

**CS FOR HOUSE BILL NO. 53(RLS)(title am)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Amended: 3/6/98**

**Offered: 3/4/98**

**Sponsor(s): REPRESENTATIVE MULDER**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act expressing legislative intent without the force of law concerning**  
**2 correctional facility space and the Cleary v. Smith case; adding, as a general**  
**3 power of municipalities, the power to provide for, and enter into agreements**  
**4 concerning the confinement and care of prisoners; relating to authorizing the**  
**5 Department of Corrections to enter into agreements to lease facilities for the**  
**6 confinement and care of prisoners with the City of Delta Junction and with the**  
**7 Municipality of Anchorage; and providing for an effective date."**

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

**9 \* Section 1. LEGISLATIVE INTENT.** (a) It is the intent of the legislature to work with  
**10 the Department of Corrections to reduce the population in state prisons.**

**11 (b) The legislature recognizes the February 5, 1998, order by the superior court in**  
**12 Cleary v. Smith, 3AN-S81-5274 Civ.**

**13 (c) The legislature appreciates and understands the court's analysis of the Department**

1 of Corrections' submission of December 19, 1997.

2 (d) The legislature expects the governor to direct the attorney general to undertake all  
3 available means to dissolve or modify the settlement agreements, orders, and decisions in  
4 Cleary v. Smith, 3AN-S81-5274 Civ.

5 (e) The legislature intends to support the commissioner of corrections' actions to  
6 secure additional capacity for the confinement and care of persons held under authority of  
7 state law by

8 (1) acquiring additional capacity at reasonably priced community residential  
9 centers;

10 (2) acquiring additional capacity in reasonably priced out-of-state facilities  
11 under the authority granted in AS 33.30.031;

12 (3) using community jails more extensively as a temporary relief of  
13 overcrowding of state institutions;

14 (4) using other reasonable and cost effective alternatives to confinement  
15 reviewed and approved by the legislature.

16 \* **Sec. 2.** AS 29.35.010 is amended by adding a new paragraph to read:

17 (15) provide facilities or services for the confinement and care of  
18 prisoners and enter into agreements with the state, another municipality, or any person  
19 relating to the confinement and care of prisoners.

20 \* **Sec. 3.** AS 29.35.020(a) is amended to read:

21 (a) To the extent a municipality is otherwise authorized by law to exercise the  
22 power necessary to provide the facility or service, the municipality may provide  
23 **facilities for the confinement and care of prisoners**, parks, playgrounds, cemeteries,  
24 emergency medical services, solid and septic waste disposal, utility services, airports,  
25 streets (including ice roads), trails, transportation facilities, wharves, harbors and other  
26 marine facilities outside its boundaries and may regulate their use and operation to the  
27 extent that the jurisdiction in which they are located does not regulate them. A  
28 regulation adopted under this section must state that it applies outside the municipality.

29 \* **Sec. 4. AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE WITH**  
30 **THIRD-PARTY CONTRACTOR OPERATION.** (a) To take advantage of the unique  
31 opportunity to use surplus military facilities on the road system that are becoming available

1 through the United States Army's realignment of Fort Greely's mission, to prevent and  
 2 ameliorate economic hardship in the Delta region occasioned by that realignment and the  
 3 consequent reduction in forces and civilian employment at Fort Greely, and to relieve  
 4 overcrowding of existing correctional facilities within the state and the extensive use of out-of-  
 5 state correctional facilities to house Alaska inmates, the Department of Corrections may enter  
 6 into an agreement with the City of Delta Junction to lease space within a correctional facility  
 7 in buildings currently located on the realigned Fort Greely military reservation that will house  
 8 persons who are committed to the custody of the commissioner of corrections. The agreement  
 9 must provide that the state agrees to lease the space for a minimum of 20 years.

10 (b) The agreement to lease entered into under this section is predicated on and must  
 11 provide for an agreement between the City of Delta Junction and a private third-party  
 12 contractor under which the private third-party contractor operates the facility by providing for  
 13 custody, care, and discipline services for persons held by the commissioner of corrections  
 14 under authority of state law. The commissioner of corrections may require in the agreement  
 15 with the City of Delta Junction that the City of Delta Junction procure the private third-party  
 16 operator through a process similar to the procedures established in AS 36.30 (State  
 17 Procurement Code).

18 (c) The authorization given by (a) of this section is subject to the following  
 19 conditions:

20 (1) the lease must provide a minimum of 800 prison beds;

21 (2) the agreement to lease must contain terms providing that the commissioner  
 22 of corrections may terminate for cause a contract with a private third-party contractor  
 23 operating the facility in accordance with the provisions of (b) of this section;

24 (3) the commissioner may not enter into an agreement with an agency unable  
 25 to provide or cause to be provided a degree of custody, care, and discipline similar to that  
 26 required by the laws of this state.

27 \* **Sec. 5. AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE WITH**  
 28 **MUNICIPALITY OF ANCHORAGE.** (a) To relieve overcrowding of existing correctional  
 29 facilities in the state, the extensive use of out-of-state correctional facilities, the specific  
 30 overcrowding of Anchorage pretrial facilities, and to replace the Sixth Avenue Correctional  
 31 Center, the Department of Corrections may enter into a lease agreement with the Municipality

1 of Anchorage for the replacement of the Sixth Avenue Correctional Center in Anchorage with  
2 a new Anchorage jail facility.

3 (b) The authorization given by (a) of this section is subject to the following  
4 conditions:

5 (1) the lease may provide for a maximum of 400 beds;

6 (2) the capital cost may not exceed \$50,000,000;

7 (3) the annual lease payment should not exceed \$4,800,000, with a total lease  
8 payment over the 20-year lease not to exceed \$95,000,000;

9 (4) the initial additional annual operating cost of the facility should not  
10 increase more than \$6,000,000 as a result of replacement;

11 (5) the agreement to lease must contain terms providing that the commissioner  
12 of corrections may terminate for cause any contract for operating the facility.

13 \* **Sec. 6. APPLICABILITY.** The provisions of AS 33.30.031(a) do not apply to an  
14 agreement to lease a correctional facility in accordance with the provisions of sec. 4 of this  
15 Act.

16 \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).