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IN THE HOUSE

BY RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 318

IN THE LEGISLATURE OF THE STATE OF ALASKA  
FIRST LEGISLATURE -- SECOND SESSION

A BILL

For an Act entitled: "An Act to provide for the vesting of administrative duties concerning the probation system in the Commissioner of the Department of Health and Welfare; for the authority of the Superior Court over probation officers; for the duties of probation officers; for the authority and responsibility of probation officers in regard to probationers; for the assignment of duties as parole officers to any probation officers; relating to confinement for not more than six months in connection with the grant of probation, amending Sec. 1, Ch. 195, SLA 1955 as amended by Sec. 1, Ch. 37, SLA 1957; and providing for an effective date."

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

Section 1. DEFINITIONS. When used in this Act, unless the context otherwise requires:

(a) "Probation" is a procedure under which a defendant, found guilty of a crime upon verdict or plea, is released by the Superior Court subject to conditions imposed by the court and subject to the supervision of the probation service as hereinafter provided.

1           Sec. 2. DUTIES OF THE COMMISSIONER OF THE DEPARTMENT OF  
2 HEALTH AND WELFARE. The Commissioner of the Department of Health  
3 and Welfare, in addition to other duties imposed by law, shall be  
4 charged as follows with those duties and responsibilities neces-  
5 sary to the administration of a probation system and the enforce-  
6 ment of the probation laws in the Superior Court.

7           (a) He shall appoint and make available to the Superior  
8 Court of the State of Alaska qualified probation officers and  
9 assistants.

10           (b) He shall fix their salaries, assign them to the  
11 various judicial districts, and shall provide for their necessary  
12 expenses including clerical services and travel expenses. He may  
13 assign to all probation officers and personnel any duties concern-  
14 ing the administration of the parole system as provided in the  
15 Parole Administration Act enacted by the Second Session, First  
16 Legislature, 1960.

17           The Commissioner of the Department of Health and Welfare may  
18 delegate any or all of the duties and responsibilities imposed on  
19 him by the provisions of this Act to a subordinate officer.

20           Sec. 3. PROBATION OFFICERS AS OFFICERS OF COURT. All pro-  
21 bation officers made available to the Courts under this Act shall  
22 be officers of the Superior Court of the State of Alaska and sub-  
23 ject to the authority of the Superior Court. The authority of the  
24 Superior Court over a probation officer in the execution of his  
25 investigative and supervisory duties concerning a probationer  
26 shall be primary.

27           The appointment of a probation officer shall be entered on  
28 the journal of the court in the judicial district where the pro-  
29 bation officer shall be assigned, and one copy of the journal

1 entry sent to the Administrative Director of Courts.

2 Sec. 4. DUTIES OF PROBATION OFFICERS. The probation officer  
3 shall furnish to each probationer under his supervision a written  
4 statement of the conditions of probation and shall instruct him  
5 regarding the same.

6 He shall keep informed concerning the conduct and condition  
7 of each probationer under his supervision and shall report there-  
8 on to the court placing such person on probation.

9 He shall use all suitable methods, not inconsistent with the  
10 conditions imposed by the court, to aid probationers and to bring  
11 about improvements in their conduct and condition.

12 He shall keep records of his work; shall keep accurate and  
13 complete accounts of all moneys collected from persons under his  
14 supervision; shall give receipts therefor, and shall make at  
15 least monthly returns thereof; shall make such reports to the  
16 court and the Commissioner of the Department of Health and Welfare  
17 as the court and the Commissioner of the Department of Health and  
18 Welfare may at any time require; and shall perform such other  
19 duties as the court may direct.

20 Each probation officer shall perform such duties with respect  
21 to persons on parole as the Commissioner of the Department of  
22 Health and Welfare shall request, and in such service shall be  
23 termed a parole officer.

24 Sec. 5. REPORT OF PROBATION OFFICER; ARREST OF PRO-  
25 BATIONER. When directed by the court, the probation officer shall  
26 report to the court, with a statement of the conduct of the pro-  
27 bationer while on probation. The court may thereupon discharge  
28 the probationer from further supervision and may terminate the  
29 proceedings against him, or may extend the probation, as shall

1 seem advisable.

2 Whenever during the period of his probation, a probationer  
3 goes from the judicial district in which he is being supervised  
4 to another judicial district, jurisdiction over him may be trans-  
5 ferred, in the discretion of the court, from the court for the  
6 district from which he goes to the court for the other district,  
7 with the concurrence of the latter court. Thereupon the court  
8 for the district to which jurisdiction is transferred shall have  
9 all power with respect to the probationer that was previously  
10 possessed by the court for the district from which the transfer  
11 is made, except that the period of probation shall not be changed  
12 without the consent of the sentencing court. This process under  
13 the same conditions may be repeated whenever during the period of  
14 his probation the probationer goes from the district in which he  
15 is being supervised to another district.

16 At any time within the probation period, the probation  
17 officer may for cause arrest the probationer wherever found, with-  
18 out a warrant. At any time within the probation period, or with-  
19 in the maximum probation period permitted by Ch. 37, SLA 1957,  
20 the court for the district in which the probationer is being sup-  
21 ervised or if he is no longer under supervision, the court for the  
22 district in which he was last under supervision, may issue a  
23 warrant for his arrest for violation of probation occurring dur-  
24 ing the probation period. Such warrant may be executed in any  
25 district by the probation officer or any peace officer in the  
26 district in which the warrant was issued or of any district in  
27 which the probationer is found. If the probationer shall be  
28 arrested in any district other than that in which he was last  
29 supervised, he shall be returned to the district in which the

1 warrant was issued, unless jurisdiction over him is transferred  
2 as above provided to the district in which he is found, and in  
3 that case he shall be detained pending further proceedings in  
4 such district.

5 As speedily as possible after arrest the probationer shall  
6 be taken before the court for the district having jurisdiction  
7 over him. Thereupon the court may revoke the probation and re-  
8 quire him to serve the sentence imposed, or any lesser sentence,  
9 and, if imposition of sentence was suspended, may impose any sen-  
10 tence which might originally have been imposed.

11 Sec. 6. AMENDMENT. Section 1, Ch. 195, SLA 1955 as amended  
12 by Sec. 1, Ch. 37, SLA 1957 is amended to read as follows:

13 Sec. 66-16-31. SUSPENSION OF SENTENCE AND PROBATION.

14 Upon entering a judgment of conviction of any offense  
15 not punishable by life imprisonment, or at any time with-  
16 in sixty (60) days from the date of entry of such judg-  
17 ment of conviction, any court having jurisdiction to try  
18 offenses against the State ~~Territory~~ of Alaska, when  
19 satisfied that the ends of justice and the best interest of  
20 the public as well as the defendant will be served thereby,  
21 may suspend the imposition or execution or balance of the  
22 sentence and place the defendant on probation for such  
23 period and upon such terms and conditions as the court  
24 deems best.

25 Upon entering a judgment of conviction of any  
26 offense not punishable by life imprisonment, if the  
27 maximum punishment provided for such offense is more  
28 than six months, the Superior Court when satisfied  
29 that the ends of justice and the best interest of the

1 public as well as the defendant will be served thereby.  
2 may impose a sentence in excess of six months and provide  
3 that the defendant be confined in a jail-type institution  
4 or a treatment institution for a period not exceeding  
5 six months and that the execution of the remainder of  
6 the sentence be suspended and the defendant placed on  
7 probation for such period and upon such terms and con-  
8 ditions as the court deems best.

9 Probation may be granted whether the offense is  
10 punishable by fine or imprisonment or both. If an  
11 offense is punishable by both fine and imprisonment,  
12 the court may impose a fine and place the defendant  
13 on probation as to imprisonment. Probation may be  
14 limited to one or more counts or indictments, but,  
15 in the absence of express limitation, shall extend  
16 to the entire sentence and judgment.

17 The court may revoke or modify any condition of  
18 probation, or may change the period of probation.

19 The period of probation, together with any ex-  
20 tension thereof, shall not exceed five years.

21 While on probation and among the conditions thereof,  
22 the defendant may be required:

23 (a) to pay a fine in one or several sums;

24 (b) to make restitution or reparation to  
25 aggrieved parties for actual damages or loss caused by  
26 the offense for which conviction was had; and

27 (c) to provide for the support of any persons,  
28 for whose support he is legally responsible.

29 The defendant's liability for any fine or other

1 punishment imposed as to which [WHCH] probation is  
2 granted, shall be fully discharged by the fulfillment  
3 of the terms and conditions of probation.

4 Sec. 7. SEVERABILITY. If any provision of this Act or the  
5 application thereof to any person or circumstances is held in-  
6 valid, such invalidity shall not affect other provisions or appli-  
7 cations of the Act which can be given effect without the invalid  
8 provision or application, and to this end the provisions of this  
9 Act are declared to be severable.

10 Sec. 8. SHORT TITLE. This Act may be cited as the "Proba-  
11 tion Administration Act".

12 Sec. 9. TIME OF TAKING EFFECT. This Act shall take effect  
13 on the day after its passage and approval or on the day it becomes  
14 law without approval.

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