

CS FOR HOUSE BILL NO. 229(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/2/03

Referred: Today's Calendar

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to special medical parole and to prisoners who are severely medically**
2 **or 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) **the** [FOR A] prisoner **has not been** convicted of [(A)] an offense
11 **under AS 11.41.410 - 11.41.425 or** [OTHER THAN A VIOLATION OF]
12 AS 11.41.434 - 11.41.438 **and** [THAT] the prisoner is severely medically **or**
13 **cognitively** disabled [OR A QUADRIPLEGIC] as certified in writing by a physician
14 licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY DISABLED OR A

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

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

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

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

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

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

19 **(3) the prisoner**

20 **(A) was not suffering from the severe medical or cognitive**
 21 **disability at the time the prisoner committed the offense or parole or**
 22 **probation violation for which the prisoner is presently incarcerated; or**

23 **(B) was suffering from the severe medical or cognitive**
 24 **disability at the time the prisoner committed the offense or parole or**
 25 **probation violation for which the prisoner is presently incarcerated and**
 26 **the medical or cognitive disability has progressed so that the likelihood of**
 27 **the prisoner's committing the same or a similar offense is low;**

28 **(4) the care and supervision that the prisoner requires can be**
 29 **provided in a more medically appropriate or cost-effective manner than by the**
 30 **department;**

31 **(5) the prisoner is incapacitated to an extent that incarceration**

1 **does not impose significant additional restrictions on the prisoner; and**

2 **(6) the prisoner is likely to remain subject to the severe medical or**
 3 **cognitive disability throughout the entire period of parole or to die and there is**
 4 **no reasonable expectation that the prisoner's medical or cognitive disability will**
 5 **improve noticeably; and**

6 **(7) an appropriate discharge plan has been formulated that**
 7 **addresses basic life domains of the prisoner, including care coordination,**
 8 **housing, eligibility for public benefits, and health care, including necessary**
 9 **medication.**

10 * **Sec. 2.** AS 33.16.087(a) is amended to read:

11 (a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE
 12 FIRST DEGREE] requests notice of a scheduled hearing to review or consider special
 13 medical parole for a prisoner convicted of that crime, the board shall send notice of the
 14 hearing to the victim at least 30 days before the hearing. The notice must be
 15 accompanied by a copy of the prisoner's or commissioner's application for parole
 16 submitted under AS 33.16.085. **The** [HOWEVER, THE] copy of the application sent
 17 to the victim **must** [MAY NOT] include the prisoner's proposed residence and
 18 employment addresses.

19 * **Sec. 3.** AS 33.16.900(11) is amended to read:

20 (11) "severely medically **or cognitively** disabled" means that a person
 21 has a medical condition, **or a cognitive condition,** that substantially **reduces**
 22 [ELIMINATES] the [PHYSICAL] ability to commit an offense similar to the offense
 23 for which the person was convicted or to commit an offense in violation of AS 11.41
 24 that is punishable as a felony, and the person is likely to

25 (A) remain subject to the **severe** medical **or cognitive**
 26 condition throughout the entire period of parole; or

27 (B) die from the medical **or cognitive** condition;

28 * **Sec. 4.** AS 33.16.900(12) is amended to read:

29 (12) "special medical parole" means the release by the board before the
 30 expiration of a term, subject to conditions imposed by the board and subject to its
 31 custody and jurisdiction, of a prisoner who is severely medically **or cognitively**

1 disabled [OR A QUADRIPLÉGIC].

2 * **Sec. 5.** AS 33.30.017(c) is amended to read:

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

4 (1) who are

5 (A) developmentally disabled; or

6 (B) severely medically **or cognitively** disabled, as that term is
7 defined in AS 33.16.900;

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

10 (3) while placed in a state correctional facility awaiting classification
11 under classification procedures for the purpose of making the appropriate assignment
12 of the prisoner.