisoner into which the view into the
15 quarters is obstructed; however, the commissioner may not be required to
16 renovate the cells of a correctional facility that, on the effective date of this
17 Act, confines prisoners in cells equipped with doors that do not have bars or
18 windows;

19 (C) food that exceeds in quality or quantity food that is
20 available at United States military mess facilities to enlisted personnel
21 undergoing basic training in the United States armed forces; however, in
22 providing food that conforms to the requirement of this subparagraph, the
23 commissioner shall use Alaska farm products and fish to the greatest extent
24 practicable;

25 (D) equipment or facilities for publishing or broadcasting
26 material the content of which is not subject to prior approval by the department
27 as consistent with keeping order in the institution and prisoner discipline;

28 (E) cable television service in a correctional facility other than
29 a level of basic cable television service that is available as a substitute for
30 services that are broadcast to the public in the community in which a
31 correctional facility is located;

1 (2) allow a prisoner held in a state correctional facility operated by the
2 state to

3 (A) possess a compact disc player;

4 (B) view movies rated "X," or "NC-17," or that do not have a
5 rating unless approved by the department;

6 (C) possess printed material that visually depicts a person's
7 genitals, anus, or female breast;

8 (D) receive instruction in person, or by broadcast or printed
9 medium, or engage in boxing, wrestling, judo, karate, or other martial art, or
10 in any activity that, in the commissioner's discretion, would facilitate violent
11 behavior;

12 (E) possess in the prisoner's cell a coffee pot, hot plate,
13 appliance, or heating element for food preparation;

14 (F) possess apparel or appear in a state of dress, hygiene,
15 grooming, or appearance other than as permitted as uniform or standard in the
16 correctional facility;

17 (G) use a computer other than those approved by the
18 correctional facility; the use may be only as part of the prisoner's employment,
19 education, or vocational training;

20 (H) smoke unless the prisoner smokes in an area that has been
21 designated under AS 18.35.320 to permit smoking.

22 (b) The commissioner may determine whether the provisions of (a) of this
23 section shall apply to correctional facilities that are not operated by the state and may
24 negotiate with a provider of services for the detention and confinement of persons held
25 under authority of state law under contract or agreement whether the work
26 requirements and living conditions set out in (a) of this section shall apply to persons
27 held under authority of state law at a facility operated under contract or agreement.

28 (c) On and after January 1, 1997, the commissioner may not allow a prisoner
29 who, under AS 33.30.011(2), has been classified as maximum custody, to possess a
30 television in the prisoner's cell.

31 (d) Subject to (e) of this section, on and after January 1, 1998, the

1 commissioner may allow a prisoner who, under AS 33.30.011(2), has been classified
2 as other than maximum custody to possess a television in the prisoner's cell only if
3 the prisoner

4 (1) either is incapable of obtaining or has attained a high school
5 diploma or general education development diploma or the equivalent;

6 (2) is actively engaged in an educational, vocational training, or
7 employment program;

8 (3) has satisfied or is on a regular and current payment schedule for all
9 restitution orders entered by the court as part of the prisoner's sentence and, if
10 applicable, is actively engaged in a treatment plan, counseling, or rehabilitation
11 program ordered by the court as part of the prisoner's sentence; and

12 (4) pays for the expense of providing the television or cable television
13 service.

14 (e) The commissioner shall use appropriate technology to screen programs
15 received by prisoners under (d) of this section.

16 * **Sec. 5.** AS 33.30.071(c) is amended to read:

17 (c) Medical services for a prisoner who is unconscious or in immediate need
18 of medical attention before admission to a correctional facility or commitment by a
19 court to the custody of the commissioner of corrections shall be provided by the law
20 enforcement agency having custody of the prisoner. The law enforcement agency may
21 require the prisoner to compensate the agency for the cost **or for a portion of the cost**
22 of medical services provided for **any** [A] preexisting medical condition [NOT
23 ARISING OUT OF THE PRISONER'S ARREST].

24 * **Sec. 6.** AS 33.30.191(a) is amended to read:

25 (a) It is the policy of the state that prisoners be productively employed for as
26 many hours each day as feasible [, NOT TO EXCEED 40 HOURS A WEEK UNLESS
27 OVERTIME HAS BEEN SPECIFICALLY APPROVED BY THE COMMISSIONER].

28 * **Sec. 7.** AS 33.30.231(c) is amended to read:

29 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the
30 security and orderly administration of the correctional facility and to protect the public,
31 the commissioner **shall monitor or record the** [MAY AUTHORIZE THE USE OF

1 MONITORING OR RECORDING EQUIPMENT TO LISTEN TO A] telephone
2 conversations [CONVERSATION] of prisoners. A [A PRISONER
3 INCARCERATED FOLLOWING CONVICTION OF A CRIME, IF A] warning shall
4 be [IS] posted by each [THE] telephone informing prisoners [THE PRISONER] that
5 calls [A CALL] may be monitored or recorded. The monitoring or recording may
6 be conducted of all calls or selectively or in some other limited manner as
7 determined by the commissioner to be appropriate. A recording of a telephone call
8 made under this subsection shall be kept confidential, and access to the recording and
9 its contents is limited to persons who are acting within the scope of their official duties
10 and whose access to specific recordings has been authorized by the facility
11 superintendent. A telephone call between an attorney and a prisoner or between the
12 office of the ombudsman and a prisoner may not be monitored or recorded except
13 when authorized by a court. A person may not bring a civil action for damages for
14 the failure to monitor or record a telephone conversation or for the failure to take
15 action based upon a telephone conversation that was monitored or recorded.

16 * **Sec. 8.** AS 33.32.010 is amended to read:

17 Sec. 33.32.010. PURPOSE OF CHAPTER. It is the purpose of this chapter
18 to [:]

19 (1) develop and operate agricultural, industrial, and service enterprises
20 employing prisoners under the jurisdiction of the commissioner of corrections;

21 (2) provide realistic work experience and vocational training for
22 prisoners under conditions as much like those that prevail in private industry as
23 possible, consistent with proper penal administration, and to direct their efforts toward
24 financial responsibility, acquiring or improving effective work habits and occupational
25 skills, and increasing the probability of opportunities for employment after release; and

26 (3) operate a work program for prisoners that will be as nearly self-
27 supporting as possible by generating a sufficient amount of money from the sale of
28 products and services to pay all or most of the expenses of the program.

29 * **Sec. 9.** AS 33.32.015(b) is amended to read:

30 (b) The commissioner of corrections may

31 (1) subject to AS 36.30 (State Procurement Code), use, purchase, lease,

1 equip, and maintain buildings, machinery, and other equipment, and may purchase
2 materials and enter into contracts that [, WHICH] may be necessary for the
3 correctional industries program;

4 (2) provide for prisoners to be employed in rendering services and
5 producing articles, materials, and supplies needed by a state agency, a political
6 subdivision of the state, an agency of the federal government, other states or their
7 political subdivisions, or for use by nonprofit organizations;

8 (3) if the Correctional Industries Commission established in
9 AS 33.32.070 approves, employ prisoners to provide services or products as needed
10 by private industry if the services or products have potential for contributing to the
11 economy of the state and will have minimal negative impact on an existing private
12 industry or labor force in the state;

13 (4) authorize a prisoner to engage in vocational training or in
14 productive employment within or outside a correctional facility, or enter into a contract
15 under AS 33.30.191 for the employment of a prisoner if the Correctional Industries
16 Commission determines that the employment will have minimal negative impact on
17 an existing private industry or labor force in the state; and

18 (5) subject to the provisions of AS 36.30 (State Procurement Code),
19 enter into joint cooperative ventures with private industry for the establishment and
20 operation of "Free Venture" industries under AS 33.32.017 [,] if the Correctional
21 Industries Commission determines at the time of inception that the "Free Venture"
22 industry will not compete with an existing private industry or labor force in the state.

23 * **Sec. 10.** AS 33.32.015 is amended by adding a new subsection to read:

24 (c) This section does not require the commissioner of corrections to establish
25 and administer a vocational training program under the correctional industries program.

26 * **Sec. 11.** Section 7, ch. 53, SLA 1982, as amended by sec. 1, ch. 25, SLA 1987, by sec.
27 4, ch. 77, SLA 1991, and by sec. 10, ch. 93, SLA 1995, is amended to read:

28 Sec. 7. AS 33.32 is repealed July 1, 2005 [1999].