

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

February 5, 2001
1:38 p.m.

MEMBERS PRESENT

Senator Robin Taylor, Chair
Senator Dave Donley, Vice Chair
Senator John Cowdery
Senator Gene Therriault
Senator Johnny Ellis

MEMBERS ABSENT

None

COMMITTEE CALENDAR

SENATE BILL NO. 23

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 25

"An Act relating to the Interstate Compact for Adult Offender Supervision and the State Council for Interstate Adult Offender Supervision; amending Rules 4 and 24, Alaska Rules of Civil Procedure; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

No previous action

WITNESS REGISTER

Mr. Larry Jones, Executive Director
Parole Board
PO Box 112000
Juneau, Alaska 99811-2000

POSITION STATEMENT: Testified on SB 23

Ms. Lynda Zaugg, Director
Division of Community Corrections
Department of Corrections
4500 Diplomacy Drive, Suite 109

Anchorage, Alaska 99508-5918

POSITION STATEMENT: Testified on SB 25

Mr. Blair McCune

Alaska Public Defender Agency

900 West 5th Avenue, #200

Anchorage, Alaska 99501

POSITION STATEMENT: Testified on SB 25

ACTION NARRATIVE

TAPE 01-3, SIDE A

Number 001

CHAIRMAN ROBIN TAYLOR called the Senate Judiciary Committee meeting to order at 1:38 p.m. Present were Chairman Taylor, Senator Donley, Senator Cowdery and Senator Therriault. Senator Ellis arrived at 1:55 p.m.

#SB 23

SB 23-EXTEND TERMINATION DATE FOR BD OF PAROLE

MR. LARRY JONES, Executive Director, Board of Parole, said the board acts under the sunset rule for boards and commissions. The Board of Parole is up for reinstatement June 30, 2001 and SB 23 extends the date to 2006. The extension is usually three years but SB 23 allows for a five year extension. There is a constitutional mandate in Alaska for a parole system and the parole board meets that constitutional mandate. The board is autonomous, it is not officially part of the Department of Corrections (DOC) but it is integrated into DOC.

MR. JONES said the board consists of five members. Each board member is appointed for five years. The appointments are staggered with some members having served for many years.

MR. JONES said the board meets for face-to-face hearings and also face-to-face parole hearings. The board feels strongly that the face-to-face, eye contact, body language part of the hearings are very important for proper decision-making.

MR. JONES commented that the board is please with their decision-making, with statistics showing that less than five percent of the discretionary parolees have revocations and these are usually technical revocations. The greatest role of the board, in terms of time consumption, is revocation hearings - 95 percent of the revocation hearings are for mandatory parolees. Mandatory parole

is when a prisoner has served his time and is being released without consideration by the parole board.

MR. JONES noted that public safety is the primary consideration for a release. Extension is also a considerable factor in inmate population control. It costs \$100.00 a day for an inmate in a "hard bed" (prison), and less than \$10.00 a day for being released to community corrections supervision on the street. The state saves \$8 to \$10 million dollars by releasing prisoners to the street. The parole board budget is less than \$500,000.

Number 352

SENATOR DONLEY requested copies of the legislative budget and audit report for the board of parole and said there should not be a sunset bill until the audit has been released and is available for public comment.

Number 434

SENATOR COWDERY asked for the location of the parole board hearings.

MR. JONES responded that there are hearings at every prison site in the state. There is a general policy that if there are fewer than five people up for a hearing, the board will not go to that prison. For equity though, if there is an in-person hearing, a teleconference can be used to hear from other prisoners. There are even hearings at the contracted private facility in Arizona.

SENATOR COWDERY asked what the average pay is for a board member.

MR. JONES answered that the governor establishes compensation for the board. The rate is \$150 a day and \$75 for half a day when conducting business for the board. Yearly pay is \$15,000 to \$30,000, depending on the amount of time a member puts in. This figure has not been changed since 1984.

SENATOR COWDERY asked if this amount is adequate.

MR. JONES replied that what was equitable in 1984 does not meet inflation and other factors today. The audit speaks to this matter.

Number 570

SENATOR COWDERY asked if a five-member board is adequate for a quorum.

MR. JONES responded that five members are adequate. This is a working board, traveling two full weeks a month. Having more than five members could make the decision process more complex.

Number 610

SENATOR THERRIAULT said the Legislative Budget and Audit Committee (LB&A) reviewed the parole board audit in its last meeting. The audit is now with the Department of Corrections for their review. The final audit will be out at the next LB&A meeting.

CHAIRMAN TAYLOR asked when that would be.

SENATOR THERRIAULT said that has not been determined yet. It may depend on whether the Administration has any revised program-legislative (RPL) for the committee.

CHAIRMAN TAYLOR asked Mr. Jones how long he has been on the parole board.

MR. JONES said he has been on the board for five years.

Number 690

CHAIRMAN TAYLOR asked if there has been any political pressure put on the board to expedite people out of prison.

MR. JONES replied no. The parole board is a quasi-judicial board and it does not receive this type of pressure.

CHAIRMAN TAYLOR asked about the recidivism rate. What is the percentage mandated by law?

MR. JONES said of all the revocation hearings the board holds, about four percent are for people who are allowed out on discretionary parole. 96 percent of revocations are for people who are released because their sentence was over.

CHAIRMAN TYALOR asked about people who have done a certain amount of time and are then released on mandatory probation.

MR. JONES replied that after a revocation hearing, the board sets conditions for all mandatory parolees prior to their release. There are conditions of parole the parolee has to abide by. If they fail to abide by the conditions, parole is revoked. The board can then decide to put them back in prison, let them out, or revoke a portion of the time.

Number 800

CHAIRMAN TAYLOR asked if the violations of parole are just technical violations?

MR. JONES said the vast majority of the offenses are technical violations. If the person commits a new criminal offense, the board does not see them until there is a resolution in the court system for the new offense. The parolee then goes into "limbo," in terms of the board seeing them, until the court resolves what will happen. Sometimes the parolee will spend a lot more time in prison for the new crime than the board has time to control them.

CHAIRMAN TAYLOR asked if the parolee would be on the street during this "limbo" time.

MR. JONES said no, but in some cases they could be bailed out. The board is notified of the offense and depending on the crime, such as rape, the board is very likely to keep them in prison so they cannot be released on bail.

MR. JONES gave the committee copies of the parole board's annual report and said the report is also on the board's web page.

CHAIRMAN TAYLOR said SB 23 would be held until the committee can see the budget and audit report.

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#SB 25

SB 25-COMPACT FOR ADULT OFFENDER SUPERVISION

Number 1075

MS. LYNDA ZAUGG, Director of the Division of Community Corrections (DCC), Department of Corrections (DOC), provided a brief history on SB 25. In the supervision of probation parolees that travel across state lines, there is an Interstate Compact Act, which has been in existence since 1937. The compact has virtually been a gentleman's agreement - if someone were sent to Alaska, Alaska would supervise him or her in exchange for that state supervising an offender from Alaska. This agreement is no longer working well. The parolee population has increased significantly and people are moving across state lines at a greater rate than in 1937. There are a number of states putting in individual laws trying to deal with the problems that are occurring. The Council on State Government and the National Institute of Corrections joined forces to see if they could revise the current interstate compact act to fit with what is going on in today's society. SB 25 is what the two groups came up

with to deal with today's problems. SB 25 is an effort on the part of states to be in agreement on how they deal with people who are on probation and parole moving across state lines. 35 states have to ratify the compact before it will go into effect. DCC would like Alaska to be one of the 35 states because the first 35 states will be involved in establishing the regulations that govern the interstate compact act across the nation. Because Alaska is small, it needs to worry about having provisions imposed on it by larger states. Therefore DCC would like to be part of the ratification so it can have a representative to speak on behalf of Alaska.

Number 1178

SENATOR COWDERY asked how DCC tracks people coming and going from Alaska.

MS. ZAUGG replied that DCC has a computer system for tracking and every state has an interstate office. Anyone leaving Alaska files a written formal request that goes to the Alaska interstate office. This request is forwarded to the interstate office of the state the parolee wants to go to. The proposed state looks at the request to determine if it is an appropriate request. It is then sent to the local area for a determination of the offender's plan. The local area then decides whether or not they will allow that person to enter their state.

SENATOR COWDERY asked what happens if people do not play by the rules. Would Alaska know if someone has come to the state without permission?

MS. ZAUGG said that sometimes DCC does not know. One of the proposals in the new compact is a method whereby states can handle grievances between each other over the inappropriate sending of offenders from one point to another. The new proposal allows for a way to mediate problems of extradition and supervision.

MS. ZAUGG said Alaska has 344 offenders in other states and there are 220 people from other states in Alaska. Traditionally, there are more people leaving Alaska than coming in.

Number 1328

SENATOR COWDERY asked what the anticipated costs are.

MS. ZAUGG said the fiscal note shows \$31,700 the first year and \$23,700 for the following four years. The cost to Alaska for participating in the interstate compact is expected to be about \$18,000 annually - this is built into the \$31,700.

SENATOR COWDERY asked if any of the costs are shared.

MS. ZAUGG said no, but Alaska has more people placed out of state than people coming in.

Number 1386

CHAIRMAN TAYLOR said he is concerned with details that will not be established until after the commission comes up with the rules and regulations. He is concerned that Alaska could become a dumping ground for people that other states do not want, such as sex offenders. There need to be methods for tracking and notification.

MS ZAUGG said this is an area that people are paying particular attention to. DCC does not allow sexual offenders to leave Alaska on a travel permit until the request has gone to the other state and they have investigated the plan and gotten back to DCC. This has come into being because so many states have put in different requirements for registering. Because sex offenders are high risk, DCC will not send someone to another state without their approval. Of the 220 people who are in Alaska under interstate supervision, 12 are sex offenders. DCC is careful in their review of sex offender files before even allowing a field review.

Number 1550

CHAIRMAN TAYLOR asked if there is "state shopping" for getting a parolee out of a state. Is Alaska an attractive state?

MS. ZAUGG said no, in terms of sex offender registration. There are not many states that do not have registration for sex offenders.

CHAIRMAN TAYLOR asked if Alaska "state shops." What happens when a parolee is turned down by another state?

MS. ZAUGG replied it depends on why someone is turned down. Under the current compact, people need to be accepted if they have a home in the area or family members that will be responsible for them or if they have a job. Not meeting one of these conditions is grounds for a legitimate turndown. But if there is a turn down when all the conditions are met, it needs to be made clear what else the person has to do to secure placement.

CHAIRMAN TAYLOR asked if the passage of SB 25 would mean that only those people coming in will meet Alaska standards and only the people leaving will meet other states standards.

MS. ZAUGG said that with this legislation, states would be able to enforce the standards they set.

Number 1715

SENATOR DONLEY asked why a council is needed.

MS. ZAUGG said that right now, under the current interstate compact, there is an informal gathering of interstate compact administrators, one from each state, and there is no mechanism for anyone to make a decision or establish regulations.

SENATOR DONLEY asked why a state committee is needed.

MS. ZAUGG responded that the people involved with the Council on State Government and the National Institute of Corrections, wanted to be sure that states had a board or commission that could regulate the interstate compact within each state.

SENATOR DONLEY asked why.

MS. ZAUGG said it was probably because a council within the state would set their own regulations for what they are willing to deal with.

SENATOR DONLEY asked if the anticipated board, created by this legislation, would be empowered to adopt regulations.

MS ZAUGG said this is not her understanding but the council would be in a position to make recommendations for what will be done within Alaska.

SENATOR DONLEY asked if this would be an advisory board to DOC.

MS. ZAUGG said her understanding is that if any problems were to develop with people DOC was sending in or out of the state, it would be run through the board. The board would be designed to handle problems involving rules on how to go about getting people through the interstate process.

SENATOR DONLEY said he needs an answer about whether or not the board has regulatory authority. He also asked if there would be legislative confirmation for the board.

MS. ZAUGG said she does not believe this is in SB 25. The governor approves the two community members and the person from the Department of Law. The commissioner of DOC would designate the

other people.

Number 1819

SENATOR DONLEY asked if there would be a requirement for a victims advocate on the board.

MS. ZAUGG replied yes. One of the two citizen members appointed would be a victims' representative.

SENATOR DONLEY asked what type of victim would be represented.

MS. ZAUGG said the legislation does not specify what type of victim.

SENATOR DONLEY said there is a huge difference in the different victim classes. This is another question he would like answered.

SENATOR DONLEY asked how victim rights are protected in the compact.

MS. ZAUGG answered that the compact makes sure that victim rights are addressed. Once the compact is ratified, the Alaska representative will be part of the group establishing the regulations that will apply nationwide. One of the things they are tasked with doing during the first twelve months is to address the victim notification issues across the country.

SENATOR DONLEY asked how the compact insures victim notification requirements are complied with.

MS. ZAUGG said this has not been specified yet. There has not been a meeting to establish how this would be done and how each state would comply with the notification requirements of other states.

SENATOR DONLEY said SB 25 is asking Alaska to authorize a specific interstate compact before it has been decided how the compact will deal with victim notification.

MS. ZAUGG read from SB 25, page 13:

(g) Subjects to be addressed within 12 months after the first meeting must at a minimum include the following:

- (1) Notice to victims and opportunity to be heard;

Number 1906

SENATOR DONLEY said, "This was kind of a pig in a poke." He would rather see specific provisions in the compact regarding victim notification before he votes to enter into an interstate compact. He does not want this option decided at a later date.

CHAIRMAN TAYLOR said he was trying to understand what the council had done - he read from page 20 of SB 25:

Sec. 33.36.140. State council. (a) There is created the State Council for Interstate Adult Offender Supervision to implement the provisions of the compact set out in AS 33.36.110. The state council shall meet as frequently as necessary to carry out its responsibilities.

(b) The state council consists of seven members as follows:

(1) the commissioner of corrections; the commissioner of corrections may name a designee to serve in this capacity;

(2) the compact administrator appointed under AS 33.36.130;

(3) an attorney employed in the Department of Law, appointed by the governor;

(4) two members appointed by the governor from among the citizens of the state, at least one of whom must be a representative from victims' groups;

(5) one ex officio nonvoting member from the legislative branch selected by the legislature and one ex officio nonvoting member from the judicial branch selected by the judiciary.

(c) The commissioner of corrections or the commissioner's designee shall serve as chair of the state council.

(e) Voting members of the state council who are not state employees receive no salary for their work on the council, but are entitled to per diem and travel expenses authorized for other boards and commissions.

CHAIRMAN TAYLOR said it looks like SB 25 has been set up as a shell. In response to Senator Donley's question about the council being able to make regulations and pass policy, Chairman Taylor read from page 21, line 23:

(4) make recommendations to the legislature to facilitate the implementation of the compact and the rules and bylaws adopted by the Interstate Commission.

CHAIRMAN TAYLOR said SB 25 appears to be advisory only.

Number 2013

SENATOR DONLEY said that Alaska has constitutional provisions to protect victim rights and if the state agrees to this compact

without knowing what victim rights will be in the future, how will the state know it has complied with Alaska's constitutional protections? There is no guarantee that victim rights will be protected. Senator Donley said he is reluctant to vote for an interstate compact that does not specifically insure that Alaska's constitutional rights are protected.

Number 2092

MS. ZAUGG said the compact would not reduce the victim notification obligations that DOC currently has. Across the nation, victim rights are a top priority. But under the current compact, there is no requirement for victim notification. There is a concerted effort in Alaska to notify victims, but every state has a different policy for notification, which makes it hard to track. An overview group is needed to closely track this information and help with compliance.

SENATOR DONLEY said Alaska should be diligent in making sure victim rights are protected in a compact that could possibly supersede Alaska's constitution. Senator Donley is concerned with only one victim advocate being on the committee. State bureaucratic interests that are not sympathetic to making sure that Alaska's constitution on victim rights are preserved could dominate the committee.

Number 2150

CHAIRMAN TAYLOR said he was fascinated by the language on page 21 which says:

INDIRECT COURT RULE AMENDMENT. (a) Article VIII (a)(2), contained in AS 33.36.110 as repealed and reenacted by sec. 2 of this Act, has the effect of amending Rule 4, Rules of Civil Procedure, by entitling the Interstate Commission for Adult Offender Supervision to receive service of process of a judicial proceeding in this state that pertains to the Interstate Compact for Adult Offender Supervision and that may affect the powers, responsibilities, or actions of that commission.

CHAIRMAN TAYLOR said he thinks Article (a)(2) refers to a constitutional article or a subsection within the Alaska statute. For this legislation to pass and have the desired effect, the legislature will have to achieve a two-thirds majority vote from each house to amend this court rule. Chairman Taylor asked that DOC have someone come to the committee and clarify this.

CHAIRMAN TAYLOR asked how quickly this compact is moving through other states.

MS. ZAUGG, looking at information she had from the web page, said seven states ratified the compact last year, and 23 states have legislation in before their appropriate bodies this year.

Number 2293

SENATOR DONLEY said he would find it helpful if the people who are asking the committee to hear bills included a packet with statutes or court rules they are proposing to amend. Senator Donley would like this adopted as a general operating procedure.

CHAIRMAN TAYLOR agreed, and asked Ms. Zaugg to call on the Department of Law to provide the committee with a copy of the statute and rules that are to be amended.

Number 2336
Side B

MR. BLAIR MCCUNE, Public Defender's Office (PD), testifying via teleconference from Anchorage, said the PD feels this compact, unlike the current compact, does require victim notification and that Alaska statutes would supersede anything. There are many people who come to Alaska and get into trouble and their family and contacts are out-of-state. The PD thinks that a structured system where people can be sent back to their support system quickly and with a solid plan in place is a good thing.

CHAIRMAN TAYLOR said the committee would hold SB 25 until they have further information on the questions that were raised during the meeting.

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With no further business to come before the committee, CHAIRMAN TAYLOR adjourned the meeting at 2:23 p.m.