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IN THE HOUSE

BY RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 321

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for the detention and confinement of persons held under authority of law; vesting the Commissioner of the Department of Health and Welfare with the custody of such persons; vesting the Commissioner of the Department of Public Safety with responsibility of temporary safekeeping of such persons; providing for the management and control of state prison facilities; providing for the extension of the services of state prison facilities to the United States, another state, or any political subdivision of this state; providing for the prison facility services of the United States, another state, or any political subdivision to be contracted for by the Commissioner of the Department of Health and Welfare of the State of Alaska."

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

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

a. "Commissioner" means the Commissioner of the Department of Health and Welfare of the State of Alaska.

1 b. "Court" means the Supreme Court of the State of
2 Alaska, the Superior Court of the State of Alaska, or any judge
3 thereof, the District Magistrate Courts of the State of Alaska, or
4 judge thereof.

5 c. "Prisoner" means any person detained or confined
6 for any period of time in a prison facility, whether by arrest,
7 conviction, order of court, or held as a witness, or otherwise.

8 d. "Prison facility" means any building, camp, farm,
9 place or area established for detention or confinement of persons
10 accused or convicted of crime, or held under authority of law.
11 A "state prison facility" includes a prison facility owned by or
12 leased, loaned or granted, to the state by the United States or
13 any political subdivision of the State of Alaska.

14 e. "Temporary commitment" means any detention of a
15 person under authority of law, but does not include confinement
16 upon conviction and judgment of a court of the State of Alaska.

17 f. "Political subdivision" means any borough, city,
18 town, village, or other area of local government within the State
19 of Alaska permitted by law to establish prison facilities.

20 Sec. 2. CONTROL AND MANAGEMENT OF STATE PRISON FACILITIES.
21 The control and management of state prison facilities shall be
22 vested in the Commissioner of the Department of Health and Welfare
23 of the State of Alaska.

24 The Commissioner shall establish prison facilities and class-
25 ify the prisoners thereof; and provide for their safety, sub-
26 sistence, proper government, discipline, and establish programs
27 for their treatment, care, rehabilitation and reformation. He
28 shall promulgate all necessary rules and regulations to effectuate
29 and carry out the purposes of this Act.

1 It shall be the duty of the Commissioner to provide suitable
2 prison facilities for the safekeeping, housing, care and subsis-
3 tence of all persons charged or convicted of offenses against the
4 State of Alaska, or held as witnesses, or otherwise, under author-
5 ity of the law of the State of Alaska.

6 Sec. 3. MEDICAL RELIEF; EXPENSES. The Commissioner shall
7 detail physicians, nurses and psychiatrists, or their aides, and
8 laboratory technicians, employed by the Department of Health and
9 Welfare to any prison facility where state prisoners are detained
10 or confined, for the purpose of furnishing necessary medical ser-
11 vices to such state prisoners. However, if such services cannot
12 be furnished reasonably by physicians, nurses, psychiatrists, or
13 their aides, and laboratory technicians, regularly employed by
14 the Department of Health and Welfare, the Commissioner may con-
15 tract with private practitioners located in the area of a prison
16 facility housing state prisoners for the furnishing of similar
17 scientific services. The cost of such contracted services shall
18 be paid out of appropriations made to the Department of Health
19 and Welfare.

20 Sec. 4. COMMITMENT TO COMMISSIONER; DESIGNATION OF PRISON
21 FACILITY TRANSFER. All persons convicted of an offense against
22 the State of Alaska shall be committed for such terms of imprison-
23 ment as the court may direct to the custody of the Commissioner
24 or his authorized representative, who shall designate the prison
25 facility where the sentence shall be served.

26 The Commissioner may designate any available, suitable and
27 appropriate prison facility, whether maintained by the State of
28 Alaska or otherwise, whether within or without the judicial dis-
29 trict where the prisoner was convicted, or whether within another

1 state, territory or possession of the United States, for the ser-
2 vice of sentence by a prisoner.

3 The Commissioner may designate in advance any state prison
4 facilities, or any prison facilities made available to the state
5 by virtue of agreement or contract, to which all persons sentenced
6 to serve a term of one year or less, or detained on temporary
7 commitment, shall be committed subsequent to such designation.
8 In such case, the court may make commitment for such term as it
9 may direct, or order of temporary commitment, to the custody of
10 the keeper or person in charge of such designated prison facilities.

11 Upon entry by a prisoner into any prison facility, the Com-
12 missioner may order such prisoner transferred from one prison
13 facility to another.

14 Sec. 5. DUTIES OF THE COMMISSIONER OF PUBLIC SAFETY IN
15 REGARD TO SAFEKEEPING AND CONVEYING OF PERSONS HELD; RIGHT TO
16 REIMBURSEMENT. The Commissioner of the Department of Public
17 Safety shall provide for the care and safekeeping in suitable
18 quarters of any person arrested or held under the authority of
19 any law of this state pending arraignment or commitment by a
20 court to the custody of the Commissioner of the Department of
21 Health and Welfare or to the custody of the keeper or person in
22 charge of a prison facility designated in advance by the Com-
23 missioner of the Department of Health and Welfare.

24 The Commissioner of the Department of Public Safety shall
25 have the responsibility for the conveying of any prisoner to and
26 from any court having jurisdiction over such person. He shall
27 have the responsibility of delivering a prisoner to any prison
28 facility upon any commitment by a court.

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1 The Commissioner of the Department of Health and Welfare
2 shall allow and pay the reasonable and actual cost of the subsis-
3 tence of such persons in the safekeeping of the Commissioner of
4 the Department of Public Safety, and may prescribe and recommend
5 such regulations to the Commissioner of the Department of Public
6 Safety, as will enable the Commissioner of the Department of
7 Health and Welfare to determine the reasonable and actual expenses
8 incurred therein by the Department of Public Safety.

9 Sec. 6. PLACE OF SERVICE OF SENTENCE BY PRISONER. Persons
10 convicted of offenses against the State of Alaska and sentenced
11 to terms of imprisonment of more than one year may be confined in
12 a penitentiary or reformatory or other prison facility, to be
13 designated by the Commissioner or his authorized representative.

14 A sentence for an offense punishable by imprisonment of one
15 year or less shall not be served in a penitentiary without the
16 consent of the prisoner.

17 Sec. 7. TRANSPORTATION OF PRISONERS. Upon either temporary
18 or final commitment of a person by a court, the transportation of
19 such person to a prison facility within or without the state,
20 shall be the responsibility of the Commissioner of the Department
21 of Health and Welfare. Upon transfer of a prisoner from one
22 prison facility to another, whether within or without the state,
23 the transportation of the prisoner shall be the responsibility of
24 the Commissioner of the Department of Health and Welfare. All
25 such transportation expenses incurred under this section shall be
26 paid from the appropriation to the Department of Health and Wel-
27 fare. The Commissioner may designate agents to guard prisoners
28 during transportation.
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1 Sec. 8. EXPENSES OF PRISONERS TO BE PAID BY THE DEPARTMENT
2 OF HEALTH AND WELFARE. Expenses attendant upon the detention or
3 confinement under the laws of this state of any prisoners in
4 prison facilities shall be paid out of the appropriations pro-
5 vided for the Department of Health and Welfare.

6 Sec. 9. AUTHORITY OF COMMISSIONER TO CONTRACT FOR SERVICES.
7 The Commissioner shall determine the availability of state prison
8 facilities suitable for the detention and confinement of all per-
9 sons held under authority of the law of this state. In the event
10 the Commissioner shall determine that suitable state prison facil-
11 ities are not available, he may enter into an agreement with the
12 proper authorities of the United States, any state, or any politi-
13 cal subdivision of this state for the purposes of providing prison
14 facilities for the safekeeping, care, subsistence, proper govern-
15 ment, discipline and for the purpose of providing programs for
16 the reformation and rehabilitation and treatment of prisoners.
17 Such prison facilities as may be made available to the Commissioner
18 by such agreement may be within this state, or in any other state,
19 territory or possession of the United States. The Commissioner
20 shall not enter into such agreement with any authorities who are
21 unable to provide the degree or kind of safekeeping, care and
22 subsistence required by the statutes of this state and by the
23 rules and regulations promulgated by the Commissioner.

24 Any authority, whether that of another state, the United
25 States, or a political subdivision of this state, receiving
26 physical custody for the purposes of incarceration of a person
27 sentenced by a court under the terms of any agreement made as
28 herein provided, shall be deemed to be acting solely as agent
29 of this state. This state retains jurisdiction over any person

1 incarcerated in an institution of another state, the United States
2 or a political subdivision of this state.

3 It shall be the duty of the Attorney General of the State of
4 Alaska to enforce in a civil suit in any court which has jurisdic-
5 tion any and all terms of an agreement executed in pursuance of
6 this Act. The Attorney General shall be authorized to institute
7 such a suit in any court of any other state or in a court of the
8 United States.

9 The Commissioner may contract with the proper authorities of
10 the United States or any political subdivision of this state to
11 provide the services of state prison facilities for the safe-
12 keeping, care and subsistence of persons held under the authority
13 of the law of their respective jurisdictions.

14 The Commissioner may agree to and permit any political sub-
15 division of this state to lease, or to use and operate, for the
16 joint benefit of the political subdivision and the State of
17 Alaska any state prison facility; provided that the Commissioner
18 shall first determine that operation of a state prison facility
19 by a political subdivision would be in the best interests of the
20 state. Any such agreement executed by the Commissioner shall
21 provide the following:

22 a. That the state have the right to detain or confine
23 therein persons held under authority of state law;

24 b. That the keeper of such prison facility be amenable
25 to any order concerning a prisoner of any court of this state
26 having jurisdiction over that prisoner;

27 c. That the keeper observe all statutes and rules and
28 regulations promulgated by the Commissioner relating to the gov-
29 ernment of persons confined or detained therein; and

1 d. That the Commissioner or his authorized representa-
2 tive be permitted at all reasonable times to inspect the premises
3 for the purpose of determining the conditions under which persons
4 held under authority of state law are housed.

5 The Commissioner may also prescribe such other conditions as
6 he deems necessary to secure protection for the public at large
7 and to secure to persons held or detained therein the quarters,
8 care, subsistence, treatment and the programs for reformation and
9 rehabilitation required by this Act and any rules and regulations
10 promulgated hereunder.

11 Sec. 10. SEVERABILITY. If any provision of this Act or the
12 application thereof to any person or circumstances is held in-
13 valid, such invalidity shall not affect other provisions or appli-
14 cations of the Act which can be given effect without the invalid
15 provision or application, and to this end the provisions of this
16 Act are declared to be severable.

17 Sec. 11. TIME OF TAKING EFFECT. This Act shall take effect
18 on the day after its passage and approval or on the day it becomes
19 law without approval.
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