

HOUSE BILL NO. 214

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MULDER

Introduced: 4/27/99

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to litigation involving correctional facilities; and amending Rules
2 59(f), 60(b), 62, and 65, Alaska Rules of Civil Procedure."

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

4 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that

5 (1) state and municipal executive branch agencies that operate correctional
6 facilities need the widest latitude, consistent with constitutional and legal requirements, to
7 manage those facilities and carry out the several constitutional goals of prison administration;

8 (2) the legislature has the exclusive right to appropriate under the Constitution
9 of the State of Alaska, and consent decrees and court orders that require certain levels of
10 funding or services conflict with the legislature's exclusive appropriation power;

11 (3) the legislature carefully scrutinizes the correctional system each year, and
12 annual budget appropriations have been and will continue to be based on the legislature's
13 assessment of how to appropriately meet the needs of Alaska prisoners and the public as a
14 whole; because state revenues vary greatly from year to year, the legislature needs the widest

1 latitude to exercise its constitutional and statutory budget authority for the good of all
2 Alaskans; and

3 (4) the Alaska Supreme Court has held that administration of the state prison
4 system is an executive concern involving many day-to-day decisions that necessitate that court
5 interference be kept to a minimum; see *McGinnis v. Stevens*, 543 P.2d 1221, 1237 (Alaska
6 1975); the Alaska Supreme Court has also held that the exercise of executive branch discretion
7 within constitutional bounds is not subject to the control or review of the courts; see *Public*
8 *Defender Agency v. Superior Court*, 534 P.2d 947, 950 (Alaska 1975).

9 (b) Based on the findings set out in (a) of this section, the legislature intends in this
10 Act to provide a statutory framework for setting limits on the extent to which future
11 legislatures and future executive branch administrations are limited by court orders or consent
12 decrees of indefinite duration that govern prison operations in ways that are not
13 constitutionally or statutorily required.

14 * **Sec. 2.** AS 09.19 is amended by adding a new section to read:

15 **Sec. 09.19.200. Prison litigation.** (a) Except as provided in (b) of this
16 section, a court may not order prospective relief in a civil action with respect to prison
17 conditions unless the court finds that (1) the plaintiff has proven a violation of a state
18 or federal right, (2) the prospective relief is narrowly drawn and extends no further
19 than is necessary to correct the violation of the right, (3) the prospective relief is the
20 least intrusive means necessary to correct the violation of the right, and (4) the
21 prisoner exhausted all administrative remedies available to the prisoner before filing
22 the civil action. When a court finds multiple violations of a state or federal right,
23 when multiple remedies are ordered by the prospective relief, or when prospective
24 relief applies to multiple correctional facilities, the findings required by this subsection
25 shall be made as to each violation, each remedy, and each facility, as appropriate. In
26 a civil action with respect to prison conditions that has been certified as a class action,
27 prospective relief applicable to the class may only be ordered after the court makes the
28 findings required by this subsection and finds that the violation of a state or federal
29 right is applicable to the entire class. In making the findings required under this
30 subsection, the court shall give substantial weight to any adverse effect on public
31 safety or the operation of a criminal justice system caused by the prospective relief.

1 (b) In a civil action with respect to prison conditions, to the extent otherwise
2 authorized by law, the court may enter a temporary restraining order or an order for
3 preliminary injunctive relief only if the court finds that the relief is (1) narrowly drawn
4 and extends no further than is necessary to correct the harm that requires preliminary
5 relief, and (2) the least intrusive means necessary to correct that harm. In making the
6 findings required under this subsection, the court shall give substantial weight to any
7 adverse effect on public safety or the operation of a criminal justice system caused by
8 the preliminary relief. Preliminary injunctive relief shall automatically expire 90 days
9 after the entry of the order unless the court orders final relief in the civil action before
10 the expiration of the 90-day period.

11 (c) Prospective relief ordered in a civil action with respect to prison conditions,
12 including prospective relief ordered under a consent decree, regardless of whether that
13 civil action was filed or the relief ordered before or after the effective date of this Act,
14 shall be terminated upon the motion of the defendant unless the court finds that there
15 exists a current violation of a state or federal right and makes the findings required by
16 (a) of this section as to each current violation and as to each remedy and facility, as
17 appropriate. A civil action that has been certified as a class action shall be terminated
18 upon the motion of the defendant unless the court makes the findings required by this
19 subsection and finds that the current violation of a state or federal right is applicable
20 to the entire class. Prospective relief must be modified upon the motion of a party
21 whenever the findings required by this section no longer justify the imposition of the
22 prospective relief then in effect. This subsection and the time limits provided in (d)
23 of this section do not prevent a party from seeking modification or termination before
24 the relief is otherwise terminable under this section to the extent that modification or
25 termination would otherwise be legally permissible.

26 (d) A defendant may not file a motion to terminate under (c) of this section
27 until

28 (1) two years after the date the court ordered the prospective relief if
29 the order occurred after the effective date of this Act;

30 (2) one year after the date the court entered an order denying
31 termination of prospective relief made under (1) or (3) of this subsection; or

1 (3) in the case of an order issued on or before the effective date of this
2 Act, one year after the effective date of this Act.

3 (e) Parties may enter into private settlement agreements that do not comply
4 with the limitations of relief set out in (a) of this section if the terms of the agreements
5 are not subject to court enforcement other than the reinstatement of the civil
6 proceedings that the agreements settled.

7 (f) The court shall promptly rule on a motion to modify or terminate
8 prospective relief in a civil action with respect to prison conditions. A motion to
9 modify or terminate prospective relief made under this section stays the order for
10 prospective relief beginning on the 90th day after the motion is filed, and the stay ends
11 on the date the court enters a final order ruling on the motion. An automatic stay
12 under this subsection may be postponed by the court for not more than 30 days for
13 good cause.

14 (g) In this section,

15 (1) "civil action with respect to prison conditions" means a civil
16 proceeding arising under state or federal law with respect to the conditions of
17 confinement or the effects of actions by government officials on the lives of persons
18 confined in prison;

19 (2) "consent decree" means a court order that is based on the agreement
20 of the parties; the term "consent decree" does not include a private settlement
21 agreement;

22 (3) "prisoner"

23 (A) means a person held in a state correctional facility or under
24 authority of state or municipal law in official detention as defined in
25 AS 11.81.900(b);

26 (B) includes a minor committed to the custody of the
27 commissioner when,

28 (i) under AS 47.12.030, 47.12.065, or 47.12.100, the
29 minor has been charged, prosecuted, or convicted as an adult; or

30 (ii) under AS 47.12.160(e), the minor has been ordered
31 transferred to the custody of the commissioner of corrections or a

1 municipality;

2 (4) "private settlement agreement" means an agreement entered into
3 among the parties that is not subject to judicial enforcement other than the
4 reinstatement of the civil proceeding that the agreement settled;

5 (5) "prospective relief" means all relief other than compensatory
6 monetary damages;

7 (6) "relief" means any legal or equitable remedy in any form that may
8 be ordered by the court, and includes a consent decree but does not include a private
9 settlement agreement;

10 (7) "state or federal right" means a right arising from the United States
11 Constitution, the Constitution of the State of Alaska, or a federal or state statute.

12 * **Sec. 3.** Section 2 of this Act has the effect of amending Rules 59(f), 60(b), 62, and 65,
13 Alaska Rules of Civil Procedure, by altering the remedies available and the procedure to be
14 used in litigation involving correctional facilities.

15 * **Sec. 4.** This Act takes effect only if sec. 3 of this Act receives the two-thirds majority
16 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 * **Sec. 5.** This Act applies to any civil action with respect to prison conditions that is filed,
18 or in which prospective relief is ordered, before, on, or after the effective date of this Act.
19 In this section, "civil action with respect to prison conditions" and "prospective relief" have
20 the meanings given in AS 09.19.200, added by sec. 2 of this Act.