

Original sponsor: Martin

Offered: 3/29/82
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 225 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the imprisonment and rehabilitation
7 of offenders; establishing a parole system; continuing
8 the existence of the Board of Parole; relating to
9 correctional facilities, furlough programs, and senten-
10 cing; and providing for an effective date."

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

12 * Section 1. PURPOSE. The purpose of this Act is to create a parole
13 system as required by art. III, sec. 21 of the Constitution of the State of
14 Alaska by establishing programs for the reintegration of offenders into
15 society and by providing for the early release of offenders subject to
16 varying levels of supervision outside prison.

17 * Sec. 2. AS 33.30 is amended by adding new sections to read:

18 CHAPTER 30. CORRECTIONAL [PRISON] FACILITIES AND PROGRAMS.

19 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

20 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner of
21 health and social services shall

22 (1) establish, operate, and control correctional facilities
23 suitable for the custody, care, and discipline of persons charged or
24 convicted of offenses against the state or held under state law;

25 (2) classify prisoners and establish programs for persons
26 committed to the custody of the commissioner in a manner that is rea-
27 sonably calculated to

28 (A) protect the public from the prisoners;

29 (B) maintain the health of the prisoners;

1 (C) create or improve occupational skills of the
2 prisoners;

3 (D) enhance educational qualifications of the
4 prisoners;

5 (E) support court-ordered restitution;

6 (F) otherwise provide for the rehabilitation and refor-
7 mation of prisoners, facilitating their reintegration into society;
8 and

9 (3) provide necessary medical services for a prisoner who is
10 in a correctional facility or who is committed by a court to the custody
11 of the commissioner, including an examination for communicable and
12 infectious diseases;

13 (4) provide necessary psychological or psychiatric treatment
14 for a prisoner if a physician or other health care provider, exercising
15 ordinary skill and care at the time of observation, concludes with
16 reasonable medical certainty that

17 (A) a prisoner exhibits symptoms of a serious disease
18 or injury that is curable or may be substantially alleviated; and

19 (B) the potential for harm to the prisoner by reason of
20 delay or denial of care would be substantial;

21 (5) adopt regulations necessary to implement this title.

22 Sec. 33.30.021. CONFINEMENT AND CARE OF PRISONERS. (a) If the
23 commissioner determines that state correctional facilities suitable for
24 the detention and confinement of persons held under state law are not
25 available, the commissioner may enter into an agreement with a publicly
26 operated correctional facility to provide those facilities. Correc-
27 tional facilities provided through agreement may be in this state or in
28 another state. The commissioner may not enter into an agreement with a
29 publicly operated correctional facility located outside the state

1 unless the facility is able to provide custody, care, and discipline
2 comparable to that required by state law.

3 (b) The commissioner may not enter into an agreement with the
4 owners of a privately operated correctional facility for the confinement
5 of prisoners except to implement a program established under AS 33.30.-
6 091 - 33.30.131.

7 (c) The commissioner may enter into an agreement with the United
8 States, another state, or a municipality of this state or another state
9 to provide a correctional facility for the custody, care, and discipline
10 of prisoners.

11 Sec. 33.30.031. LEASE OF STATE CORRECTIONAL FACILITY TO MUNICIPAL-
12 ITY. (a) The commissioner may enter into an agreement with a muni-
13 cipality of the state for the lease of a state correctional facility or
14 for the use and operation of a state correctional facility for the
15 joint benefit of the municipality and the state if the commissioner
16 determines that it would be in the best interest of the state.

17 (b) An agreement executed by the commissioner under (a) of this
18 section shall provide that

19 (1) the state has the right to detain or confine persons
20 held under law in the correctional facility;

21 (2) the administrator of the correctional facility agrees to
22 implement an order concerning a prisoner issued by a court of the
23 state;

24 (3) the administrator of the correctional facility shall
25 comply with the law and regulations adopted by the commissioner relating
26 to the custody, care, and discipline of a person detained or confined
27 in the correctional facility; and

28 (4) the commissioner may inspect the correctional facility
29 at reasonable times to determine the conditions under which a prisoner

1 is detained or confined.

2 (c) The agreement executed by the commissioner under (a) of this
3 section may require the administrator of the correctional facility to
4 comply with requirements that the commissioner considers necessary for
5 the protection of the public or for the quality of care and programs
6 for prisoners required by this chapter and regulations of the commis-
7 sioner.

8 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

9 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
10 of an offense against the state shall be committed to the custody of
11 the commissioner for the term of imprisonment that the court directs.

12 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The
13 commissioner shall designate the correctional facility to which a
14 prisoner is to be committed to serve a term of imprisonment or period
15 of temporary commitment. The commissioner may designate a facility
16 whether or not it is maintained by the state, is located within the
17 judicial district in which the prisoner was convicted, or is located in
18 the state. In designating the facility the commissioner shall consider

- 19 (1) the prisoner's security classification;
20 (2) the availability of program and facility space;
21 (3) the location of the prisoner's family or other supportive
22 relationships including cultural affiliations;
23 (4) the length of the prisoner's sentence;
24 (5) the preferences of the prisoner; and
25 (6) recommendations made by the sentencing court.

26 (b) The decision of the commissioner to designate a facility for
27 the commitment of a prisoner pending appeal is not subject to review
28 unless the prisoner makes a clear and convincing showing that the
29 designated facility would deny the prisoner his constitutional right to

1 counsel. The decision of the commissioner to designate a facility is
2 not under any other circumstance subject to review unless the prisoner
3 makes a clear and convincing showing of an abuse of discretion.

4 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

5 (a) Notwithstanding AS 33.30.011(1) and (2), the commissioner of
6 public safety shall provide for the custody, care, and discipline of
7 prisoners until custody of the prisoners is transferred to the commis-
8 sioner of health and social services. Except as provided in (c) of
9 this section, the commissioner of health and social services shall
10 provide necessary medical services for prisoners under AS 33.30.011(3).
11 The commissioner of health and social services and the commissioner of
12 public safety are not responsible for providing custody, care, and
13 discipline for a person detained under AS 47.37.170 unless the person
14 is admitted into a state correctional facility.

15 (b) The responsibility of the commissioner of public safety under
16 (a) of this section does not begin until a prisoner is accepted into
17 his custody or admitted into a correctional facility or other facility
18 designed for holding prisoners and the commissioner of public safety is
19 notified of the acceptance or admission.

20 (c) Medical services must be provided by the law enforcement
21 agency having custody of a prisoner who is unconscious or in immediate
22 need of medical attention.

23 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-
24 sioner of public safety is responsible for transporting a prisoner to
25 and from the court having jurisdiction over the prisoner and for de-
26 livering a prisoner to a correctional facility upon temporary or final
27 commitment by a court or upon transfer of a prisoner from one correc-
28 tional facility to another either inside or outside the state.

29 (b) The commissioner of health and social services is responsible

1 for furnishing return transportation to the place of arrest for a
2 prisoner held in a state correctional facility on release from custody.

3 (c) The commissioner of public safety is responsible for furnish-
4 ing return transportation to the place of arrest for a prisoner who is
5 released from custody before admission to a state correctional facility.

6 (d) The commissioner of health and social services shall adopt
7 regulations governing the furnishing of transportation, discharge
8 payments, and clothing to a prisoner upon release.

9 Sec. 33.30.091. FACTORS IN DESIGNATION OF PROGRAMS. Except as
10 provided in AS 33.30.111, the commissioner may assign a prisoner commit-
11 ted to the custody of the commissioner to any program established under
12 AS 33.30.011(2) considering

- 13 (1) safeguards to the public;
- 14 (2) the prospects for the rehabilitation of the prisoner;
- 15 (3) the availability of program and facility space;
- 16 (4) the prospect of future judicial proceedings requiring
17 the presence of the prisoner;
- 18 (5) the nature and circumstances of the offense for which
19 the prisoner was sentenced;
- 20 (6) the needs of the prisoner as determined by a classifica-
21 tion committee and any recommendations made by the sentencing court;
- 22 (7) the record of convictions of the prisoner with particular
23 emphasis on crimes specified in AS 11.41;
- 24 (8) the use of drugs or alcohol by the prisoner;
- 25 (9) the length of the prisoner's sentence; and
- 26 (10) other criteria considered appropriate by the commis-
27 sioner, including experimental evaluation of correctional programs that
28 are consistent with protection to the public.

29 Sec. 33.30.101. FURLOUGHS. (a) Programs established under

AS 33.30.011(2) must include furloughs. The commissioner shall adopt regulations governing the grant of furloughs to prisoners

(1) to obtain counseling and treatment for alcohol or drug abuse;

(2) to secure or attend vocational training;

(3) to obtain medical or psychiatric treatment;

(4) to secure or engage in employment;

(5) to attend educational institutions;

(6) to secure a residence or make any other preparation for release;

(7) to appear before a group whose purpose is a better understanding of crime or corrections; or

(8) for any other rehabilitative purpose the commissioner determines to be in the interests of the prisoner and the public.

(b) If the commissioner determines that a prisoner can live under reduced supervision without violating the law or the conditions established for the conduct of the prisoner, the commissioner may grant a furlough after considering

(1) the factors in AS 33.30.091;

(2) a violation by the prisoner of a condition imposed on the prisoner during an earlier furlough;

(3) a history of institutional misconduct by the prisoner; and

(4) the best interests of the prisoner and the public.

Sec. 33.30.111. PRE-RELEASE FURLOUGHS. (a) Furlough programs established under AS 33.30.101 must include pre-release furloughs designed to facilitate the reintegration of a prisoner into society.

(b) A facility may be used for a prisoner on a pre-release furlough that is specifically adapted to provide a residence outside

1 prison, including halfway houses and group homes. Other placements
2 that provide varying levels of restriction and supervision may be
3 approved by the commissioner for a prisoner on a pre-release furlough.

4 (c) The restrictions and supervision required for a pre-release
5 furlough must provide safeguards that minimize risk to the public and
6 shall include

7 (1) frequent contact with the prisoner by supervisory staff
8 directly or through responsible persons appointed by supervisory staff;

9 (2) knowledge by supervisory staff of the location of the
10 prisoner;

11 (3) periodic reports by supervisory staff to the commissioner
12 on the performance of the prisoner while on furlough; and

13 (4) a residential setting in which persons supervising a
14 prisoner are obliged to report immediately to the commissioner a vio-
15 lation of a condition for the conduct of the prisoner.

16 (d) Notwithstanding AS 33.30.101(b), a prisoner sentenced to a
17 term of imprisonment is eligible for a pre-release furlough only after
18 the prisoner has served at least one-third of the sentence or the
19 prisoner is within two years of his release date, whichever is later.

20 (e) A prisoner may request a pre-release furlough under pro-
21 cedures adopted by the commissioner. If the commissioner denies a
22 request for a pre-release furlough, the commissioner shall provide the
23 prisoner with a written explanation of the reasons for the denial.

24 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
25 furlough is a leave of absence from a correctional facility for a
26 period not to exceed 12 hours at any one time, except for

27 (1) family visitations that may not exceed one week nor
28 occur more frequently than once in each six-month period; or

29 (2) medical treatment that shall last no longer than neces-

1 sary for the treatment.

2 (b) A short-duration furlough may be granted to a prisoner at any
3 time under regulations adopted by the commissioner.

4 Sec. 33.30.131. FURLOUGH INVOLVING EMPLOYMENT. (a) Unless
5 alternative arrangements are expressly approved by the commissioner,
6 when a prisoner is employed outside a correctional facility as part of
7 a furlough program, the earnings of the prisoner shall be sent by the
8 employer to the commissioner. If an employer transmits the earnings of
9 a prisoner to the commissioner, the employer has no liability to the
10 prisoner for the earnings. The commissioner shall disburse the earnings
11 of the prisoner under procedures adopted by the commissioner

12 (1) to pay for the room, board, and personal expenses of the
13 prisoner in an amount or at a rate determined by the commissioner;

14 (2) to pay any restitution or fine ordered by the sentencing
15 court;

16 (3) to reimburse the state for an award made for violent
17 crimes compensation under AS 18.67 arising out of criminal conduct of
18 the prisoner;

19 (4) to pay a civil judgment arising out of criminal conduct
20 of the prisoner; and

21 (5) to support the dependents of the prisoner.

22 (b) After making the disbursements authorized under (a) of this
23 section, the balance remaining in the account of the prisoner shall be
24 retained by the commissioner and given to the prisoner at the time of
25 release. The commissioner may permit the earnings of the prisoner
26 remaining after the disbursements authorized under (a) of this section
27 to be disbursed to the prisoner for other purposes that the commissioner
28 considers appropriate.

29 (c) Only the earnings retained by the commissioner under (b) of

1 this section are subject to lien, attachment, garnishment, execution,
2 or other proceedings to encumber money or property.

3 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR
4 FAILURE TO RETURN. (a) If a prisoner on furlough violates the condi-
5 tions established for his conduct, the commissioner may immediately
6 require the return of the prisoner to actual confinement for a period
7 not to exceed the balance of the term of imprisonment and may initiate
8 disciplinary proceedings authorized by regulation adopted by the commis-
9 sioner.

10 (b) The failure of a prisoner on furlough to return to the place
11 of confinement or residence at the time specified by those having
12 direct supervision of the furlough is an unlawful evasion under AS 11.-
13 56.340 - 11.56.350.

14 Sec. 33.30.151. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
15 is admitted to a correctional facility, copies of the commitment shall
16 accompany the prisoner and serve as the authority of the correctional
17 facility to hold the prisoner. When a judgment of conviction has been
18 entered, the court shall promptly deliver to the commissioner of public
19 safety a certified copy of the judgment for transmission to the correc-
20 tional facility where the prisoner is being held. The superintendent
21 of the correctional facility shall place the fingerprints of the pri-
22 soner on the judgment. When the prisoner has been fingerprinted, the
23 certified copy of the judgment shall be returned promptly to the court
24 with the endorsement of the superintendent of the correctional facility.

25 (b) When a person is sentenced to a term of imprisonment, copies
26 of the pre-sentence report, the sentencing report prepared under AS 12.-
27 55.025, and any other information required by regulation of the commis-
28 sioner shall be transmitted to the superintendent of the correctional
29 facility in which the prisoner will be confined.

1 (c) The commissioner shall adopt regulations providing for the
2 security, confidentiality, and use of documents transmitted under (b)
3 of this section.

4 Sec. 33.30.161. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
5 ADMINISTER OATHS AND ACKNOWLEDGEMENTS. The superintendent of a correc-
6 tional facility or his assistant may administer oaths to and take
7 acknowledgements from a prisoner but may not request or accept compen-
8 sation from a prisoner for acts performed under this section.

9 ARTICLE 3. GENERAL PROVISIONS.

10 Sec. 33.30.171. EFFECT OF JUDGMENT OF CONVICTION ON STATE RESOURCE
11 DISTRIBUTION ENTITLEMENT. (a) A person convicted of a crime against
12 the state may not receive a distribution of permanent fund revenue or
13 other distribution based on the development of state resources for
14 which the person is eligible until he has paid

15 (1) restitution ordered by the sentencing court to the
16 victims of the crime;

17 (2) child support ordered by a court with jurisdiction over
18 the matter, whether or not the court is located in the state;

19 (3) civil judgment arising out of the criminal conduct;

20 (4) civil judgment to reimburse the state for an award made
21 for violent crimes compensation under AS 18.67.140;

22 (5) fine imposed by the sentencing court; and

23 (6) the cost of the custody and care of the prisoner while
24 incarcerated as determined by the commissioner.

25 (b) If a convicted person submits an application for a distri-
26 bution of permanent fund revenue or other distribution based on the
27 development of state resources or an application is filed under (c) of
28 this section, the distribution of permanent fund revenue shall be
29 transmitted by the commissioner of revenue to the commissioner of

1 health and social services for disbursement for the purposes set out in
2 (a)(1) - (a)(6) of this section. The order of priority of payments is
3 the sequence established in (a) of this section and may not be dimin-
4 ished by levy, execution, garnishment, attachment, or any other remedy
5 for the collection of a debt of the person convicted.

6 (c) If the convicted person who is eligible for a distribution of
7 permanent fund revenue fails to submit an application for the distribu-
8 tion to the commissioner of revenue, the commissioner of health and
9 social services may file an application for the entitlement of the
10 convicted person.

11 (d) The commissioner of revenue and the commissioner of health
12 and social services shall adopt regulations to implement this section.

13 (e) For the purposes of this section, "the cost of the custody
14 and care of the prisoner" means the statewide average daily per capita
15 cost of incarceration for the current fiscal year, including administra-
16 tive and capital expenses.

17 Sec. 33.30.181. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL RIGHTS.

18 (a) A person who is convicted of a felony involving moral turpitude is
19 disqualified from voting in a state or municipal election until his
20 unconditional discharge.

21 (b) A person who is convicted of a crime is disqualified from
22 serving as a juror until his unconditional discharge.

23 (c) A person holding a public office, except for a public office
24 created in the state constitution, who is convicted of a crime forfeits
25 the office if

26 (1) he is convicted under the laws of this state of a felony
27 or under the laws of another jurisdiction of a crime that, if committed
28 in this state, would be a felony; or

29 (2) he is convicted of a crime involving malfeasance in

1 office.

2 (d) In this section, "unconditional discharge" means a release of
3 a person from all disability under a sentence including probation and
4 parole.

5 * Sec. 3. AS 33.30.200 is repealed and reenacted to read:

6 Sec. 33.30.200. DEFINITIONS. In this chapter, unless the context
7 otherwise requires,

8 (1) "commissioner" means the commissioner of health and
9 social services;

10 (2) "correctional facility" or "facility" means a prison,
11 jail, camp, farm, halfway house, group home, or other placement desig-
12 nated by the commissioner for the custody, care, and discipline of
13 prisoners;

14 (3) "court" means the supreme court, the court of appeals,
15 the superior court, the district court, or the magistrate court of the
16 state;

17 (4) "department" means the Department of Health and Social
18 Services;

19 (5) "furlough" means an authorized leave of absence from
20 actual confinement for a designated purpose and period of time;

21 (6) "municipality" means a borough or city in the state
22 authorized by law to establish a correctional facility;

23 (7) "official detention" means custody, arrest, surrender in
24 lieu of arrest, or confinement under an order of a court in a criminal
25 proceeding other than an order of conditional bail release;

26 (8) "prisoner" means a person, other than a juvenile, held
27 under state law in official detention;

28 (9) "state correctional facility" means a correctional
29 facility owned or operated by the state;

1 (10) "temporary commitment"

2 (A) means detention of a person for any period under
3 state law;

4 (B) does not include confinement upon conviction and
5 judgment by a court of the state.

6 * Sec. 4. AS 33 is amended by adding a new chapter to read:

7 CHAPTER 40. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

8 ARTICLE 1. BOARD OF PAROLE.

9 Sec. 33.40.010. BOARD OF PAROLE. (a) There is in the Department
10 of Health and Social Services a Board of Parole consisting of five
11 members appointed by the governor and confirmed by a majority of the
12 members of the legislature in joint session.

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

16 (c) The governor shall designate the presiding officer of the
17 board. The presiding officer must have a minimum of two years'
18 experience in corrections, probation, or parole work before designation
19 as presiding officer.

20 Sec. 33.40.020. NOMINATIONS. The governor shall seek nominations
21 for board members from citizens and from civic, professional, and
22 ethnic organizations in the state and shall make appointments to the
23 board with due regard for representation on the board of the sexual,
24 ethnic, racial, and cultural populations of the state.

25 Sec. 33.40.030. SELECTION CRITERIA FOR BOARD MEMBERS. (a) The
26 governor shall appoint board members on the basis of their qualifica-
27 tions and ability to make decisions that are compatible with the welfare
28 of the state and of individual offenders. The governor shall appoint
29 board members who are able to consider the character and background of

1 offenders and the circumstances under which offenses were committed.

2 (b) At least one person appointed to the board shall have
3 experience in the field of criminal justice, psychology, or human
4 relations.

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

7 Sec. 33.40.040. REMOVAL OF MEMBERS. (a) The governor may remove
8 a board member only for disability, nonfeasance, neglect of duty,
9 malfeasance in office, or conviction of a crime.

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

21 (c) The removal of a board member is effective 15 days after a
22 statement of the charges made against the board member and the findings
23 on those charges are filed by the governor in the main office of the
24 board. The board member may appeal the findings of the governor or his
25 designee to the superior court. The court shall limit its review to a
26 determination of whether the findings of the governor or his designee
27 are substantiated by the evidence presented. The removal of the board
28 member is suspended while an appeal from the findings of the governor
29 or his designee is pending.

1 Sec. 33.40.050. COMPENSATION AND EXPENSES. A board member is
2 entitled to compensation of \$100 per day for each day he is concerned
3 with the business of the board and is entitled to the per diem and
4 travel allowances provided by law for other boards and commissions
5 under AS 39.20.180.

6 Sec. 33.40.060. MEETINGS OF THE BOARD. (a) The board may meet
7 as often as it considers necessary to consider its responsibilities.
8 The board shall meet no less than four times a year.

9 (b) Three members of the board constitute a quorum for the conduct
10 of business.

11 (c) Decisions and orders of the board require the votes of a
12 majority of the members present and in no case less than the votes of
13 two members.

14 Sec. 33.40.070. PROCESS. The board or a member of the board may
15 issue subpoenas and subpoenas duces tecum.

16 Sec. 33.40.080. RESPONSIBILITIES OF THE BOARD. (a) The board
17 shall

18 (1) serve as the parole authority for the state;

19 (2) consider the suitability for parole of all state pri-
20 soners serving sentences who are eligible for consideration for dis-
21 cretionary parole, unless a prisoner waives consideration of parole;

22 (3) discharge a person from parole when supervision is no
23 longer required;

24 (4) maintain records of the meetings and proceedings of the
25 board;

26 (5) adopt standards that shall apply fairly to all state
27 prisoners for determining when a state prisoner eligible for discre-
28 tionary parole should be considered for and receive parole;

29 (6) recommend to the legislature changes in the laws admin-

1 istered by the board;

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

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

6 (9) execute other responsibilities prescribed by law.

7 (b) The board shall adopt regulations under the Administrative
8 Procedure Act (AS 44.62) that it considers proper for the operation of
9 the board, including regulations

10 (1) establishing the standards that shall apply fairly to
11 all state prisoners and that will be used to determine the suitability
12 of a state prisoner for discretionary parole; and

13 (2) providing for the supervision of parolees and for re-
14 commitment of parolees.

15 Sec. 33.40.090. EXECUTIVE DIRECTOR. The board shall hire an
16 executive director who has training and experience in the field of
17 probation and parole. The executive director shall serve as the execu-
18 tive officer for the board in the accomplishment of its functions. The
19 executive director shall serve at the pleasure of the board. The
20 executive director shall employ the staff of the board.

21 ARTICLE 2. DISCRETIONARY PAROLE RELEASE.

22 Sec. 33.40.100. ELIGIBILITY FOR DISCRETIONARY PAROLE. (a) A
23 state prisoner other than a juvenile delinquent, wherever confined, who
24 is serving a definite term of 181 days or more and who was not impris-
25 oned in accordance with presumptive sentencing under AS 12.55.125 may,
26 in the discretion of the board, be released on discretionary parole
27 subject to AS 33.40.110, 33.40.120(b), and AS 12.55.086(b).

28 (b) A state prisoner sentenced under AS 12.55.125(a) or (b) as it
29 existed before the effective date of this Act may not be released on

1 discretionary parole until the state prisoner has served the prescribed
2 minimum term of imprisonment.

3 Sec. 33.40.110. FIXING ELIGIBILITY FOR DISCRETIONARY PAROLE AT
4 TIME OF SENTENCING. When, in its opinion, justice and the best inter-
5 ests of the public require that a defendant not subject to presumptive
6 sentencing under AS 12.55.125 be sentenced to imprisonment for a term
7 exceeding one year, the court having jurisdiction to impose sentence,
8 upon entering a judgment of conviction, may designate in the sentence
9 of imprisonment a term at the expiration of which the prisoner is
10 eligible for discretionary parole. The term shall be at least one-third
11 of the period of confinement imposed by the court or the minimum term
12 prescribed in AS 12.55.125(a) or (b) as it existed before the effective
13 date of this Act, whichever is greater.

14 Sec. 33.40.120. GRANTING OF DISCRETIONARY PAROLE. (a) The board
15 may authorize the release of a prisoner on discretionary parole if it
16 determines that

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

20 (2) the prisoner's release on discretionary parole is not
21 incompatible with the welfare of society and would not depreciate the
22 seriousness of the crime.

23 (b) A prisoner may not be released on discretionary parole until
24 the prisoner has served either one-third of the period of confinement
25 to which he was sentenced or the minimum term prescribed in AS 12.55.-
26 125(a) or (b) as it existed before the effective date of this Act,
27 whichever is greater.

28 Sec. 33.40.130. SUITABILITY FOR DISCRETIONARY PAROLE. In de-
29 termining whether a prisoner is suitable for discretionary parole, the

1 board shall consider

2 (1) the pre-sentence report made to the sentencing court;

3 (2) the recommendations made by the sentencing court, by the
4 prosecuting attorney, by the defense attorney, and any statement made
5 by the prisoner at sentencing;

6 (3) the prisoner's history at the correctional facility to
7 which the prisoner was assigned by the commissioner;

8 (4) any recommendation made by an officer at the correctional
9 facility to which the prisoner was assigned;

10 (5) official reports of earlier crimes and earlier probation
11 and parole experiences;

12 (6) physical, mental, and psychiatric examinations of the
13 prisoner;

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

16 (8) other useful information that may be reasonably avail-
17 able.

18 Sec. 33.40.140. HEARING ON APPLICATION FOR DISCRETIONARY PAROLE.

19 (a) A prisoner has a right to an interview with a member of the board
20 to review the suitability of the prisoner for discretionary parole.
21 The prisoner shall be given reasonable notice of the interview.

22 (b) The prisoner shall receive a copy of the material contained
23 in the pre-parole report except for mental health evaluations on the
24 prisoner and except for an evaluation and recommendation on the prisoner
25 prepared in the division of corrections. The prisoner may respond to
26 the information in the report and may present relevant information.

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

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

1 ARTICLE 3. MANDATORY PAROLE RELEASE.

2 Sec. 33.40.150. ELIGIBILITY FOR MANDATORY PAROLE RELEASE. (a) A
3 state prisoner other than a juvenile delinquent, wherever confined, who
4 was imprisoned in accordance with presumptive sentencing under AS 12.-
5 55.125 and who has been sentenced to serve a definite term of imprison-
6 ment in excess of three days

7 (1) shall be released at the expiration of his sentence less
8 the time deducted for good conduct under AS 33.40.300;

9 (2) is eligible for participation in furlough programs under
10 AS 33.30.091 - 33.30.131.

11 (b) A prisoner released under (a)(1) of this section shall be
12 placed on parole for the period specified in the certificate of deduc-
13 tion subject to conditions imposed by the board under AS 33.40.180 and
14 is under the supervision of the board.

15 (c) At the time of sentencing a defendant under AS 12.55.125, the
16 court shall inform the defendant of the release date calculated on the
17 assumption that the defendant earns the maximum good conduct deduction
18 under AS 33.40.300.

19 Sec. 33.40.160. ADJUSTMENT OF RELEASE DATE. After a release date
20 has been provided for under AS 33.40.150(c), a state prisoner who

21 (1) forfeits any amount of the good conduct deduction under
22 AS 33.40.300 has his release date extended by that amount;

23 (2) has any amount of good conduct deduction reinstated
24 under AS 33.40.300 has his release date accelerated by that amount.

25 ARTICLE 4. CONDITIONS, DISCHARGE, AND REVOCATION OF PAROLE.

26 Sec. 33.40.170. ORDER FOR PAROLE. The board shall furnish to
27 each parolee an order for parole. The order for parole shall contain
28 the conditions imposed by the board for parole and the date that the
29 parole supervision expires. The order for parole does not take effect

1 until it is accepted and signed by the parolee and his parole plan is
2 approved.

3 Sec. 33.40.190. CONDITIONS OF PAROLE. (a) The board shall
4 require that a parolee refrain from violation of state or federal law
5 or municipal ordinance as a condition of parole.

6 (b) Depending on the nature and circumstances of the crime for
7 which the prisoner was convicted and the background of the prisoner,
8 the board may require as a condition of parole under AS 33.40.170 that
9 a parolee accept a condition established by the board under regulations
10 adopted by it.

11 (c) Under regulations adopted by the board a parolee may request
12 reconsideration of a condition of parole imposed by the board at any
13 time during parole.

14 Sec. 33.40.190. DISCHARGE OF PAROLEE. (a) Except as provided in
15 (c) of this section or in AS 33.40.200, the board retains custody of a
16 discretionary parolee until the expiration of the maximum term or terms
17 to which the parolee is sentenced less the good conduct deduction
18 provided by AS 33.40.300. Except as provided in (c) of this section or
19 AS 33.40.200, the board retains custody of a mandatory parolee released
20 in accordance with AS 33.40.150 until the expiration of the maximum
21 term or terms to which the prisoner was sentenced.

22 (b) The disability imposed by AS 33.30.181 applies to a parolee
23 as long as the parolee is in the custody of the board.

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

28 (d) During the first half of the period that the board retains
29 custody of a discretionary parolee under (a) of this section, the

1 prisoner is subject to formal supervision. During the remainder of the
2 period that the board retains custody of a discretionary parolee under
3 (a) of this section, the prisoner is subject to open supervision unless
4 the board, for good cause shown, extends the period of formal super-
5 vision at the request of the prosecuting attorney.

6 (e) As used in this section,

7 (1) "formal supervision" means conditional restrictions on a
8 parolee's liberty that include efforts designed to closely monitor his
9 conduct so as to assure a smooth transition into the community and to
10 prevent recidivism and may include mandatory contacts with a parole
11 officer;

12 (2) "open supervision" means conditional restrictions on a
13 parolee's liberty and includes rehabilitative counseling, advice, and
14 aid, upon the request of a parolee, to assure his continued successful
15 reintegration into society, but does not include mandatory contacts
16 with a parole officer.

17 Sec. 33.40.200. DISCRETIONARY DISCHARGE OF PAROLEE. The board
18 may discharge a parolee from supervision and the custody of the board
19 and from further liability under his sentence after the parolee has
20 completed two years of parole. After a parolee has been under super-
21 vision for two years the board shall review his record annually for
22 discharge.

23 Sec. 33.40.220. RELEASE OF PRISONER TO ANSWER PROCESS. If a
24 court of the state, of another state, or of the United States, or other
25 authority issues a warrant charging a prisoner with a crime, the board
26 may release the prisoner on parole to answer the warrant.

27 Sec. 33.40.230. REVOCATION OF PAROLE. (a) The board may revoke
28 the parole granted to a parolee for violation of a state or federal
29 law, a municipal ordinance, or a condition imposed by the board under

1 AS 33.40.180(b).

2 (b) A parolee arrested on a charge of violation of a state or
3 federal law, a municipal ordinance, or other condition of parole has
4 the right to a preliminary hearing before a single member of the board
5 or a person authorized by the board to act as a hearing officer to
6 determine whether probable cause exists to revoke parole. The pre-
7 liminary hearing shall be held within 14 days of the arrest. The
8 single member of the board or the hearing officer who holds the hearing
9 may release or detain the parolee pending the hearing under (c) of this
10 section.

11 (c) The parolee is entitled to a hearing before the board at the
12 first meeting of the board held after the preliminary hearing held
13 under (b) of this section. The parolee has the rights set out in
14 AS 33.40.140 at the hearing. The board shall issue its decision in
15 writing as to whether the parolee has violated a condition of parole
16 and provide reasons for the decision. The parolee is entitled to a
17 copy of the decision on its issuance.

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

21 (e) If after the hearing the board determines that a violation of
22 a condition of parole has occurred, it may revoke all or a portion of
23 the parole granted or changed the conditions of parole.

24 (f) If the board revokes the parole under (e) of this section,
25 the unexpired term of imprisonment of the parolee shall be served and
26 the term of imprisonment begins to run from the date the parolee is
27 returned to the custody of the commissioner under the warrant, and the
28 time the parolee was on parole does not diminish the time he has remain-
29 ing to serve unless credit is specifically allowed by the board under

1 regulations adopted by it.

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

4 Sec. 33.40.240. ARREST OF PAROLE VIOLATOR. (a) A parolee charged
5 with violation of a condition of parole may be arrested only on a
6 warrant for arrest issued by the board or a member of the board based
7 on probable cause to believe that a violation of the condition of
8 parole has occurred.

9 (b) A parolee may be arrested by a parole officer or at the
10 direction of a parole officer without a warrant for his arrest for a
11 violation of a condition of parole only under exigent conditions that
12 require immediate arrest.

13 Sec. 33.40.250. EXECUTION OF WARRANT FOR ARREST OF PAROLEE. (a)
14 A parole officer or a peace officer shall execute the warrant issued
15 under AS 33.40.240 by arresting the parolee and confining the parolee
16 in a correctional facility designated by the commissioner.

17 (b) The parole officer shall immediately notify the board or a
18 member of the board of an arrest under (a) of this section. If the
19 arrest was without warrant, the parole officer shall immediately provide
20 the board or a member of the board with a report in writing indicating
21 the manner in which the parolee violated a condition of his parole and
22 why the arrest was made without a warrant.

23 ARTICLE 5. GOOD CONDUCT DEDUCTION.

24 Sec. 33.40.300. COMPUTATION OF GOOD CONDUCT DEDUCTION. (a) A
25 state prisoner other than a juvenile delinquent who is convicted of an
26 offense against the state and sentenced to a term of imprisonment in
27 excess of three days,

28 (1) who has observed the rules of the institution in which
29 he is confined is entitled to a good conduct deduction of one-third of

1 any term or portion of a term of imprisonment served on or after July 1,
2 1982;

3 (2) who has observed the rules and conditions pertaining to
4 a furlough program in which he participates under AS 33.30.111 is
5 entitled to an additional good conduct deduction of one-sixth of a term
6 or portion of a term of imprisonment served on or after July 1, 1982,
7 while the prisoner participates in the furlough program.

8 (b) If the good conduct deduction in effect at the time the
9 defendant committed the crime for which he was sentenced would result
10 in a greater deduction than authorized under (a) of this section, the
11 good conduct deduction in effect at the time the defendant committed
12 the crime applies.

13 (c) The deductions granted under this section may be forfeited in
14 increments of up to 90 days for each major incident of bad conduct as
15 defined by the commissioner by regulation and in increments of up to 30
16 days for each minor incident of bad conduct as defined by the commis-
17 sioner by regulation. For each full year of incident-free conduct, 90
18 days of good conduct deduction vests and may not subsequently be for-
19 feited. Good conduct deductions that have been forfeited may be rein-
20 stated under regulations adopted by the commissioner.

21 ARTICLE 6. EXECUTIVE CLEMENCY.

22 Sec. 33.40.310. EXECUTIVE CLEMENCY. The governor may grant
23 executive clemency in the form of a pardon, commutation or reprieve of
24 sentence, or suspension or remission of a fine and forfeiture, in whole
25 or in part, for an offense against the laws of the State of Alaska or
26 the Territory of Alaska.

27 Sec. 33.40.320. EXECUTIVE CLEMENCY ADVISORY BOARD. (a) There is
28 created in the Office of the Governor the Executive Clemency Advisory
29 Board. The advisory board shall review applications for executive

1 clemency at the direction of the governor.

2 (b) The Executive Clemency Advisory Board consists of the lieu-
3 tenant governor, the attorney general, and a person selected by the
4 governor who serves at the pleasure of the governor.

5 (c) The Executive Clemency Advisory Board shall review each case
6 referred to it by the governor and submit to the governor a report of
7 its review and its recommendation. In reviewing an application for
8 executive clemency, the advisory board may require the assistance of
9 the Board of Parole.

10 Sec. 33.40.330. EFFECT OF PARDON. (a) Unless otherwise provided
11 in a pardon by the governor, a pardon sets aside the conviction and
12 prevents the fact of the conviction from being used for any purpose.
13 The facts giving rise to the conviction may be considered in any context
14 in which the person's character is in issue.

15 (b) A pardon automatically restores civil rights under AS 33.30.-
16 181 and AS 15.07.135.

17 ARTICLE 7. GENERAL PROVISIONS.

18 Sec. 33.40.400. DISCHARGE OF PRISONER. A prisoner shall be
19 released from imprisonment at the expiration of his term of sentence
20 less the good conduct deduction provided for in AS 33.40.300. A cer-
21 tificate of deduction shall be entered on the commitment by the commis-
22 sioner.

23 Sec. 33.40.420. CONFIDENTIALITY OF RECORDS AND INFORMATION. The
24 pre-parole reports submitted to the board are confidential and may not
25 be disclosed to anyone other than the board, the sentencing judge, the
26 prosecuting attorney, or others granted the right under this chapter to
27 receive the information.

28 Sec. 33.40.430. APPEALS. A prisoner or a parolee may appeal a
29 decision or order of the board to the superior court on the ground that

1 the decision or order is arbitrary or capricious.

2 Sec. 33.40.440. DUTIES OF THE COMMISSIONER. The commissioner
3 shall

4 (1) conduct investigations of prisoners eligible for dis-
5 cretionary parole as the board requests;

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

8 (3) appoint and assign parole officers and personnel to the
9 judicial districts in the state and train and supervise parole officers
10 and personnel;

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

14 (5) keep records, files, data, and information as the board
15 requests.

16 Sec. 33.40.450. PAROLE OFFICERS. The commissioner may assign the
17 duties of probation officers under AS 33.05 to parole officers appointed
18 under AS 33.40.440(3).

19 Sec. 33.40.460. APPLICABILITY TO PERSONS ON PAROLE OR INCAR-
20 CERATED. This chapter applies to all persons convicted and sentenced
21 in the superior court and the district courts of the state.

22 Sec. 33.40.470. DEFINITIONS. In this chapter, unless the context
23 requires otherwise,

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

25 (2) "commissioner" means the commissioner of health and
26 social services;

27 (3) "department" means the Department of Health and Social
28 Services;

29 (4) "discretionary parole" means the release of a prisoner

1 specified in AS 33.40.100 to the community by the board before the
2 expiration of his term or terms, subject to conditions imposed by the
3 board and subject to its supervision;

4 (5) "mandatory parole" means the release of a prisoner
5 specified in AS 33.40.150 to the community by operation of law before
6 the expiration of his term or terms, subject to conditions imposed by
7 the board and subject to its supervision;

8 (6) "parolee" means a prisoner released to the community on
9 discretionary or mandatory parole.

10 * Sec. 5. AS 11.56.340 is repealed and reenacted to read:

11 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A
12 person commits the crime of unlawful evasion in the first degree if,
13 while charged with or convicted of a felony,

14 (1) the person fails to return to official detention within
15 the time authorized following temporary leave granted for a specific
16 purpose or limited period; or

17 (2) while on furlough under AS 33.30.101 - 33.30.131, the
18 person fails to return to his place of confinement or residence within
19 the time specified by those having direct supervision over the fur-
20 lough.

21 (b) Unlawful evasion in the first degree is a class A misdemeanor.

22 * Sec. 6. AS 11.56.350 is repealed and reenacted to read:

23 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A
24 person commits the crime of unlawful evasion in the second degree if,
25 while charged with or convicted of a misdemeanor,

26 (1) the person fails to return to official detention within
27 the time authorized following temporary leave granted for a specific
28 purpose or limited period; or

29 (2) while on furlough under AS 33.30.101 - 33.30.131, the

1 person fails to return to his place of confinement or residence within
2 the time specified by those having direct supervision over the furlough.

3 (b) Unlawful evasion in the second degree is a class B mis-
4 demeanor.

5 * Sec. 7. AS 12.55.080 is repealed and reenacted to read:

6 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. Upon
7 entering a judgment of conviction of a crime or at any time within 60
8 days after the date of entry of the judgment of conviction, a court,
9 when satisfied that the ends of justice and the best interests of the
10 public as well as the defendant will be served, may suspend the imposi-
11 tion or execution or balance of the sentence or a portion of it, and
12 place the defendant on probation for a period and upon the terms and
13 conditions the court considers best. The period of probation must be
14 specified in the judgment. If the crime is a felony, the period of
15 probation may not exceed five years or the maximum term of imprisonment
16 authorized for the crime less any term of imprisonment that is imposed,
17 whichever is less. If the crime is a misdemeanor, the period of pro-
18 bation may not exceed two years. Upon revocation of probation as
19 provided in AS 12.55.110, the prisoner may be required to serve the
20 sentence imposed or any lesser sentence, including any extension of the
21 period of probation up to the period that may have originally been
22 imposed under this subsection.

23 * Sec. 8. AS 12.55.090(b) is amended to read:

24 (b) Upon application of the prosecuting attorney, the [THE] court
25 may revoke or modify any condition of probation, or may change the
26 period of probation.

27 * Sec. 9. AS 12.55.100 is amended by adding new subsections to read:

28 (c) If the court imposes a period of probation under AS 12.55.080
29 or 12.55.085, the defendant is subject to formal probation supervision

1 during the first half of his period of probation. During the remainder
2 of the period of probation, the defendant is subject to open probation
3 supervision unless the formal supervision period is extended by the
4 sentencing court, for good cause shown, upon application of the pro-
5 secuting attorney.

6 (d) As used in this section,

7 (1) "formal probation supervision" means conditional restric-
8 tions on a defendant's liberty that include efforts designed to closely
9 monitor his conduct so as to assure a smooth transition into the com-
10 munity and to prevent recidivism, and it may include mandatory contacts
11 with a probation officer;

12 (2) "open probation supervision" means conditional restric-
13 tions on a defendant's liberty and includes rehabilitative counseling,
14 advice, and aid, upon the request of a defendant, to assure his con-
15 tinued successful reintegration into society but does not include
16 mandatory contacts with a probation officer.

17 * Sec. 10. AS 12.55.110 is amended to read:

18 Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.
19 When probation has been granted under AS 12.55.080 or 12.55.085 [SEN-
20 TENCE HAS BEEN SUSPENDED], it shall not be revoked except for good
21 cause shown and upon application of the prosecuting attorney. In all
22 proceedings for the revocation of probation [A SUSPENDED SENTENCE], the
23 defendant is entitled to reasonable notice and the right to be repre-
24 sented by counsel.

25 * Sec. 11. AS 12.55.125 is repealed and reenacted to read:

26 Sec. 12.55.125. SENTENCES OF IMPRISONMENT FOR FELONIES. (a) A
27 defendant convicted of murder in the first degree may be sentenced to a
28 definite term of imprisonment of not more than 99 years and shall be
29 sentenced to the following presumptive terms, subject to adjustment

1 under AS 12.55.155 - 12.55.175:

- 2 (1) if the offense is a first felony conviction, 30 years;
3 (2) if the offense is a second felony conviction, 45 years;
4 (3) if the offense is a third felony conviction, 60 years.

5 (b) A defendant convicted of an unclassified felony other than
6 murder in the first degree may be sentenced to a definite term of
7 imprisonment of not more than 99 years and shall be sentenced to the
8 following presumptive terms, subject to adjustment under AS 12.55.155 -
9 12.55.175:

- 10 (1) if the offense is a first felony conviction, 15 years;
11 (2) if the offense is a second felony conviction, 30 years;
12 (3) if the offense is a third felony conviction, 45 years.

13 (c) A defendant convicted of a class A felony may be sentenced to
14 a definite term of imprisonment of not more than 20 years and shall be
15 sentenced to the following presumptive terms, subject to adjustment
16 under AS 12.55.155 - 12.55.175:

17 (1) if the offense is a first felony conviction, other than
18 for manslaughter, and the defendant possessed a firearm, used a deadly
19 weapon, or caused serious physical injury during the commission of the
20 offense, seven years;

21 (2) if the offense is a first felony conviction, other than
22 one specified in (1) of this subsection, five years;

- 23 (3) if the offense is a second felony conviction, 10 years;
24 (4) if the offense is a third felony conviction, 15 years.

25 (d) A defendant convicted of a class B felony may be sentenced to
26 a definite term of imprisonment of not more than 10 years and shall be
27 sentenced to the following presumptive terms, subject to adjustment
28 under AS 12.55.155 - 12.55.175:

- 29 (1) if the offense is a first felony conviction, two years;

1 (2) if the offense is a second felony conviction, four
2 years;

3 (3) if the offense is a third felony conviction, six years.

4 (e) A defendant convicted of a class C felony may be sentenced to
5 a definite term of imprisonment of not more than five years and shall
6 be sentenced to the following presumptive terms, subject to adjustment
7 under AS 12.55.155 - 12.55.175:

8 (1) if the offense is a first felony conviction, one year;

9 (2) if the offense is a second felony conviction, two years;

10 (3) if the offense is a third felony conviction, three
11 years.

12 (f) If a defendant is sentenced under this section, except to the
13 extent permitted under AS 12.55.155 - 12.55.175,

14 (1) imprisonment may not be suspended under AS 12.55.080;

15 (2) imposition of sentence may not be suspended under
16 AS 12.55.085;

17 (3) terms of imprisonment may not be reduced except as
18 provided in AS 33.40.300.

19 * Sec. 12. AS 12.55.155(a) is amended to read:

20 (a) If a defendant is convicted of an offense and is subject to
21 sentencing under AS 12.55.125 [AS 12.55.125(c)(1), (c)(2), (c)(3),
22 (d)(1), (d)(2), (e)(1), OR (e)(2)] and

23 (1) the presumptive term is four years or less, the court
24 may decrease the presumptive term by an amount as great as the pre-
25 sumptive term for factors in mitigation or may increase the presumptive
26 term up to the maximum term of imprisonment for factors in aggravation;

27 (2) the presumptive term of imprisonment is more than four
28 years, the court may decrease the presumptive term by an amount as
29 great as 50 percent of the presumptive term for factors in mitigation

1 or may increase the presumptive term up to the maximum term of imprison-
2 ment for factors in aggravation.

3 * Sec. 13. AS 12.55.155(d) is amended by adding new paragraphs to read:

4 (14) the defendant was 21 years of age or younger at the time
5 of the offense and is subject to sentencing under AS 12.55.125(d)(1) or
6 (e)(1);

7 (15) the defendant is subject to sentencing under AS 12.55.-
8 125(d)(1) or (e)(1) and has not previously been convicted of a misde-
9 meanor.

10 * Sec. 14. AS 12.55.165 is amended to read:

11 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is
12 subject to sentencing under AS 12.55.125 [AS 12.55.125(c)(1), (c)(2),
13 (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2)] and the court finds by clear
14 and convincing evidence that manifest injustice would result from fail-
15 ure to consider relevant aggravating or mitigating factors not specifi-
16 cally included in AS 12.55.155 or from imposition of the presumptive
17 term, whether or not adjusted for aggravating or mitigating factors,
18 the court shall enter findings and conclusions and cause a record of
19 the proceedings to be transmitted to a three-judge panel for sentencing
20 under AS 12.55.175.

21 * Sec. 15. AS 44.66.010(a)(3) is amended to read:

22 (3) [STATE] Board of Parole (AS 33.40.010) [(AS 33.15.010)]

23 -- June 30, 1986 [1982];

24 * Sec. 16. The following laws are repealed: AS 33.15; AS 33.20; AS 33.-
25 30.010, 33.30.020, 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070,
26 33.30.080, 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,
27 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.190, 33.30.250, 33.30.260,
28 33.30.270, 33.30.280, 33.30.290, 33.30.300, 33.30.310, and 33.30.320.

29 * Sec. 17. Sections 11 - 14 of this Act do not apply to or govern the

1 punishment for an offense committed before July 1, 1982. An offense com-
2 mitted before that date shall be punished according to the law existing at
3 the time of the commission of the offense in the same manner as if this Act
4 had not become law.

5 * Sec. 18. The terms of the members of the Board of Parole appointed
6 under AS 33.15.010 terminate on the effective date of this Act. The governor
7 shall appoint members to the Board of Parole established under AS 33.40.010
8 enacted in this Act for the following initial terms: one member for a
9 five-year term; one member for a four-year term; one member for a three-year
10 term; one member for a two-year term; and one member for a one-year term.

11 * Sec. 19. This Act takes effect July 1, 1982.
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