

1 IN THE HOUSE

BY JUDICIARY COMMITTEE
BY REQUEST OF THE GOVERNOR

2 CS FOR HOUSE BILL NO. 321

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 detention, confinement
7 and transportation of persons held under
8 authority of law; and providing for an
9 effective date.

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

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

13 a. "Commissioner" means the Commissioner of the Depart-
14 ment of Health and Welfare of the State of Alaska or his designee.

15 b. "Court" means the supreme court, the superior court,
16 or any judge thereof, the district magistrate courts, or judges
17 thereof.

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

21 d. "Prison facility" means any building, camp, farm,
22 place or area established for detention or confinement of persons
23 accused or convicted of crime, or held under authority of law. A
24 "state prison facility" includes a prison facility owned by or
25 leased, loaned or granted, to the state by the United States or
26 any political subdivision of this state.

27 e. "Temporary commitment" means any detention of a
28 person under authority of law, but does not include confinement
29 upon conviction and judgment of a court of this state.

1 f. "Political subdivision" means any borough, city,
2 town, village, or other area of local government within the state
3 permitted by law to establish prison facilities.

4 Sec. 2. CONTROL AND MANAGEMENT OF STATE PRISON FACILITIES.

5 The control and management of state prison facilities shall be
6 vested in the Commissioner.

7 The Commissioner shall establish prison facilities and
8 classify the prisoners thereof; and provide for their safety,
9 subsistence, proper government, discipline, and establish programs
10 for their treatment, care, rehabilitation and reformation. He
11 shall promulgate all necessary rules and regulations to effectuate
12 and carry out the purposes of this Act.

13 It shall be the duty of the Commissioner to provide suitable
14 prison facilities for the safekeeping, housing, care and subsist-
15 ence of all persons charged or convicted of offenses against the
16 state, or held as witnesses, or otherwise, under authority of
17 the law of the state.

18 Sec. 3. MEDICAL RELIEF; EXPENSES. The Commissioner shall
19 detail physicians, nurses and psychiatrists, or their aides, and
20 laboratory technicians, employed by the Department of Health and
21 Welfare to any prison facility where state prisoners are detained
22 or confined, for the purpose of furnishing necessary medical
23 services to such state prisoners. However, if such services can-
24 not be furnished by physicians, nurses, psychiatrists, or their
25 aides, and laboratory technicians, regularly employed by the
26 Department of Health and Welfare, the Commissioner may contract
27 with private practitioners located in the area of a prison facility
28 housing state prisoners for the furnishing of such services. The
29 cost of such contracted services shall be paid out of appropriations

1 made to the Department of Health and Welfare.

2 Sec. 4. COMMITMENT TO COMMISSIONER; DESIGNATION OF PRISON
3 FACILITY TRANSFER. All persons convicted of an offense against
4 the state shall be committed for such terms of imprisonment as
5 the court may direct to the custody of the Commissioner or his
6 authorized representative, who shall designate the prison facility
7 where the sentence shall be served.

8 The Commissioner may designate any available, suitable and
9 appropriate prison facility, whether maintained by the state or
10 otherwise, whether within or without the judicial district where
11 the prisoner was convicted, or whether within another state,
12 territory or possession of the United States, for the service of
13 sentence by a prisoner.

14 The Commissioner may designate in advance any state prison
15 facilities, or any prison facilities made available to the state
16 by virtue of agreement or contract, to which all persons sentenced
17 to serve a term of one year or less, or detained on temporary
18 commitment, shall be committed subsequent to such designation.
19 In such case, the court may make commitment for such term as it
20 may direct, or order of temporary commitment, to the custody of
21 the keeper or person in charge of such designated prison facilities.

22 Upon entry by a prisoner into any prison facility, the
23 Commissioner may order such prisoner transferred from one prison
24 facility to another.

25 Sec. 5. DUTIES OF THE COMMISSIONER OF PUBLIC SAFETY IN
26 REGARD TO SAFEKEEPING AND CONVEYING OF PERSONS HELD; RIGHT TO
27 REIMBURSEMENT. The Commissioner of the Department of Public
28 Safety shall provide for the subsistence, care and safekeeping in
29 suitable quarters of any person arrested or held under the

1 authority of any law of this state pending arraignment or commit-
2 ment by a court to the custody of the Commissioner of the Depart-
3 ment of Health and Welfare or to the custody of the keeper or
4 person in charge of a prison facility designated in advance by
5 the Commissioner of the Department of Health and Welfare.

6 The Commissioner of the Department of Public Safety shall
7 have the responsibility for the conveying of any prisoner to and
8 from any court having jurisdiction over such person. He shall
9 have the responsibility of delivering a prisoner to any prison
10 facility upon any commitment by a court or upon transfer of a
11 prisoner from one prison facility to another whether within or
12 without the state of Alaska.

13 Sec. 6. PLACE OF SERVICE OF SENTENCE BY PRISONER. Persons
14 convicted of offenses against the state and sentenced to terms of
15 imprisonment of more than one year may be confined in a peniten-
16 tiary or reformatory or other prison facility, to be designated
17 by the Commissioner or his authorized representative.

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

21 Sec. 7. VISITATION PRIVILEGES. Honor prisoners with good
22 behavior, married over six months at the time of their commitment
23 and serving sentences of over 6 months may be permitted, as a
24 privilege and not as a right, to visit with their spouses, at the
25 place of their confinement or place designated by the Commissioner,
26 for periods not exceeding 24 hours once every six weeks, under
27 rules and regulations promulgated by the said Commissioner and in
28 his sole discretion.

29 Sec. 8. TRANSPORTATION OF PRISONERS. Costs of transportation

1 or transfer of prisoners, either within or without the state,
2 after temporary or final commitment shall be paid from the appro-
3 priation to the Department of Health and Welfare.

4 The Commissioner shall adopt regulations governing the
5 furnishing of transportation, discharge payments, and clothing
6 to prisoners upon release at any stage of criminal proceedings.

7 Sec. 9. EXPENSES OF PRISONERS TO BE PAID BY THE DEPARTMENT
8 OF HEALTH AND WELFARE. Expenses attendant upon the detention or
9 confinement under the laws of this state of any prisoners in
10 prison facilities shall be paid out of the appropriations provided
11 for the Department of Health and Welfare.

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

1 Any authority, whether that of another state, the United
2 States, or a political subdivision of this state, receiving
3 physical custody for the purposes of incarceration of a person
4 sentenced by a court under the terms of any agreement made as
5 herein provided, shall be deemed to be acting solely as agent
6 of this state. This state retains jurisdiction over any person
7 incarcerated in an institution of another state, the United States,
8 or a political subdivision of this state.

9 It shall be the duty of the Attorney General of this state
10 to enforce in a civil suit in any court which has jurisdiction
11 any and all terms of an agreement executed in pursuance of this
12 Act. The Attorney General shall be authorized to institute such
13 a suit in any court of any other state or in a court of the United
14 States.

15 The Commissioner may contract with the proper authorities of
16 the United States or any political subdivision of this state to
17 provide the services of state prison facilities for the safekeeping,
18 care and subsistence of persons held under the authority of the
19 law of their respective jurisdictions.

20 The Commissioner may agree to and permit any political sub-
21 division of this state to lease, or to use and operate, for the
22 joint benefit of the political subdivision and the state any
23 state prison facility; provided that the Commissioner shall first
24 determine that operation of a state prison facility by a political
25 subdivision would be in the best interests of the state. Any
26 such agreement executed by the Commissioner shall provide the
27 following:

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

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

4 c. That the keeper observe all statutes and rules and
5 regulations promulgated by the Commissioner relating to the
6 government of persons confined or detained therein; and

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

11 The Commissioner may also prescribe such other conditions as
12 he deems necessary to secure protection for the public at large
13 and to secure to persons held or detained therein the quarters,
14 care, subsistence, treatment and the programs for reformation and
15 rehabilitation required by this Act and any rules and regulations
16 promulgated hereunder.

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