

SENATE BILL NO. 310

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR WARD

Introduced: 2/16/98

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to prisoners, to correctional facilities, and to probation and
2 parole."

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

4 * **Section 1.** AS 11.56.340(a) is amended to read:

5 (a) A person commits the crime of unlawful evasion if, while charged with or
6 convicted of a felony or a misdemeanor,

7 (1) the person fails to return to official detention within the time
8 authorized following temporary leave granted for a specific purpose or limited period,
9 including leave granted under AS 33.30.181; or

10 (2) while on furlough under AS 33.30.101 - 33.30.131,

11 (A) the person fails to return to the place of confinement or
12 residence within the time authorized by those having direct supervision; or

13 (B) and while away from the place of confinement or
14 residence, the person is at a place other than a place at which the person

1 **is authorized to be by those having direct supervision.**

2 * **Sec. 2.** AS 12.55.015(e) is amended to read:

3 (e) If the defendant is ordered to serve a definite term of imprisonment, the
4 court may recommend that the defendant serve all or part of the term in a **community**
5 **residential** [CORRECTIONAL RESTITUTION] center.

6 * **Sec. 3.** AS 12.55.085(c) is amended to read:

7 (c) **If the court finds that a person released on probation for a felony or**
8 **class A misdemeanor is violating the conditions of probation, engaging in criminal**
9 **practices, or violating an order of the court to participate in or comply with the**
10 **treatment plan of a rehabilitation program under AS 12.55.015(a)(10), the court**
11 **may not continue the probation or again release the person on probation unless**
12 **the court requires at a minimum that the person be incarcerated in a community**
13 **residential center for at least 30 days.** Upon the revocation and termination of the
14 probation, the court may pronounce sentence at any time within the maximum
15 probation period authorized by this section, subject to the limitation specified in
16 AS 12.55.086(c).

17 * **Sec. 4.** AS 12.55.086(a) is amended to read:

18 (a) When the imposition of sentence is suspended under AS 12.55.085, the
19 court may require, as a special condition of probation, that the defendant serve a
20 definite term of continuous or periodic imprisonment, not to exceed the maximum term
21 of imprisonment that could have been imposed. The court may recommend that the
22 defendant serve all or part of the term in a **community residential** [CORRECTIONAL
23 RESTITUTION] center.

24 * **Sec. 5.** AS 12.55 is amended by adding a new section to read:

25 **Sec. 12.55.106. Violation of a condition of probation.** If the court finds that
26 a person has violated a condition of probation imposed for a felony or class A
27 misdemeanor, the court may not continue the probation or again release the person on
28 probation unless the court requires at a minimum that the person be incarcerated in a
29 community residential center for at least 30 days.

30 * **Sec. 6.** AS 33.16.100 is amended by adding a new subsection to read:

31 (e) When granting discretionary parole, the board shall require a parolee to be

1 incarcerated in a community residential center for the lesser of six months or one-half
2 of the total estimated period of discretionary parole.

3 * **Sec. 7.** AS 33.16.220(i) is amended to read:

4 (i) If, after the final revocation hearing, the board finds that the parolee has
5 violated a condition of parole imposed under AS 33.16.150(b), or a law or ordinance,
6 the board may revoke all or a portion of the parole, or change any condition of parole.

7 **At a minimum, the board shall require the parolee to be incarcerated for at least**
8 **30 days in a community residential center.**

9 * **Sec. 8.** AS 33.20.050 is amended by adding a new subsection to read:

10 (b) Notwithstanding (a) of this section, the commissioner shall revoke the good
11 time of a prisoner who is returned to actual confinement for violating furlough
12 conditions under AS 33.30.141.

13 * **Sec. 9.** AS 33.30.011 is amended to read:

14 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

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

20 (2) classify prisoners;

21 (3) for persons committed to the custody of the commissioner, establish
22 **culturally relevant** programs, including furlough programs that are reasonably
23 calculated to

24 (A) protect the public and the victims of crimes committed by
25 prisoners;

26 (B) maintain health;

27 (C) create or improve occupational skills;

28 (D) enhance educational qualifications;

29 (E) support court-ordered restitution; and

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

- 1 (4) provide necessary
- 2 (A) medical services for prisoners in correctional facilities or
- 3 who are committed by a court to the custody of the commissioner, including
- 4 examinations for communicable and infectious diseases;
- 5 (B) psychological or psychiatric treatment if a physician or
- 6 other health care provider, exercising ordinary skill and care at the time of
- 7 observation, concludes that
- 8 (i) a prisoner exhibits symptoms of a serious disease or
- 9 injury that is curable or may be substantially alleviated; and
- 10 (ii) the potential for harm to the prisoner by reason of
- 11 delay or denial of care is substantial;
- 12 (5) establish minimum standards for sex offender treatment programs
- 13 offered to persons who are committed to the custody of the commissioner; [AND]
- 14 (6) provide for fingerprinting in correctional facilities in accordance
- 15 with AS 12.80.060; **and**
- 16 **(7) annually compile and publish a report detailing the rate of**
- 17 **recidivism of prisoners that is separately compiled by crime, race, sex, and age.**

18 * **Sec. 10.** AS 33.30.025 is repealed and reenacted to read:

19 **Sec. 33.30.025. Siting of prison facilities.** If the department plans to locate

20 or contract for the operation of a correctional facility, the commissioner shall notify

21 (1) each municipality the facility or proposed facility will be located within or within

22 one mile of, and (2) each community council, established by municipal charter or

23 ordinance, located within one mile of the facility or proposed facility. The department

24 may not locate or contract for the facility if the governing body of a municipality or

25 a community council entitled to notification under this section objects to the location.

26 * **Sec. 11.** AS 33.30.031(c) is repealed and reenacted to read:

27 (c) An agreement with a private agency to provide necessary facilities under

28 (a) of this section is subject to AS 36.30.

29 * **Sec. 12.** AS 33.30.061(b) is amended to read:

30 (b) The commissioner may designate an out-of-state facility under this section

31 only if

1 (1) the commissioner determines that rehabilitation or treatment of the
2 prisoner will not be substantially impaired; **and**

3 (2) of the total number of prisoners transferred or identified for
4 transfer, the percentage of those prisoners being transferred or identified for
5 transfer who are members of a racial group does not exceed the percentage of
6 that racial group in the general population of the state.

7 * **Sec. 13.** AS 33.30.061 is amended by adding a new subsection to read:

8 (c) The operator of a private correctional facility may reject the designation
9 of a prisoner to that facility for an articulated public safety reason. The rejection must
10 be in writing.

11 * **Sec. 14.** AS 33.30.091 is amended to read:

12 **Sec. 33.30.091. Designation of programs.** Except as provided in
13 AS 33.30.111 and 33.30.161, the commissioner may assign a prisoner committed to
14 the commissioner's custody to a culturally relevant program established under
15 AS 33.30.011(3) considering

- 16 (1) safeguards to the public;
- 17 (2) the prospects for the prisoner's rehabilitation;
- 18 (3) the availability of program and facility space;
- 19 (4) the prospect of future judicial proceedings requiring the presence
20 of the prisoner;
- 21 (5) the nature and circumstances of the offense for which the prisoner
22 was sentenced;
- 23 (6) the needs of the prisoner as determined by a classification
24 committee and any recommendations made by the sentencing court;
- 25 (7) the record of convictions of the prisoner with particular emphasis
26 on crimes specified in AS 11.41;
- 27 (8) the use of drugs or alcohol by the prisoner;
- 28 (9) the length of the prisoner's sentence; and
- 29 (10) other criteria considered appropriate by the commissioner,
30 including experimental evaluation of correctional programs that are consistent with
31 protection of the public and reformation of the prisoner.

1 * **Sec. 15.** AS 33.30 is amended by adding a new section to read:

2 **Sec. 33.30.095. Prerelease program.** The commissioner shall individually
3 design for each prisoner serving a sentence for a felony offense a prerelease program
4 intended to facilitate the prisoner's reintegration into society. The program shall at a
5 minimum cover the six months of actual confinement before the prisoner's release
6 from prison. The program shall be individually designed for each prisoner and may
7 include programs, treatment, furloughs, community residential center placements, and
8 other methods as determined by the commissioner. A prisoner who refuses or fails to
9 successfully complete the program shall have the prisoner's good time revoked under
10 AS 33.20.050.

11 * **Sec. 16.** AS 33.30.111(b) is amended to read:

12 (b) A facility that is specifically adapted to provide a residence outside prison,
13 including a halfway house, group home, **community residential center**, or other
14 placement that provides varying levels of restriction and supervision, may be used for
15 a prisoner on a prerelease furlough **so long as the facility meets the standards**
16 **established for community residential centers.**

17 * **Sec. 17.** AS 33.30.131 (b) is amended to read:

18 (b) Unless alternative arrangements are expressly approved by the
19 commissioner, when a prisoner is employed outside a correctional facility as part of
20 a prerelease or short-duration furlough program [,] or as part of serving time in a
21 **community residential** [CORRECTIONAL RESTITUTION] center under
22 AS 33.30.151 - 33.30.181, the earnings of the prisoner shall be delivered to the
23 commissioner. If an employer transmits the earnings to the commissioner, the
24 employer has no liability to the prisoner for the earnings. The commissioner shall
25 disburse the earnings of the prisoner, in an order determined appropriate, under
26 procedures adopted by the commissioner to

27 (1) pay for the room, board, and personal expenses of the prisoner in
28 an amount or at a rate determined by the commissioner;

29 (2) pay any restitution or fine ordered by the sentencing court;

30 (3) reimburse the state for an award made for violent crimes
31 compensation under AS 18.67 arising out of the criminal conduct of the prisoner;

1 (4) pay a civil judgment arising out of the criminal conduct of the
2 prisoner; and

3 (5) support the dependents of the prisoner [,] and to provide child
4 support payments as required by AS 25.27.

5 * **Sec. 18.** AS 33.30.141(a) is amended to read:

6 (a) If, after a hearing, a prisoner on a furlough is found to have violated the
7 conditions established for the prisoner's conduct, the commissioner may immediately
8 require the return of the prisoner to actual confinement for a period not to exceed the
9 balance of the term of imprisonment or initiate disciplinary proceedings authorized by
10 regulations adopted by the commissioner or both. **The commissioner shall revoke**
11 **under AS 33.20.050 the good time of a prisoner returned to actual confinement**
12 **under this subsection.**

13 * **Sec. 19.** AS 33.30.151(a) is amended to read:

14 (a) The commissioner shall establish **community residential**
15 [CORRECTIONAL RESTITUTION] centers in the state. The **purposes** [PURPOSE]
16 of the centers **are** [IS] to provide certain offenders with rehabilitation through
17 community service and employment while protecting the community through partial
18 incarceration of the offender, **to provide for the successful treatment of offenders**
19 **and the reintegration of offenders into society,** and to create a means to provide
20 restitution to victims of crimes.

21 * **Sec. 20.** AS 33.30.161(a) is amended to read:

22 (a) The commissioner may not allow a prisoner to serve time in a **community**
23 **residential** [CORRECTIONAL RESTITUTION] center unless the commissioner
24 specifically finds that the prisoner meets the eligibility requirements of this section.

25 * **Sec. 21.** AS 33.30.161(b) is amended to read:

26 (b) To be eligible to serve time in a **community residential**
27 [CORRECTIONAL RESTITUTION] center, the prisoner

28 (1) must be employable or eligible to work on community service
29 projects approved by the commissioner and agree to secure employment or participate
30 in community service projects and obey the rules of the center;

31 (2) may not be serving a sentence for conviction of an offense

- 1 (A) involving violence or the use of force;
- 2 (B) under AS 11.41.320, 11.41.330, or AS 11.56.740;
- 3 (3) may not have been convicted of a felony offense, in the state or
- 4 another jurisdiction, involving violence or the use of force;
- 5 (4) may not have been convicted of an offense under AS 11.41.410 -
- 6 11.41.470 or an offense in the state or another jurisdiction having elements
- 7 substantially identical to an offense under AS 11.41.410 - 11.41.470; and
- 8 (5) may not have been sentenced to a
- 9 (A) mandatory 99-year term of imprisonment under
- 10 AS 12.55.125(a); or
- 11 (B) definite term of imprisonment under AS 12.55.125(l).

12 * **Sec. 22.** AS 33.30.161(c) is amended to read:

13 (c) Unless the commissioner determines otherwise for good cause shown, a

14 person sentenced to less than five days who is serving time in a **community**

15 **residential** [CORRECTIONAL RESTITUTION] center shall participate in a

16 community service project when available.

17 * **Sec. 23.** AS 33.30.171 is amended to read:

18 **Sec. 33.30.171. Community advisory committees.** The commissioner shall

19 appoint a community advisory committee for each center, to consist of five members

20 of the community in which the center is located. The committee shall act as a liaison

21 between the community and the department regarding community concerns with the

22 center. **The commissioner shall adopt regulations governing the appointment of**

23 **persons to the committees to ensure that diverse community groups are**

24 **represented.**

25 * **Sec. 24.** AS 33.30.181(a) is amended to read:

26 (a) A prisoner shall be confined to the center at all times except while

27 (1) at work and traveling to and from work;

28 (2) at and traveling to and from a community service project

29 [APPROVED BY THE COMMISSIONER];

30 (3) on emergency absence;

31 (4) at and traveling to and from a job interview; or

1 (5) on a furlough approved by the commissioner.

2 * **Sec. 25.** AS 33.30.901(1) is amended to read:

3 (1) "center" means a **community residential** [CORRECTIONAL
4 RESTITUTION] center;

5 * **Sec. 26.** AS 33.30.901(4) is amended to read:

6 (4) "correctional facility" or "facility" means a prison, jail, camp, farm,
7 half-way house, group home, **center**, or other placement designated by the
8 commissioner for the custody, care, and discipline of prisoners; a "state correctional
9 facility" means a correctional facility owned or run by the state;

10 * **Sec. 27. APPLICABILITY.** (a) The changes made in secs. 3 and 5 of this Act
11 regarding revocation of probation under AS 12.55.085(c) and 12.55.106 apply to persons
12 convicted on or after the effective date of this Act.

13 (b) The change made in sec. 7 of this Act regarding revocation of parole under
14 AS 33.16.220(i) applies to persons serving a sentence for a conviction occurring on or after
15 the effective date of this Act.

16 (c) The changes made in secs. 8 and 18 of this Act regarding revocation of good time
17 under AS 33.20.050 and AS 33.30.141(a) apply to persons serving a sentence for a conviction
18 occurring on or after the effective date of this Act.