

**HOUSE BILL NO. 229**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 3/31/03

Referred: State Affairs, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to special medical parole and to prisoners who are severely medically**  
2 **and cognitively disabled."**

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

4 **\* Section 1.** AS 33.16.085(a) is amended to read:

5 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a  
6 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a  
7 prisoner who is serving a term of at least 181 days, may, upon application by the  
8 prisoner or the commissioner, be released by the board on special medical parole if the  
9 board determines **that**

10 (1) [FOR A PRISONER CONVICTED OF

11 (A) AN OFFENSE OTHER THAN A VIOLATION OF  
12 AS 11.41.434 - 11.41.438, THAT] the prisoner is severely medically **or**  
13 **cognitively** disabled [OR A QUADRIPLEGIC] as certified in writing by a  
14 physician licensed under AS 08.64[, WAS NOT SEVERELY MEDICALLY

1 DISABLED OR A QUADRIPLAGIC AT THE TIME THE PRISONER  
 2 COMMITTED THE OFFENSE OR PAROLE OR PROBATION  
 3 VIOLATION FOR WHICH THE PRISONER IS PRESENTLY  
 4 INCARCERATED; OR

5 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT  
 6 THE PRISONER IS A QUADRIPLAGIC AS CERTIFIED BY A  
 7 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A  
 8 QUADRIPLAGIC AT THE TIME THE PRISONER COMMITTED THE  
 9 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE  
 10 PRISONER IS PRESENTLY INCARCERATED]; [AND]

11 (2) [THAT] a reasonable probability exists that

12 (A) the prisoner will live and remain at liberty without  
 13 violating any laws or conditions imposed by the board;

14 (B) because of the prisoner's medical or cognitive disability  
 15 [BEING SEVERELY MEDICALLY DISABLED OR A QUADRIPLAGIC],  
 16 the prisoner will not pose a threat of harm to the public if released on parole;  
 17 and

18 (C) release of the prisoner on parole would not diminish the  
 19 seriousness of the crime;

20 (3) the care and supervision that the prisoner requires can be  
 21 provided in a more medically appropriate or cost-effective manner than by the  
 22 department;

23 (4) the prisoner is physically or cognitively incapacitated to an  
 24 extent that incarceration does not impose significant additional restrictions on  
 25 the prisoner; and

26 (5) the prisoner is expected to remain subject to the medical or  
 27 cognitive disability throughout the entire period of parole and there is no  
 28 reasonable expectation that the prisoner's medical or cognitive disability will  
 29 improve noticeably.

30 \* Sec. 2. AS 33.16.900(11) is amended to read:

31 (11) "severely medically or cognitively disabled" means that a person

1 has a medical condition, or a cognitive condition due to irreversible dementia, that  
 2 substantially reduces [ELIMINATES] the [PHYSICAL] ability to commit an offense  
 3 similar to the offense for which the person was convicted or to commit an offense in  
 4 violation of AS 11.41 that is punishable as a felony, and the person is likely to

5 (A) remain subject to the medical or cognitive condition  
 6 [THROUGHOUT THE ENTIRE PERIOD OF PAROLE]; or

7 (B) die from the medical or cognitive condition;

8 \* **Sec. 3.** AS 33.16.900(12) is amended to read:

9 (12) "special medical parole" means the release by the board before the  
 10 expiration of a term, subject to conditions imposed by the board and subject to its  
 11 custody and jurisdiction, of a prisoner who is severely medically or cognitively  
 12 disabled [OR A QUADRIPLAGIC].

13 \* **Sec. 4.** AS 33.30.017(c) is amended to read:

14 (c) The provisions of (b) of this section do not apply to prisoners

15 (1) who are

16 (A) developmentally disabled; or

17 (B) severely medically or cognitively disabled, as that term is  
 18 defined in AS 33.16.900;

19 (2) who are housed in a mental health unit or psychiatric unit of a state  
 20 correctional facility; or

21 (3) while placed in a state correctional facility awaiting classification  
 22 under classification procedures for the purpose of making the appropriate assignment  
 23 of the prisoner.