

CS FOR SENATE BILL NO. 159(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/11/03

Referred: Finance

Sponsor(s): SENATE 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) [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 prisoner**

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

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

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

1 **(5) the prisoner is incapacitated to an extent that incarceration**
 2 **does not impose significant additional restrictions on the prisoner; and**

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

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

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

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

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

21 (A) remain subject to the medical **or cognitive** condition
 22 throughout the entire period of parole; or

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

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

25 (12) "special medical parole" means the release by the board before the
 26 expiration of a term, subject to conditions imposed by the board and subject to its
 27 custody and jurisdiction, of a prisoner who is severely medically **or cognitively**
 28 disabled [OR A QUADRIPLÉGIC].

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

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

31 (1) who are

- 1 (A) developmentally disabled; or
2 (B) severely medically or cognitively disabled, as that term is
3 defined in AS 33.16.900;
4 (2) who are housed in a mental health unit or psychiatric unit of a state
5 correctional facility; or
6 (3) while placed in a state correctional facility awaiting classification
7 under classification procedures for the purpose of making the appropriate assignment
8 of the prisoner.