

1 IN THE HOUSE

BY JUDICIARY COMMITTEE
BY REQUEST OF THE GOVERNOR

2 CS FOR 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 parole of prisoners
7 and creating a Board of Parole; and providing
8 for an effective date."

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

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

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

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

15 c. "Commissioner" means the Commissioner of the Depart-
16 ment of Health and Welfare of the State of Alaska or his designee.

17 Sec. 2. STATE BOARD OF PAROLE; TERMS, APPOINTMENTS, COMPEN-
18 SATION, REMOVAL. There is hereby created in the Department of
19 Health and Welfare a Board of Parole to consist of three members
20 to be appointed by the Governor. One of the members shall be an
21 official within the Department of Health and Welfare with training
22 in the field of probation and parole, who shall be Chairman of
23 the board. The terms of the two members of the board, other than
24 the Chairman shall be for four years and until successors are
25 appointed and have qualified, except that the first two members
26 shall be appointed for terms of two and four years respectively.
27 Successors shall be appointed in the same manner as provided for
28 the board members first appointed, for terms of four years, and
29 a vacancy appearing before expiration of the term of office shall

1 be similarly filled for the unexpired term.

2 Two members of the board, other than the Chairman, shall
3 not receive salaries but shall be compensated per day at an
4 amount to be set by the Governor for every day they shall be
5 in session, and a per diem and travel allowance as provided in
6 Ch. 60, SLA 1957. The Chairman shall not receive a salary or
7 compensation for any days he may attend a session of the board,
8 but shall be paid a per diem allowance and travel costs as pro-
9 vided in Ch. 60, SLA 1957. Upon their appointment, the Governor
10 shall advise these persons of their duties under this Act and
11 shall, as soon as practicable, call the first meeting of the
12 members of the board. The necessary expenses of the board shall
13 be paid by appropriation made to the Department of Health and
14 Welfare.

15 Sec. 3. DUTIES OF THE BOARD. The board shall consider all
16 prisoners serving sentences who may be eligible for parole. In
17 considering a prisoner, the board shall consider any presentence
18 report made to the sentencing court, the recommendations by the
19 sentencing court and the prosecuting attorney, the report from
20 the proper officers of the institution wherein the prisoner is
21 incarcerated, the record of the prisoner and all pertinent in-
22 formation that will enable the board to come to a determination.

23 If it appears to the board from such review that a prisoner
24 eligible for parole will, in reasonable probability, live and
25 remain at liberty without violating the laws, or without violat-
26 ing the conditions imposed by the board, and if the board further
27 determines that his release on parole is not incompatible with the
28 welfare of society, the board may, in its discretion, authorize
29 the release of such prisoner on parole.

1 Any order for parole issued shall contain therein the con-
2 ditions imposed, including the fixing of the parolee's residence,
3 which may be changed in the discretion of the board. The board
4 may, in its discretion, revoke the parole granted to a prisoner
5 for violation of laws or ordinances, or conditions imposed by the
6 board.

7 The board shall adopt such rules not inconsistent with law as
8 it may deem necessary or proper with respect to the eligibility
9 of prisoners for parole, the conduct of parole hearings and con-
10 ditions of release to be imposed on parolees. The board shall
11 meet as often as it is determined to be necessary, and the board
12 must meet at least twice yearly. Two members shall constitute a
13 quorum for the conduct of business. All rules and regulations
14 authorized by this Act shall be adopted pursuant to the Administra-
15 tive Procedure Act.

16 The board shall have authority to issue subpoenas, including
17 duces tecum, and shall have authority to issue warrants to retake
18 a parole violator.

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

22 Sec. 4. ORDERS, RECORDS, ANNUAL REPORT. All decisions of
23 the board shall be by two-thirds vote.

24 The board shall keep a record of its acts and shall notify
25 the Commissioner of its decisions relating to prisoners who have
26 been considered for parole. At the close of each fiscal year the
27 board shall submit to the Governor, to the Commissioner, and to
28 the Attorney General, a report containing statistical and other
29 data of its work, including research studies which it may make

1 of probation, sentencing, parole or related functions, and a
2 computation and analysis of dispositions in criminal matters by
8 the courts throughout the state.

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

14 Sec. 6. DUTIES OF THE COMMISSIONER; DELEGATION TO CHAIRMAN.
15 The Commissioner shall be charged with the administrative duties
16 and responsibilities necessary to

17 a. Conduct such investigations of prisoners eligible
18 for parole as the board may request.

19 b. Supervise the conduct of parolees and institute
20 such program for reform and rehabilitation of parolees as the
21 board may request.

22 c. Appoint and assign parole officers and personnel to
23 the various judicial districts in the state and to train and
24 supervise the parole officers and personnel.

25 d. Keep such records, files and accounts as the board
26 may request.

27 The Commissioner may assign the duties devolving upon proba-
28 tion officers as provided in the Probation Administration Act to
29 any and all personnel appointed under subsection (c) of this

1 section.

2 Sec. 7. PERSONS ELIGIBLE FOR PAROLE. A state prisoner,
3 other than a juvenile delinquent, wherever confined and serving
4 a definite term or terms of over 180 days, whose record shows
5 that he has observed the rules of the institution in which he is
6 confined may, in the discretion of the board, be released on
7 parole.

8 Sec. 8. RELEASE; TERMS AND CONDITIONS. A parolee may be
9 permitted, in the discretion of the board, to return to his home
10 if it be in the State of Alaska, or to go elsewhere in the State
11 of Alaska, upon such terms and conditions, including person reports
12 from such paroled person as the board may prescribe; such parolee
13 may be permitted, in the discretion of the board, to go into
14 another state upon such terms and conditions as the board may
15 prescribe, and subject to the provisions of any compact executed
16 under the authority of Ch. 138, SLA 1957 and any amendments thereto.
17 Any prisoner released on parole shall remain in the legal custody
18 of the Commissioner until the expiration of the maximum term or
19 terms to which he was sentenced, less good time allowances provided
20 by law. While in the custody of the Commissioner, a person shall
21 be subject to the disabilities imposed by the provisions of Sec.
22 65-2-9, ACLA 1949.

23 Sec. 9. RETAKING OF PAROLE VIOLATOR; TIME TO SERVE UNDIMIN-
24 ISHED. A warrant for the retaking of any state prisoner who has
25 violated his parole may be issued only by the board or any member
26 thereof and the warrant must issue within the maximum term or terms
27 to which the parolee was sentenced. A parole violator may be
28 retaken with or without a warrant for violation of any of the
29 terms of parole. The unexpired term of imprisonment of any

1 such parolee shall be served and shall begin to run from the date
2 he is returned to the custody of the Commissioner under said
3 warrant, and the time the prisoner was at liberty on parole shall
4 not diminish the time he was sentenced to serve.

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

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

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

9 Sec. 12. FIXING ELIGIBILITY FOR PAROLE AT TIME OF SENTENCING.

10 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 defendant
13 be sentenced to imprisonment for a term exceeding one year, may:

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

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

23 b. Upon commitment of a prisoner sentenced to imprisonment
24 under the provisions of subsection (a), the Commissioner, under
25 such regulations as the Board of Parole may prescribe, shall cause
26 a complete study to be made of the prisoner and shall furnish to
27 the Board of Parole a summary report together with any recommenda-
28 tions which, in his opinion, would be helpful in determining the
29 suitability of the prisoner for parole. This report may include,

1 but shall not be limited to, data regarding the prisoner's previous
2 delinquency or criminal experience, pertinent circumstances of his
3 social background, his capabilities, his mental and physical
4 health, and such other factors as may be considered pertinent.
5 The board of parole may make such other investigation as it may
6 deem necessary.

7 It shall be the duty of the various parole officers and
8 government bureaus and agencies to furnish the Board of Parole
9 information concerning the prisoner, and, whenever not incompatible
10 with the public interest, their views and recommendations with
11 respect to the parole disposition of his case.

12 c. The Board of Parole having jurisdiction of the parolee
13 may promulgate rules and regulations for the supervision, discharge
14 from supervision, or recommitment of paroled prisoners.

15 Sec. 13. APPLICABILITY TO PERSONS ON PAROLE OR INCARCERATED.
16 The provisions of this Act shall apply to all persons convicted
17 and sentenced in the superior court and the district magistrate
18 courts of this state from the effective date of this Act.

19 Sec. 14. SHORT TITLE. This Act may be cited as the "Parole
20 Administration Act."

21 Sec. 15. EFFECTIVE DATE. This Act takes effect on the day
22 after its passage and approval or on the day it becomes law without
23 such approval.

SENATE AMENDMENTS TO CS FOR HB NO. 317, AS AMENDED
(adopted March 19, 1960)

1. Page 2, lines 5 and 6: Strike "in Ch. 60, SLA 1957" and substitute "by law"
2. Page 2, line 9: Strike "in Ch. 60, SLA 1957" and substitute "by law"
3. Page 3, lines 13, 14 and 15: Strike sentence beginning with word "All" on line 13.
4. Page 3, line 23: Strike "be" and remainder of language and insert "receive not less than two affirmative votes"
5. Page 4, line 26: After line 26 insert new paragraph to read as follows:

"The Commissioner may delegate all or part of such administrative duties and responsibilities to the Chairman of the Board."

6. Page 5, line 11: Strike word "person" and substitute "personal"
7. Page 5, line 18: Strike word "Commissioner" and substitute word "board"
8. Page 5, line 20: Strike word "Commissioner" and substitute word "board"
9. Page 6, line 10: After word "and" strike words "returning him to the custody of the Commissioner, or to any" and substitute words "confining him in a"
10. Page 6, line 13: After word "to" strike words "the custody of the Commissioner or any" and substitute the word "such"
11. Page 7, line 7: After the word "from" strike words "the custody of the Commissioner" and substitute the words "confinement and continue on parole"
12. Page 8, line 19: Add new Sec. 14 to read as follows:

"Sec. 14. ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE. The provisions of the Administrative Procedure Act shall not apply to this Act."

Re-number following sections accordingly.