

Introduced: 2/25/81  
Referred: Health, Education &  
Social Services and Judiciary

1 IN THE HOUSE

BY MARTIN

2 HOUSE BILL NO. 225

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to parole of offenders; continuing  
7 the existence of the 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. AS 33 is amended by adding a new chapter to read:

11 CHAPTER 16. PAROLE ADMINISTRATION.

12 Sec. 33.16.010. BOARD OF PAROLE. (a) There is in the Department  
13 of Health and Social Services a Board of Parole consisting of five  
14 members appointed by the governor and confirmed by a majority of the  
15 members of the legislature in joint session.

16 (b) Members of the board serve for staggered terms of five years  
17 and until their successors are appointed and qualified. A vacancy on  
18 the board shall be filled for the unexpired term.

19 (c) The governor shall designate the presiding officer of the  
20 board. The presiding officer must have a minimum of two years' exper-  
21 ience in corrections, probation, or parole work before his designation  
22 as presiding officer.

23 (d) A member of the board may not seek or hold a statewide or  
24 national elective public office during his term as a member of the  
25 board.

26 Sec. 33.16.020. NOMINATIONS. The governor shall seek nominations  
27 for board members from citizens and from civic, professional, and  
28 ethnic organizations in the state and shall make appointments to the  
29 board with due regard for representation on the board of the sexual,

1 ethnic, racial, and cultural populations of the state.

2 Sec. 33.16.030. SELECTION CRITERIA FOR BOARD MEMBERS. (a) The  
3 governor shall appoint board members on the basis of their qualifica-  
4 tions and ability to make decisions that are compatible with the welfare  
5 of the community and of individual offenders. The governor shall  
6 appoint board members who are able to consider the character and back-  
7 ground of offenders and the circumstances under which offenses were  
8 committed.

9 (b) At least one person appointed to the board shall have ex-  
10 perience in the field of criminal justice, psychology, or human rela-  
11 tions.

12 (c) An officer or employee of the department may not be appointed  
13 to the board.

14 Sec. 33.16.040. REMOVAL OF MEMBERS. (a) The governor may remove  
15 a board member only for disability, nonfeasance, neglect of duty,  
16 malfeasance in office, or conviction of a crime.

17 (b) Removal of a board member is initiated by delivering to the  
18 board member a written statement of the charges against the board  
19 member and by giving the board member an opportunity to be heard in  
20 person or through a representative at a public hearing in defense of  
21 the charges. The board member may have access to all documents or  
22 records considered by the governor in his decision to remove the member.  
23 The hearing shall be before the governor or his designee. The time  
24 fixed for the hearing may not be less than 10 days after the statement  
25 is delivered to the board member. At the hearing the board member has  
26 the right of confrontation and cross-examination of the witnesses who  
27 testify.

28 (c) The removal of a board member is effective 15 days after a  
29 statement of the charges made against the board member and the findings

1 on those charges are filed by the governor in the main office of the  
2 board. The board member may appeal the findings of the governor or his  
3 designee to the superior court. The court shall limit its review to a  
4 determination of whether the findings of the governor or his designee  
5 are substantiated by the evidence presented. The removal of the board  
6 member is suspended while an appeal from the findings of the governor  
7 or his designee is pending.

8 Sec. 33.16.050. COMPENSATION AND EXPENSES. A board member is  
9 entitled to compensation of \$100 per day for each day he is concerned  
10 with the business of the board and is entitled to the per diem and  
11 travel allowances provided by law for boards and commissions under  
12 AS 39.20.180.

13 Sec. 33.16.060. MEETINGS OF THE BOARD. (a) The board may meet  
14 as often as it considers necessary to consider its responsibilities.  
15 The board shall meet no less than four times a year.

16 (b) Three members of the board constitute a quorum for the conduct  
17 of business.

18 (c) Decisions and orders of the board require the votes of a  
19 majority of the members present and in no case less than the votes of  
20 three members.

21 Sec. 33.16.070. PROCESS. The board or a member of the board may  
22 issue subpoenas and subpoenas duces tecum.

23 Sec. 33.16.080. RESPONSIBILITIES OF THE BOARD. (a) The board  
24 shall

- 25 (1) serve as the parole authority for the state;  
26 (2) consider the suitability for parole of all prisoners  
27 serving sentences who are eligible for consideration for parole, unless  
28 a prisoner waives consideration of parole;  
29 (3) discharge a person from parole when supervision is no

1 longer required;

2 (4) maintain records of the meetings and proceedings of the  
3 board;

4 (5) adopt standards which shall apply fairly to all prisoners  
5 for determining when a prisoner should be considered for and receive  
6 parole;

7 (6) recommend to the legislature changes in the laws ad-  
8 ministered by the board;

9 (7) recommend to the commissioner changes in the practices  
10 of the department and of other departments of the executive branch;

11 (8) present a proposed annual operating budget to the gover-  
12 nor and to the legislature;

13 (9) execute other responsibilities prescribed by law.

14 (b) The board shall adopt regulations under the Administrative  
15 Procedure Act (AS 44.62)

16 (1) establishing the standards which shall apply fairly to  
17 all prisoners under which the suitability of a prisoner for parole will  
18 be decided; and

19 (2) providing for the supervision of parolees and for recom-  
20 mitment of parolees;

21 (3) which it considers proper for the operation of the  
22 board.

23 Sec. 33.16.090. EXECUTIVE DIRECTOR. The board shall hire an  
24 executive director who has training and experience in the field of  
25 probation and parole. The executive director shall serve as the execu-  
26 tive officer for the board in the accomplishment of its functions. He  
27 shall serve at the pleasure of the board. The executive director shall  
28 employ the staff of the board.

29 Sec. 33.16.100. ELIGIBILITY FOR DISCRETIONARY PAROLE. (a) A

1 state prisoner other than a juvenile delinquent, wherever confined, who  
2 is serving a definite term of over 180 days and who is not imprisoned  
3 in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2),  
4 (e)(1), or (e)(2), may, in the discretion of the board, be released on  
5 discretionary parole subject to AS 33.16.110, 33.16.120(b), and AS 12.-  
6 55.086(b).

7 (b) A state prisoner imprisoned in accordance with AS 12.55.125(a)  
8 or (b) may not be released on discretionary parole until he has served  
9 at least the prescribed minimum term of imprisonment.

10 (c) A state prisoner imprisoned in accordance with AS 12.55.125-  
11 (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) who is re-  
12 leased under AS 33.20.030 shall be placed on mandatory parole for the  
13 period specified in the certificate of deduction subject to written  
14 conditions imposed by the board.

15 Sec. 33.16.110. FIXING ELIGIBILITY FOR DISCRETIONARY PAROLE AT  
16 TIME OF SENTENCING. When in its opinion justice and the best interests  
17 of the public require that a defendant be sentenced to imprisonment for  
18 a term exceeding one year, the court having jurisdiction to impose sen-  
19 tence, upon entering a judgment of conviction, may designate in the  
20 sentence of imprisonment a term at the expiration of which the prisoner  
21 is eligible for discretionary parole. The term shall be at least  
22 one-third of the period of confinement imposed by the court or the  
23 minimum term prescribed in AS 12.25.125, whichever is greater.

24 Sec. 33.16.120. GRANTING OF DISCRETIONARY PAROLE. (a) The board  
25 may authorize the release of a prisoner on discretionary parole if it  
26 determines that

27 (1) the prisoner eligible for discretionary parole will, in  
28 reasonable probability, live and remain at liberty without violating  
29 the laws or without violating the conditions imposed by the board; and

1 (2) his release on discretionary parole is not incompatible  
2 with the welfare of society and would not depreciate the seriousness of  
3 the crime.

4 (b) A prisoner may not be released on discretionary parole until  
5 the prisoner has served either one-third of the period of confinement  
6 to which he was sentenced or the minimum term prescribed in AS 12.25.-  
7 125, whichever is greater.

8 Sec. 33.16.130. SUITABILITY FOR DISCRETIONARY PAROLE. In deter-  
9 mining whether a prisoner is suitable for discretionary parole, the  
10 board shall consider

11 (1) the presentence report made to the sentencing court;

12 (2) the recommendations made by the sentencing court, by the  
13 prosecuting attorney, by the defense attorney, and any statement made  
14 by the prisoner at sentencing;

15 (3) the prisoner's history at the correctional facility to  
16 which he was assigned by the department;

17 (4) a recommendation made by an officer at the correctional  
18 facility to which the prisoner was assigned;

19 (5) official reports of earlier crimes and earlier probation  
20 and parole experiences;

21 (6) physical, mental, and psychiatric examinations of the  
22 prisoner;

23 (7) information submitted by the prisoner, the attorney of  
24 the prisoner, a victim of the crime, or other persons; and

25 (8) other useful information that may be reasonably avail-  
26 able.

27 Sec. 33.16.140. HEARING ON APPLICATION FOR DISCRETIONARY PAROLE.

28 (a) A prisoner has a right to an interview with a member of the board  
29 to review the suitability of the prisoner for discretionary parole.

1 The prisoner shall be given reasonable notice of the interview.

2 (b) The prisoner shall receive a copy of the material contained  
3 in the pre-parole report except for a mental health evaluation on the  
4 prisoner and except for an evaluation and recommendation on the prisoner  
5 prepared in the division of corrections. The prisoner may respond to  
6 the information in the report and may present relevant information.

7 (c) The prisoner may waive his right to an interview.

8 (d) The board shall issue its decision in writing. The prisoner  
9 is entitled to a copy of the decision on its issuance.

10 Sec. 33.16.150. ORDER FOR PAROLE. The board shall furnish to  
11 each person released under its supervision an order for parole. The  
12 order for parole shall contain the conditions imposed by the board for  
13 parole and the date that the parole supervision expires. The order for  
14 parole does not take effect until it is accepted and signed by the  
15 parolee and his parole plan is approved.

16 Sec. 33.16.160. CONDITIONS OF PAROLE. (a) The board shall re-  
17 quire that a prisoner released on parole refrain from violation of  
18 state or federal law as a condition of parole.

19 (b) Depending on the nature and circumstances of the crime for  
20 which the prisoner was convicted and the background of the prisoner,  
21 the board may require as a condition of parole under AS 33.16.150 that  
22 a parolee accept any condition established by the board under regula-  
23 tions adopted by it.

24 (c) Under regulations adopted by the board a parolee may request  
25 reconsideration by the board of a condition of parole imposed on him at  
26 any time during the period of parole.

27 Sec. 33.16.170. WAIVER OF HEARING. A prisoner or parolee may  
28 waive a hearing provided under AS 33.16.140 or 33.16.250 by submitting  
29 a written waiver to the board.

1           Sec. 33.16.180. CONFIDENTIALITY OF RECORDS AND INFORMATION. The  
2 pre-parole reports submitted to the board are confidential and may not  
3 be disclosed to anyone other than the board, the sentencing judge, the  
4 prosecuting attorney, or others granted the right under this chapter to  
5 receive the information.

6           Sec. 33.16.190. APPEALS. A prisoner or a parolee may appeal a  
7 decision or order of the board to the superior court on the ground of  
8 arbitrariness or capriciousness.

9           Sec. 33.16.200. DUTIES OF THE COMMISSIONER. The commissioner  
10 shall

11           (1) conduct investigations of prisoners eligible for parole  
12 as the board requests;

13           (2) supervise the conduct of parolees and institute programs  
14 for reform and rehabilitation of parolees as the board requests;

15           (3) appoint and assign parole officers and personnel to the  
16 judicial districts in the state and to train and supervise parole offi-  
17 cers and personnel;

18           (4) provide the board in a timely manner with information  
19 requested on sentenced prisoners who may be eligible for parole release  
20 or parole supervision;

21           (5) keep records, files, data, and information as the board  
22 requests.

23           Sec. 33.16.210. PAROLE OFFICERS. The commissioner may assign the  
24 duties of probation officers under AS 33.05 to parole officers appointed  
25 under AS 33.16.200(3).

26           Sec. 33.16.220. DISCHARGE OF PAROLEE. (a) The board retains  
27 legal custody of a discretionary parolee until the expiration of the  
28 maximum term or terms to which the parolee is sentenced less a good  
29 time allowance provided by law. The board retains legal custody of a

1 mandatory parolee released in accordance with AS 33.16.100(c) and  
2 AS 33.20.040 until the expiration of the maximum term or terms to which  
3 the prisoner was sentenced.

4 (b) The disability imposed by AS 33.30.320 applies to a parolee  
5 as long as he is in the legal custody of the board but the disability  
6 does not deny a parolee access to the courts to protect rights he may  
7 have.

8 (c) A parolee who has been on parole for five years shall be  
9 discharged from parole and from the custody of the board unless the  
10 board finds after a hearing that continued supervision is necessary for  
11 the protection of society.

12 Sec. 33.16.230. DISCRETIONARY DISCHARGE OF PAROLEE. The board  
13 may discharge a parolee from supervision and the custody of the board  
14 and from further liability under his sentence after the parolee has  
15 completed two years of parole. (After a parolee has been under super-  
16 vision for two years the board shall review his record annually for  
17 discharge.)

18 Sec. 33.16.240. RELEASE OF PRISONER TO ANSWER PROCESS. If a  
19 court of this state, another state, or the United States, or other  
20 authority issues a warrant charging a prisoner with a crime, the board  
21 may release the prisoner on parole to answer the warrant.

22 Sec. 33.16.250. REVOCATION OF PAROLE. (a) The board may revoke  
23 the parole granted to a parolee for violation of a state or federal law  
24 or a condition imposed by the board under AS 33.16.160(b).

25 (b) A parolee arrested on a charge of violation of a state or  
26 federal law or a condition of parole has the right to a preliminary  
27 hearing before a single member of the board or a person authorized by  
28 the board to act as a hearing officer to determine whether probable  
29 cause exists to revoke parole. The preliminary hearing shall be held

1 within 14 days of the arrest. The single member of the board or the  
2 hearing officer who holds the hearing may release or detain the parolee  
3 pending the hearing under (c) of this section.

4 (c) The parolee is entitled to a hearing before the board at the  
5 first meeting of the board held after the preliminary hearing held  
6 under (b) of this section. The parolee has the rights of a parolee  
7 under AS 33.16.140 at the hearing. The board shall issue its decision  
8 in writing and provide reasons for the decision. The parolee is en-  
9 titled to a copy of the decision on its issuance.

10 (d) At a hearing under this section, the commissioner has the  
11 burden to show that parole should be revoked by a preponderance of the  
12 evidence.

13 (e) If after the hearing the board determines that a violation of  
14 a condition of parole has occurred, it may revoke all or a portion of  
15 the parole granted or change the conditions of parole .

16 (f) If the board revokes the parole under (e) of this section,  
17 the unexpired term of imprisonment of the parolee shall be served and  
18 it begins to run from the date the parolee is returned to the custody  
19 of the commissioner under the warrant, and the time the parolee was on  
20 parole does not diminish the time he has remaining to serve unless  
21 credit is specifically allowed by the board under regulations adopted  
22 by it.

23 (g) A parolee may waive a hearing under (b) or (c) of this section  
24 by submitting a written waiver to the board.

25 Sec. 33.16.260. ARREST OF PAROLE VIOLATOR. (a) A parolee charged  
26 with violation of a condition of his parole may be arrested only on a  
27 warrant for arrest issued by the board or a member of it based on  
28 probable cause to believe that a violation of the condition of parole  
29 has occurred.

1 (b) A parolee may be arrested by a parole officer or at the  
2 direction of a parole officer without a warrant for his arrest for a  
3 violation of a condition of parole only under exigent conditions which  
4 require immediate arrest.

5 Sec. 33.16.270. EXECUTION OF WARRANT FOR ARREST OF PAROLEE. (a)  
6 A parole officer or a peace officer shall execute the warrant issued  
7 under AS 33.16.260 by arresting the parolee and confining the parolee  
8 in a correctional facility designated by the commissioner.

9 (b) The parole officer shall immediately notify the board or a  
10 member of the board of an arrest under (a) of this section. If the  
11 arrest was without warrant, the parole officer shall immediately provide  
12 the board or a member of the board with a report in writing indicating  
13 in what manner the parolee violated a condition of his parole and why  
14 the arrest was made without warrant.

15 Sec. 33.16.280. APPLICABILITY TO PERSONS ON PAROLE OR INCAR-  
16 CERATED. This chapter applies to all persons convicted and sentenced  
17 in the superior court and the district courts of the state.

18 Sec. 33.16.290. DEFINITIONS. In this chapter

19 (1) "board" means the Board of Parole;

20 (2) "commissioner" means the commissioner of health and  
21 social services;

22 (3) "department" means the Department of Health and Social  
23 Services;

24 (4) "discretionary parole" means the release of a prisoner  
25 to the community by the board before the expiration of his term or  
26 terms, subject to conditions imposed by the board and subject to its  
27 supervision;

28 (5) "mandatory parole" means the release of a prisoner to  
29 the community by operation of law before the expiration of his term or

1 terms, subject to conditions imposed by the board and subject to its  
2 supervision;

3 (6) "parolee" means a prisoner released to the community by  
4 the board or by operation of law.

5 \* Sec. 2. AS 44.66.010(a)(3) is amended to read:

6 (3) [STATE] Board of Parole (AS 33.16.010) [(AS 33.15.-  
7 010)] -- June 30, 1984 [1980];

8 \* Sec. 3. AS 33.20.040(a) is repealed and reenacted to read:

9 (a) A prisoner released under AS 33.30.030 who is not granted  
10 parole under AS 33.16.100 and 33.16.120 shall be released on parole for  
11 the period specified in the period of deduction subject to conditions  
12 imposed by the board and subject to its supervision.

13 \* Sec. 4. AS 33.15 is repealed.

14 \* Sec. 5. AS 33.16 enacted in sec. 1 of this Act applies to persons on  
15 parole or being considered for parole on the effective date of this Act.

16 \* Sec. 6. The terms of the members of the Board of Parole appointed  
17 under AS 33.15.010 terminate on the effective date of this Act. The governor  
18 shall appoint members to the Board of Parole established under AS 33.16.010  
19 enacted in this Act for the following initial terms: one member for a five-  
20 year term; one member for a four-year term; one member for a three-year  
21 term; one member for a two-year term; and one member for a one-year term.

22 \* Sec. 7. This Act takes effect July 1, 1981.  
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