

1 IN THE HOUSE

BY RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO.317

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the establishment of  
7 a Board of Parole, terms, appointments,  
8 compensation, removal of members; Duties  
9 of Board of Parole; providing for the  
10 parole of eligible prisoners; providing  
11 for the administration of the parole  
12 system; Duties of Commissioner of Depart-  
13 ment of Health and Welfare in regards to  
14 Board of Parole; providing for a recom-  
15 mendation by the court as to parole of  
16 a prisoner; providing for an appropriation  
17 of \$1000.00 for the current fiscal year."

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

19 Section 1. DEFINITIONS. As used in this Act:

20 a. "Parole" means the release of a prisoner to the  
21 community by the parole board prior to the expiration of his term,  
22 subject to conditions imposed by the board and to its supervision.

23 b. "The board" shall mean the Board of Parole.

24 Sec. 2. STATE BOARD OF PAROLE; TERMS, APPOINTMENTS, COM-  
25 PENSATION, REMOVAL. There is hereby created in the Department of  
26 Health and welfare a Board of Parole to consist of three members  
27 to be appointed by the Governor. One of the members shall be an  
28 official within the Department of Health and Welfare, who shall  
29 be Chairman of the board. The persons to be appointed shall be

HB #317

1 selected with reference to their knowledge and experience in  
2 correctional treatment and crime prevention. The terms of the  
3 two members of the board, other than the Chairman shall be for  
4 four years and until successors are appointed and have qualified,  
5 except that the first two members shall be appointed for terms of  
6 two and four years respectively. The term of the Chairman shall  
7 be for four years to commence upon appointment. Successors shall  
8 be appointed in the same manner as provided for the board members  
9 first appointed, for terms of four years, and a vacancy appearing  
10 before expiration of the term of office shall be similarly filled  
11 for the unexpired term. The Governor may not remove any member of  
12 the board except for disability, inefficiency, neglect of duty,  
13 or malfeasance in office.

14 Two members of the board, other than the Chairman, shall not  
15 receive salaries but shall be compensated per day at an amount to  
16 be set by the Governor for every day they shall be in session,  
17 and a per diem and travel allowance as provided in Chapter 60,  
18 SLA 1957. The Chairman shall not receive a salary or compensation  
19 for any days he may attend a session of the board, but shall be  
20 paid a per diem allowance and travel costs as provided in Chapter  
21 60, SLA 1957. Upon their appointment, the Governor shall advise  
22 these persons of their duties under this Act and shall, as soon  
23 as practicable, call the first meeting of the members of the  
24 board. The necessary expenses of the board shall be paid by  
25 appropriation made to the Department of Health and Welfare.

26 Sec. 3. DUTIES OF THE BOARD. The board shall consider all  
27 prisoners serving sentences who may be eligible for parole under  
28 the law of this state. In considering a prisoner, the board shall  
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HB #317

1 consider any presentence report made to the sentencing court, the  
2 recommendations by the sentencing court and the prosecuting attorney,  
3 the report from the proper officers of the institution wherein  
4 the prisoner is incarcerated, the record of the prisoner and all  
5 pertinent information that will enable the board to come to a  
6 determination.

7 If it appears to the board from such review that a prisoner  
8 eligible for parole will, in reasonable probability, live and  
9 remain at liberty without violating the laws, or without violating  
10 the conditions imposed by the board, and if the board further de-  
11 termines that his release on parole is not incompatible with the  
12 welfare of society, the board may, in its discretion, authorize  
13 the release of such prisoner on parole.

14 Any order for parole issued shall contain therein the con-  
15 ditions imposed, including the fixing of the parolee's residence,  
16 which may be changed in the discretion of the board. The board  
17 may, in its discretion, revoke the parole granted to a prisoner  
18 for violation of laws or ordinances, or conditions imposed by the  
19 board.

20 The board shall adopt such rules not inconsistent with law as  
21 it may deem necessary or proper with respect to the eligibility  
22 of prisoners for parole, the conduct of parole hearings and con-  
23 ditions of release to be imposed on parolees. The board shall  
24 meet as often as it is determined to be necessary, and the board  
25 must meet at least twice yearly. Two members shall constitute a  
26 quorum for the conduct of business.

27 The board shall have authority to issue subpoenas, including  
28 duces tecum, and shall have authority to issue warrants to retake  
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a parole violator.

Where a court of this or any state, or the United States, or other authority has issued a warrant charging a prisoner with a crime, the board may release him on parole to answer such warrant.

Sec. 4. SEAL, ORDERS, RECORDS, ANNUAL REPORT. The board shall adopt an official seal. All decisions of the board shall be by two thirds vote.

The board shall keep a record of its acts and shall notify the Commissioner of the Department of Health and Welfare of its decisions relating to prisoners who have been considered for parole. At the close of each fiscal year the board shall submit to the Governor, to the Commissioner of the Department of Health and Welfare, and to the Attorney General of Alaska, a report containing statistical and other data of its work, including research studies which it may make of probation, sentencing, parole or related functions, and a computation and analysis of dispositions in criminal matters by the courts throughout the state.

Sec. 5. PROTECTION OF RECORDS. The preparole reports submitted to the board shall be privileged and shall not be disclosed directly or indirectly to anyone other than the board, the sentencing judge, the prosecuting attorney, or others entitled under this Act to receive such information; except that the board or court may, in its discretion, permit the inspection of such reports or parts thereof by the prisoner or his attorney, or other person having a proper interest therein, whenever the best interest or welfare of the particular prisoner make such action desirable or necessary.

Sec. 6. DUTIES OF THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND WELFARE; DELEGATION TO CHAIRMAN. The Commissioner of

HB #317

1 the Department of Health and Welfare shall be charged with the  
2 administrative duties and responsibilities necessary to

3 a. Conduct such investigations of prisoners  
4 eligible for parole as the board may request.

5 b. Supervise the conduct of parolees and institute  
6 such program for reform and rehabilitation of parolees as the  
7 board may request.

8 c. Appoint and assign parole officers and personnel to  
9 the various judicial districts in the state and to train and sup-  
10 erwise the parole officers and personnel.

11 d. Keep such records, files and accounts as the board  
12 may request.

13 The Commissioner of the Department of Health and Welfare may  
14 delegate all or part of such administrative duties and responsi-  
15 bilities to the Chairman of the board.

16 The Commissioner of the Department of Health and Welfare may  
17 assign the duties devolving upon probation officers as provided  
18 in the Probation Administration Act enacted by the Second  
19 Session of the First Legislature, 1960, to any and all personnel  
20 appointed under subsection (c) of this section.

21 Sec. 7. PERSONS ELIGIBLE FOR PAROLE. A state prisoner,  
22 other than a juvenile delinquent, wherever confined and serving  
23 a definite term or terms of over 180 days, whose record shows that  
24 he has observed the rules of the institution in which he is con-  
25 fined may, in the discretion of the board, be released on parole  
26 after serving one third of such term or terms, or after serving  
27 fifteen years of a life sentence, or of a sentence of over forty-  
28 five years.

1           Sec. 8. RELEASE; TERMS AND CONDITIONS. A parolee may be  
2 permitted, in the discretion of the board, to return to his home  
3 if it be in the State of Alaska, or to go else where in the State  
4 of Alaska, upon such terms and conditions, including personal re-  
5 ports from such paroled person as the board may prescribe; such  
6 parolee may be permitted, in the discretion of the board, to go  
7 into another state upon such terms and conditions as the board  
8 may prescribe, and subject to the provisions of any compact ex-  
9 ecuted under the authority of Chapter 138, SLA 1957 and any amend-  
10 ments thereto. Any prisoner released on parole shall remain in  
11 the legal custody of the Commissioner of the Department of Health  
12 and Welfare until the expiration of the maximum term or terms to  
13 which he was sentenced, less good time allowances provided by law.  
14 While in the custody of the Commissioner of the Department of  
15 Health and Welfare, a person shall be subject to the disabilities  
16 imposed by the provisions of Section 65-2-9, ACLA 1949.

17           Sec. 9. RETAKING OF PAROLE VIOLATOR; TIME TO SERVE UNDIMIN-  
18 ISHED. A warrant for the retaking of any state prisoner who has  
19 violated his parole may be issued only by the board or any member  
20 thereof and the warrant must issue within the maximum term or terms  
21 to which the parolee was sentenced. A parole violator may be re-  
22 taken with or without a warrant for violation of any of the terms  
23 of parole. The unexpired term of imprisonment of any such parolee  
24 shall be served and shall begin to run from the date he is re-  
25 turned to the custody of the Commissioner of the Department of  
26 Health and Welfare, under said warrant, and the time the prisoner  
27 was at liberty on parole shall not diminish the time he was sen-  
28 tenced to serve.

1           Sec. 10. OFFICER EXECUTION, WARRANT TO RETAKE PAROLE  
2 VIOLATOR. Any parole officer or any officer of any state prison  
3 facility, or a prison facility made available to the state under  
4 contract, or a peace officer authorized to serve criminal process  
5 within the State of Alaska shall execute such warrant by taking  
6 such prisoner and returning him to the custody of the Commissioner  
7 of the Department of Health and Welfare, or to any prison facility  
8 designated by the Commissioner of the Department of Health and  
9 Welfare. A parolee who has violated his parole may be retaken by  
10 a parole officer without a warrant and returned to the custody  
11 of the Commissioner of the Department of Health and Welfare  
12 or any prison facility designated by him.

13           Sec. 11. REVOCATION UPON RETAKING PAROLEE. Upon the retak-  
14 ing of a parolee, a peace officer making the arrest shall notify  
15 the parole officer. The parole officer upon making the arrest, or  
16 being notified by a peace officer of an arrest, shall immediately  
17 notify the board, or a member thereof. If the retaking has been  
18 without a warrant, the parole officer shall submit to the board, or  
19 a member thereof, a report in writing indicating in what manner  
20 the parolee has violated the terms and conditions of his parole.  
21 The board shall cause the parolee to be brought before it without  
22 unreasonable delay for a hearing on the violation charged, under  
23 such rules as the board may adopt. If the violation is establish-  
24 ed, the board may then, or at any time within its discretion,  
25 revoke the order of parole and terminate such parole or change the  
26 terms and conditions thereof, or impose additional conditions.  
27 The parolee may waive the hearing provided for in this section.

28           If parole be revoked and terminated, the prisoner shall be  
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1 subject to serving the entire remainder of the term to which he  
2 was sentenced as provided in Sec. 9 of this Act; the board may,  
3 in its discretion, however, require the prisoner to serve only a  
4 part of the term to which he was sentenced. In the event the  
5 board does not terminate all or part of the parole, the parolee  
6 shall be released from the custody of the Commissioner of the  
7 Department of Health and Welfare under such terms and conditions  
8 as the board may prescribe.

9 Sec. 12. FIXING ELIGIBILITY FOR PAROLE AT TIME OF SENTENC-  
10 ING. a. Upon entering a judgment of conviction, the court having  
11 jurisdiction to impose sentence, when in its opinion the ends of  
12 justice and best interests of the public require that the defen-  
13 dant be sentenced to imprisonment for a term exceeding one year,  
14 may:

15 (1) Designate in the sentence imprisonment im-  
16 posed a minimum term at the expiration of which the prisoner shall  
17 become eligible for parole, which term may be less than, but shall  
18 not be more than one third of the maximum sentence imposed by the  
19 court; or

20 (2) The court may fix the maximum sentence of  
21 imprisonment to be served in which event the court may specify  
22 that the prisoner may become eligible for parole at such time as  
23 the board of parole may determine.

24 b. Upon commitment of a prisoner sentenced to imprison-  
25 ment under the provisions of subsection (a), the Commissioner of  
26 the Department of Health and Welfare, under such regulations as  
27 the Board of Parole may prescribe, shall cause a complete study  
28 to be made of the prisoner and shall furnish to the board of  
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1 parole a summary report together with any recommendations which,  
2 in his opinion, would be helpful in determining the suitability  
3 of the prisoner for parole. This report may include, but shall  
4 not be limited to, data regarding the prisoner's previous delin-  
5 quency or criminal experience, pertinent circumstances of his  
6 social background, his capabilities, his mental and physical  
7 health, and such other factors as may be considered pertinent.  
8 The board of parole may make such other investigation as it may  
9 deem necessary.

10 It shall be the duty of the various parole officers and  
11 government bureaus and agencies to furnish the board of parole  
12 information concerning the prisoner, and, whenever not incompati-  
13 ble with the public interest, their views and recommendations with  
14 respect to the parole disposition of his case.

15 c. The board of parole having jurisdiction of the  
16 parolee may promulgate rules and regulations for the supervision,  
17 discharge from supervision, or recommitment of paroled prisoners.

18 Sec. 13. APPLICABILITY TO PERSONS ON PAROLE OR INCARCERATED.  
19 The provisions of this Act shall apply to all persons convicted  
20 and sentenced in the Superior Court and the District Magistrate  
21 Courts of this state from the effective date of this Act.

22 Sec. 14. SEVERABILITY. If any provision of this Act or the  
23 application thereof to any person or circumstances is held in-  
24 valid, such invalidity shall not affect other provisions or  
25 applications of the Act which can be given effect without the  
26 invalid provision or application, and to this end the provisions  
27 of this Act are declared to be severable.

28 Sec. 15. SHORT TITLE. This Act may be cited as the "Parole  
29 Administration Act".

1           Sec. 16. APPROPRIATION. There is hereby appropriated to the  
2 Department of Health and Welfare the sum of \$1000.00 for the  
3 balance of the current fiscal year to pay the expenses incurred,  
4 travel allowance, per diem, and daily compensation of the Board  
5 of Parole.

6           Sec. 17. TIME OF TAKING EFFECT. This Act shall take effect  
7 on the day after its passage and approval or on the day it becomes  
8 law without approval.

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