

Introduced: 3/9/81  
Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 293

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a parole system and relating to  
7 correctional facilities, furlough programs, and sen-  
8 tencing; and providing 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 OF OFFENDERS AND EXECUTIVE CLEMENCY.

12 Sec. 33.16.005. DECLARATION OF LEGISLATIVE PURPOSE. The purpose  
13 of this chapter is to create a parole system as required by art. III,  
14 sec. 21 of the Alaska Constitution, by establishing programs for the  
15 reintegration of offenders into society and by providing for the early  
16 release of offenders subject to varying levels of supervision outside  
17 prison.

18 Sec. 33.16.010. INTERIM SENTENCE REVIEW AND PAROLE COMMISSION.

19 (a) There is established in the Department of Health and Social Ser-  
20 vices the interim sentence review and parole commission consisting of  
21 three members appointed by the governor. The governor shall appoint  
22 commission members on the basis of their qualifications to make deci-  
23 sions that are compatible with the welfare of the community and of  
24 individual offenders and their ability to consider the character and  
25 background of offenders and the circumstances of offenses. The governor  
26 shall designate the presiding officer of the commission.

27 (b) The governor shall seek nominations for commission members  
28 from civic, professional, and ethnic organizations in the state and  
29 shall make appointments to the commission with due regard for repre-

1       sentation of the racial, ethnic, sexual, and cultural populations of  
2       the state.

3           (c) Members of the commission are in the exempt service and are  
4       entitled to a monthly salary equal to Step A, Range 26 of the salary  
5       schedule in AS 39.27.011(a) for Juneau, Alaska. Members of the commis-  
6       sion are entitled to travel and per diem authorized by law for members  
7       of state boards and commissions under AS 39.20.180.

8           Sec. 33.16.020. QUORUM. Two members of the commission constitute  
9       a quorum for the conduct of business. Decisions and orders of the  
10       commission require the votes of a majority of the members present. The  
11       commission or a member of the commission may issue subpoenas and sub-  
12       poenas duces tecum enforceable in the superior court.

13           Sec. 33.16.030. EXECUTIVE DIRECTOR. The commission may hire an  
14       executive director who has training and experience in the field of  
15       probation and parole. The executive director shall serve as the admin-  
16       istrative officer of the commission at the pleasure of the governor.  
17       The executive director may employ a staff for the commission.

18           Sec. 33.16.035. RESPONSIBILITIES OF THE COMMISSION. The commis-  
19       sion shall determine parole eligibility of prisoners, set parole release  
20       dates, and establish conditions of parole.

21           Sec. 33.16.040. PAROLE ELIGIBILITY OF PRISONERS WHO COMMITTED A  
22       CRIME BEFORE JULY 1, 1981. (a) Except as provided in (f) and (g) of  
23       this section, a state prisoner, other than a juvenile delinquent, who  
24       committed a crime before July 1, 1981, and who is serving a definite  
25       term of imprisonment of more than 180 days, is eligible for parole once  
26       he has served at least one-third of the period of confinement to which  
27       he was sentenced, unless at the time of sentencing the court designated  
28       a longer minimum term of imprisonment before he would be eligible for  
29       parole. If the prisoner was sentenced to a life sentence, he is eligi-

1 ble for parole once he has served 15 years.

2 (b) By June 30, 1983, the commission shall set a parole release  
3 date for each prisoner sentenced before January 1, 1983, who is or will  
4 be eligible for parole under (a) of this section.

5 (c) Commencing July 1, 1983, the executive clemency advisory  
6 board shall set a parole release date for each prisoner who is or will  
7 be eligible for parole under (a) of this section who is sentenced on or  
8 after January 1, 1983.

9 (d) The parole release date required to be set under (b) and (c)  
10 of this section shall be fixed at a date not earlier than the date the  
11 prisoner will be eligible for parole under (a) of this section and not  
12 later than the prisoner's earliest possible release date.

13 (e) For purposes of (d) of this section, "earliest possible re-  
14 lease date" means the earliest date that the prisoner would be released  
15 through an application of former AS 33.20.010 enacted in ch. 107 SLA  
16 1960, or former AS 33.20.010 enacted in ch. 166 SLA 1978, as appli-  
17 cable.

18 (f) A state prisoner whose release under (b) or (c) of this sec-  
19 tion is revoked under AS 33.16.090 or who is imprisoned under a pre-  
20 sumptive sentence, whether or not adjusted for aggravating or mitigat-  
21 ing factors, for a second or third felony conviction under AS 12.55.125  
22 or for a first felony conviction under AS 12.55.125(c)(1), is not  
23 eligible for parole consideration. The prisoner shall be released on  
24 parole at the expiration of his sentence less the good conduct deduc-  
25 tion provided for in AS 33.16.080 under the terms and conditions set  
26 out in AS 33.16.090 and 33.16.100.

27 (g) A state prisoner imprisoned in accordance with AS 12.55.125(a)  
28 or (b) is not eligible for and may not be released on parole until he  
29 has served at least the prescribed minimum term of imprisonment.

1           Sec. 33.16.050. PAROLE ELIGIBILITY OF PRISONERS WHO COMMIT A  
2 CRIME AFTER JUNE 30, 1981. A state prisoner, other than a juvenile  
3 delinquent, who commits a crime after June 30, 1981, and who has been  
4 sentenced to serve a definite term of imprisonment in excess of three  
5 days

6           (1) shall be released at the expiration of his sentence less  
7 the time deducted for good conduct provided for in AS 33.16.080 under  
8 the terms and conditions set out in AS 33.16.090 and 33.16.100; and

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

11           Sec. 33.16.060. HEARING ON PAROLE RELEASE DATE. (a) The com-  
12 mission or the board, as applicable, shall hold a hearing to set a  
13 parole release date under AS 33.16.040.

14           (b) In setting a parole release date, the commission or board, as  
15 applicable, shall consider

16           (1) whether there was unjustified disparity in the sentence  
17 imposed in relation to other sentences imposed under similar circum-  
18 stances;

19           (2) whether the sentence imposed deviated substantially from  
20 the sentence that would have been imposed under the revised criminal  
21 code;

22           (3) information submitted by the prisoner, his attorney, the  
23 prosecuting attorney, the victim of the crime, and other interested  
24 persons;

25           (4) reports of physical, mental, and psychiatric examinations  
26 of the prisoner;

27           (5) the pre-sentence report including the prior record of  
28 convictions;

29           (6) the recommendations made by the sentencing court, and by

1 the parties at sentencing;

2 (7) the prisoner's conduct while in prison;

3 (8) the prisoner's parole release plan; and

4 (9) the pre-parole report specified in (c) of this section.

5 (c) The commissioner shall have a pre-parole report completed for  
6 each prisoner and shall furnish it to the commission or board with any  
7 recommendations which would be helpful in setting a parole release  
8 date.

9 (d) The prisoner shall be provided reasonable notice of the hear-  
10 ing, which shall be open to the public. The prisoner shall be permit-  
11 ted to have access to all information and records which will be consid-  
12 ered at the hearing no less than 30 days before the hearing and has a  
13 right to enter written responses to the information and records.

14 (e) The prisoner has a right to be present at the hearing, to be  
15 represented by an attorney, to present evidence on his behalf, and to  
16 cross-examine witnesses who testify against him. If the prisoner  
17 qualifies for a representation by the public defender agency under  
18 AS 18.85, the agency shall be notified and shall undertake his repre-  
19 sentation.

20 (f) The reasons for the parole release decision shall be stated  
21 in writing and provided to the prisoner.

22 Sec. 33.16.070. ADJUSTMENT OF RELEASE DATE. After a release date  
23 has been set or provided for under AS 33.16.040 or 33.16.050, a pris-  
24 oner who

25 (1) forfeits any amount of the good conduct deduction under  
26 AS 33.16.080 has his release date automatically extended by that amount;

27 (2) has any amount of good conduct deduction reinstated  
28 under AS 33.16.080 has his release date automatically accelerated by  
29 that amount;

1 (3) was convicted of a crime before January 1, 1980, and  
2 earns any amount of additional good conduct deduction under former  
3 AS 33.20.020, as enacted in ch. 107 SLA 1960, has his release date  
4 automatically accelerated by that amount.

5 Sec. 33.16.080. COMPUTATION OF GOOD CONDUCT DEDUCTION. (a) Ex-  
6 cept as limited by (b) of this section, a state prisoner, other than a  
7 juvenile delinquent, convicted of an offense against the state and  
8 sentenced to a term of imprisonment in excess of three days, who has  
9 observed the rules of the institution in which he is confined and the  
10 rules and conditions pertaining to a furlough program in which he  
11 participates, is entitled to a good conduct deduction of

12 (1) one-quarter of any term or portion of a term of impris-  
13 onment served on or after July 1, 1981, if he was sentenced

14 (A) to a presumptive sentence, whether or not adjusted  
15 for aggravating or mitigating factors, for a second or third  
16 felony conviction under AS 12.55.125 or for a first felony convic-  
17 tion under AS 12.55.125(c)(1);

18 (B) under AS 12.55.125(a) or (b); or

19 (C) to a life sentence, in which case the good conduct  
20 deduction shall be computed as if the sentence were 99 years;

21 (2) one-third of any term or portion of a term of imprison-  
22 ment served on or after July 1, 1981, if he was sentenced for a crime  
23 not subject to the sentencing provisions set out in (1) of this subsec-  
24 tion.

25 (b) A prisoner who has been sentenced for a crime that requires  
26 imposition of a mandatory minimum term of imprisonment is entitled to  
27 the deduction set out in (a) of this section, except that the deduction  
28 only applies to the term of imprisonment that is in excess of the  
29 mandatory minimum term of imprisonment. As used in this section,

1 "mandatory minimum term of imprisonment" means that

2 (1) imprisonment for the prescribed minimum term may not be  
3 suspended under AS 12.55.080;

4 (2) imposition of sentence may not be suspended under AS 12.  
5 55.085;

6 (3) imprisonment for the prescribed minimum term may not be  
7 otherwise reduced.

8 (c) If the good conduct deduction applicable at the time the  
9 defendant committed his crime would result in a greater deduction than  
10 authorized under (a) or (b) of this section, the prior deduction  
11 applies.

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

20 Sec. 33.16.090. PAROLE SUPERVISION. (a) A prisoner released on  
21 parole is subject to the jurisdiction of the sentencing court and the  
22 supervision of the commissioner and is on probation. The period of  
23 supervision consists of any period of the term of imprisonment not  
24 served plus any period of probation imposed by the court under AS 12.-  
25 55.080 or 12.55.085, except that

26 (1) if the prisoner was released by the board of parole, the  
27 commission, or the executive clemency advisory board, his period of  
28 supervision is reduced by the amount of good conduct deduction;

29 (2) if the prisoner was released under former AS 33.20.030 --

1 33.20.040 his period of supervision is reduced by 180 days.

2 (b) The conditions of release include any condition

3 (1) required by AS 33.16.100;

4 (2) set by the court as a condition of a suspended sentence  
5 or suspended imposition of sentence, or as a condition of release under  
6 AS 33.16.050 if no portion of the sentence is suspended;

7 (3) imposed by the board of parole, or by the commission or  
8 the executive clemency advisory board.

9 (c) The conditions set under (b)(2) and (3) of this section may  
10 be imposed if reasonably related to

11 (1) the nature and circumstances of the offense; or

12 (2) the prior criminal history of the prisoner.

13 (d) During the first half of the period set out in (a) of this  
14 section, the prisoner is subject to formal probation supervision,  
15 unless the period of formal supervision is extended by the sentencing  
16 court, for good cause shown, upon application of the prosecuting attor-  
17 ney. During the remainder of the period set out in (a) of this section  
18 the prisoner is subject to open probation supervision.

19 (e) At any time during the period set out in (a) of this section,  
20 the release of a prisoner who violates any of the conditions of his  
21 release is, upon application of the prosecuting attorney, subject to  
22 revocation by the sentencing court as provided in AS 12.55.110. The  
23 prisoner may be required to serve the sentence imposed, or any lesser  
24 sentence, including an extension of the period of probation up to the  
25 period that may have originally been imposed under AS 12.55.080(b),  
26 and, if imposition of sentence was suspended, any sentence which might  
27 originally have been imposed.

28 (f) As used in (a) of this section, "prisoner released on parole"  
29 includes a prisoner released

- 1 (1) by the board of parole under former AS 33.15;  
2 (2) as if on parole under former AS 33.20.030 -- 33.20.040;  
3 (3) by the commission, the executive clemency advisory  
4 board, or otherwise under AS 33.16.040; or  
5 (4) under AS 33.16.050.

6 Sec. 33.16.100. MANDATORY CONDITIONS OF PAROLE. The following  
7 conditions apply to prisoners released under AS 33.16.040 or 33.16.050,  
8 during the period set out in AS 33.16.090(a):

- 9 (1) that the person not violate a state or federal law or  
10 local ordinance;  
11 (2) that during any period of formal probation supervision  
12 the person follow the reasonable instructions of his supervising proba-  
13 tion officer; and  
14 (3) that, if the person was convicted of a felony, he not  
15 possess a firearm.

16 Sec. 33.16.110. NOTIFICATION TO PROSECUTING ATTORNEY. (a) The  
17 commissioner shall notify the prosecuting attorney at least 60 days  
18 before a release date that is set under or provided by AS 33.16.040 or  
19 33.16.050.

20 (b) The commissioner shall notify the prosecuting attorney at  
21 least 30 days before the expiration of a period of formal probation  
22 supervision under AS 33.16.090.

23 Sec. 33.16.120. NOTIFICATION TO PRISONER OF RELEASE DATE. At the  
24 time of sentencing, the court shall inform the defendant of his release  
25 date calculated on the assumption that he will earn the maximum good  
26 conduct deduction under AS 33.16.080.

27 Sec. 33.16.130. GOVERNOR'S EXECUTIVE CLEMENCY. The governor may  
28 grant executive clemency in the form of pardons, commutations or re-  
29 prieves of sentences, and suspension or remission of fines and forfeit-

ures, in whole or in part, for offenses against the laws of the State of Alaska or the Territory of Alaska.

Sec. 33.16.140. EXECUTIVE CLEMENCY ADVISORY BOARD; DUTIES. (a) There is created in the office of the governor the executive clemency advisory board. The board shall

(1) review applications for executive clemency at the request of the governor; and

(2) set parole release dates under AS 33.16.040(c), within one year after a prisoner is sentenced.

(b) The board consists of three members: the lieutenant governor, the attorney general, and one person selected by the governor who shall serve at the pleasure of the governor.

(c) The board shall investigate each case referred to it by the governor under (a)(1) of this section and submit to the governor a report of the investigation and its recommendation.

(d) In reviewing an application for executive clemency under (a)(1) of this section, the board may require the assistance of the commissioner.

Sec. 33.16.150. EFFECT OF PARDON. (a) Unless otherwise specified on the face of the document granting a pardon by the governor, a pardon sets aside the conviction and prevents the fact of conviction from subsequently being used for any purpose. However, the facts giving rise to that conviction may be considered in any context in which the person's character is in issue.

(b) A pardon automatically restores civil rights under AS 33.30.-181.

Sec. 33.16.155. ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE. The Administrative Procedure Act (AS 44.62) does not apply to this chapter.

Sec. 33.16.160. DEFINITIONS. As used in this chapter, unless the

1 context requires otherwise,

2 (1) "board" means the executive clemency advisory board;

3 (2) "commission" means the interim sentence review and  
4 parole commission;

5 (3) "commissioner" means the commissioner of the Department  
6 of Health and Social Services or his designee;

7 (4) "formal probation supervision" means conditional re-  
8 strictions on an offender's liberty that include efforts designed to  
9 closely monitor his conduct so as to assure a smooth transition into  
10 the community and to prevent recidivism, and it may include mandatory  
11 contacts with a probation officer;

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

17 \* Sec. 2. AS 33.30.010 -- 33.30.090 and AS 33.30.250.-- 33.30.320 are  
18 repealed.

19 \* Sec. 3. AS 33.30 is amended by adding new sections to read:

20 CHAPTER 30. CORRECTIONAL FACILITIES AND PROGRAMS.

21 ARTICLE 1. ESTABLISHMENT, CONTROL AND MANAGEMENT.

22 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall:

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

27 (2) classify prisoners and establish programs for persons  
28 committed to his custody in a manner which is reasonably calculated to:

29 (A) protect the public;

1 (B) maintain health;  
2 (C) create or improve occupational skills;  
3 (D) enhance educational qualifications;  
4 (E) support court ordered restitution; and  
5 (F) otherwise provide for the rehabilitation and re-  
6 formation of prisoners, facilitating their reintegration into  
7 society; and

8 (3) provide necessary medical services for prisoners in cor-  
9 rectional facilities or who are committed by a court to his custody  
10 including examinations for communicable and infectious diseases;  
11 psychological or psychiatric treatment shall be provided if a physician  
12 or other health care provider, exercising ordinary skill and care at  
13 the time of observation, concludes with reasonable medical certainty  
14 that a prisoner exhibits symptoms of a serious disease or injury, which  
15 is curable or may be substantially alleviated, and that the potential  
16 for harm to the prisoner by reason of delay or denial of care would be  
17 substantial.

18 Sec. 33.30.021. COMMISSIONER TO ADOPT REGULATIONS. The commis-  
19 sioner shall adopt regulations necessary to implement this chapter.

20 Sec. 33.30.031. COMMISSIONER MAY CONTRACT FOR CONFINEMENT AND  
21 CARE OF PRISONERS. (a) The commissioner shall determine the availa-  
22 bility of state correctional facilities suitable for the detention and  
23 confinement of persons held under authority of state law. If the  
24 commissioner determines that suitable state correctional facilities are  
25 not available, he may enter into an agreement with an appropriate  
26 public or private agency to provide necessary facilities. Correctional  
27 facilities provided through agreement may be in this state or in any  
28 other state. The commissioner may not enter into an agreement with an  
29 agency unable to provide a similar degree of custody, care, and disci-

1 pline required by the laws of this state.

2 (b) Privately operated correctional facilities may be provided  
3 under (a) of this section only when necessary to involve prisoners in  
4 programs established under AS 33.30.091 -- 33.30.131, and not primarily  
5 for confinement.

6 (c) The commissioner may contract with the United States, another  
7 state, or a political subdivision of this state to provide correctional  
8 facilities for the custody, care, and discipline of persons held under  
9 authority of the law of that jurisdiction.

10 Sec. 33.30.041. LEASE OF STATE CORRECTIONAL FACILITY TO POLITICAL  
11 SUBDIVISION. (a) The commissioner may permit a political subdivision  
12 of this state to lease a state correctional facility or to use and  
13 operate a state correctional facility for the joint benefit of the  
14 political subdivision and the state, if he determines that it would be  
15 in the best interests of the state.

16 (b) The agreement executed by the commissioner shall provide that

17 (1) the state has the right to detain or confine persons  
18 held under authority of law in the correctional facility;

19 (2) the administrator of the correctional facility is amen-  
20 able to any order concerning a prisoner of any court of this state  
21 having jurisdiction over that prisoner;

22 (3) the administrator shall observe all statutes and all  
23 regulations adopted by the commissioner relating to the custody, care,  
24 and discipline of persons detained or confined in the correctional  
25 facility; and

26 (4) the commissioner may inspect the premises at reasonable  
27 times to determine the conditions under which prisoners are housed.

28 (c) In addition to the conditions specified in (b) of this sec-  
29 tion, the commissioner may require conditions which he considers neces-

1 sary for the protection of the public and to provide prisoners with the  
2 quality of care and programs required by this chapter and regulations  
3 adopted under this chapter.

4 ARTICLE 2. COMMITMENTS, PROGRAMS AND FURLOUGHS.

5 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted  
6 of an offense against the state shall be committed to the custody of  
7 the commissioner for the term of imprisonment which the court directs.

8 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The  
9 commissioner shall designate the correctional facility to which a  
10 prisoner is to be committed to serve a term of imprisonment or period  
11 of temporary commitment. The commissioner may designate any facility,  
12 whether or not it is maintained by the state, or is within the judicial  
13 district where the prisoner was convicted, or is within the state.

14 (b) Factors to be considered in designating a facility include:

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

22 (c) The commissioner's decision to designate a facility for a  
23 prisoner pending appeal is not subject to review absent a clear and  
24 convincing showing by the prisoner that he would be denied his consti-  
25 tutional right to counsel. No other decision designating a facility is  
26 subject to review absent a clear and convincing showing by the prisoner  
27 of an abuse of discretion.

28 Sec. 33.30.071. PROVISIONS FOR PRISONERS PENDING COMMITMENT. (a)  
29 Notwithstanding AS 33.30.011(1) and (2), the commissioner of public

1 safety shall provide for the custody, care, and discipline of prisoners  
2 pending transfer to the custody of the commissioner of health and  
3 social services at a state correctional facility. However, except as  
4 provided in (c) of this section, the responsibility for providing  
5 necessary medical services for prisoners remains with the commissioner  
6 of health and social services under AS 33.30.011(3). Neither the  
7 commissioner of health and social services nor the commissioner of  
8 public safety is responsible for providing custody, care, and discipline  
9 for persons detained under AS 47.37.170, except when they are admitted  
10 into a state correctional facility.

11 (b) The responsibility of the commissioner of public safety under  
12 (a) of this section does not begin until a prisoner is accepted into  
13 his custody or admitted into a correctional facility or other facility  
14 designed for holding prisoners and the commissioner is so notified.

15 (c) Medical services for prisoners who are unconscious or in im-  
16 mediate need of medical attention before they are admitted into a  
17 correctional facility or committed by a court to the custody of the  
18 commissioner of health and social services must be provided by the law  
19 enforcement agency having custody of the prisoners.

20 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-  
21 sioner of public safety is responsible for transporting prisoners to  
22 and from the court having jurisdiction over them and for delivering  
23 prisoners to a correctional facility upon temporary or final commitment  
24 by a court or upon transfer of a prisoner from one correctional facil-  
25 ity to another whether inside or outside the state.

26 (b) The commissioner of health and social services is responsible  
27 for furnishing return transportation to the place of arrest for pris-  
28 oners held in a state correctional facility, upon their release from  
29 custody.

1 (c) The commissioner of public safety is responsible for furnish-  
2 ing return transportation to the place of arrest for prisoners who are  
3 released from custody before admission to a state correctional facil-  
4 ity.

5 (d) The commissioner of health and social services shall adopt  
6 regulations governing the furnishing of transportation, discharge  
7 payments, and clothing to prisoners upon release at any stage of crim-  
8 inal proceedings.

9 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
10 AS 33.30.111, the commissioner may assign a prisoner committed to his  
11 custody to any program established under AS 33.30.011(2) considering

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

28 Sec. 33.30.101. FURLOUGHS. (a) Programs established under  
29 AS 33.30.011(2) must include furloughs. The commissioner shall adopt

1 regulations governing the granting of furloughs to prisoners for the  
2 following purposes:

3 (1) to obtain counselling and treatment for alcohol or drug  
4 abuse;

5 (2) to secure or attend vocational training;

6 (3) to obtain medical or psychiatric treatment;

7 (4) to secure or engage in employment;

8 (5) to attend educational institutions;

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

11 (7) to appear before any group whose purpose is to obtain a  
12 better understanding of crime or corrections; and

13 (8) any other rehabilitative purpose the commissioner deter-  
14 mines to be in the interests of the prisoner and the public.

15 (b) If the commissioner determines that a prisoner can live under  
16 reduced supervision without violating the law or the conditions estab-  
17 lished for his conduct, the commissioner may grant a furlough after  
18 considering

19 (1) the factors set out in AS 33.30.091;

20 (2) whether the prisoner has violated a condition of a prior  
21 furlough;

22 (3) whether the prisoner has a history of institutional  
23 misconduct; and

24 (4) whether granting a furlough would be in the best in-  
25 terests of the prisoner and the public.

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

29 (b) Facilities may be used for prisoners on pre-release furloughs

1 which are specifically adapted to provide a residence outside prison,  
2 including halfway houses, group homes, or other placements which pro-  
3 vide varying levels of restriction and supervision.

4 (c) The levels of restriction and supervision required for pre-  
5 release furloughs must provide safeguards which minimize risk to the  
6 public and include, as a minimum,

7 (1) frequent contact with the prisoner by supervisory staff;  
8 (2) knowledge by supervisory staff of the location of the  
9 prisoner;

10 (3) periodic reports to the commissioner on the prisoner's  
11 performance while on furlough; and

12 (4) a residential setting where there are persons supervis-  
13 ing a prisoner who are obligated to immediately report to the commis-  
14 sioner any violation of a condition set for the prisoner's conduct.

15 (d) The levels of restriction and supervision required to be  
16 placed on a prisoner on a pre-release furlough under this section must  
17 be more extensive than those to which he will be subject when he is  
18 released on formal probation supervision under AS 33.16.090.

19 (e) Notwithstanding AS 33.30.101(b),

20 (1) a prisoner sentenced to a definite term of imprisonment  
21 of five years or less is eligible for a pre-release furlough only after  
22 he has served at least one-third of his sentence;

23 (2) a prisoner sentenced to a definite term of imprisonment  
24 of more than five years is eligible for a pre-release furlough only  
25 after he has served at least one-third of his sentence or is within  
26 three years of his release date, whichever is later.

27 (f) A prisoner may request a pre-release furlough under proce-  
28 dures adopted by the commissioner. If the commissioner denies a re-  
29 quest, he shall provide the prisoner with a written explanation of the

1 reasons.

2 Sec. 33.30.121. SHORT-DURATIONAL FURLOUGHS. (a) A short-dura-  
3 tional furlough is an authorized leave of absence from a correctional  
4 facility for a limited purpose which may not exceed 12 hours at any one  
5 time, except for

6 (1) family visitation purposes, which may not exceed one  
7 week nor occur more frequently than once each six months; or

8 (2) medical purposes, which shall last only as long as  
9 necessary for treatment.

10 (b) A short-durational furlough may be granted to a prisoner at  
11 any time under regulations adopted by the commissioner.

12 Sec. 33.30.131. FURLOUGH INVOLVING EMPLOYMENT. (a) When a  
13 prisoner is employed outside a correctional facility as part of a  
14 furlough program, his earnings shall be sent by his employer to the  
15 commissioner. When an employer transmits the earnings to the commis-  
16 sioner, the employer has no liability to the prisoner for the earnings.  
17 The commissioner shall disburse the earnings of the prisoner under  
18 procedures adopted by the commissioner, for the following purposes:

19 (1) to pay for the prisoner's room, board, and personal  
20 expenses;

21 (2) to pay any restitution or fine ordered by the sentencing  
22 court;

23 (3) to reimburse the state for an award made for violent  
24 crimes compensation under AS 18.67 arising out of the prisoner's cri-  
25 minal conduct;

26 (4) to pay a civil judgment arising out of the prisoner's  
27 criminal conduct; and

28 (5) to support the prisoner's dependents.

29 (b) After making the disbursements provided for in (a) of this

1 section, any balance remaining in the prisoner's account shall be  
2 retained by the commissioner for the primary purpose of being available  
3 to the prisoner at the time of his release. The commissioner may  
4 permit the prisoner to draw upon a portion of these funds for other  
5 purposes which the commissioner considers appropriate.

6 (c) Only the earnings retained by the commissioner under (b) of  
7 this section are subject to lien, attachment, garnishment, execution,  
8 or similar proceedings to encumber funds or property.

9 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR  
10 FAILURE TO RETURN. If a prisoner on a furlough violates the conditions  
11 established for his conduct, the commissioner may immediately require  
12 the prisoner's return to actual confinement for a period up to the  
13 balance of his term of imprisonment and may initiate disciplinary pro-  
14 ceedings authorized by regulations adopted by the commissioner. In  
15 addition, the failure of a prisoner on a furlough to return to his  
16 place of confinement or residence within the time authorized by those  
17 having direct supervision over him is an unlawful evasion and is punish-  
18 able as provided in AS 11.56.340 -- 11.56.350.

19 Sec. 33.30.151. TRANSMISSION OF DOCUMENTS. (a) When a prisoner  
20 is admitted to a correctional facility, copies of any form of commitment  
21 shall be delivered with the prisoner and serve as the authority to hold  
22 him. When a judgment of conviction has been entered, the court shall  
23 promptly deliver to the commissioner of public safety a certified copy  
24 of the judgment for transmission to the correctional facility where the  
25 prisoner is being held. The superintendent of the correctional facility  
26 shall require the prisoner's fingerprints to be placed on an appropriate  
27 space on the judgment. When the prisoner has been fingerprinted, the  
28 certified copy of the judgment shall promptly be returned to the court  
29 with the endorsement of the superintendent of the facility.

1 (b) When a person is sentenced to a term of imprisonment, copies  
2 of the pre-sentence report, sentencing report prepared under AS 12.55.-  
3 025, and any other relevant data shall be transmitted to the superin-  
4 tendent of the correctional facility in which the prisoner is confined.

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

8 Sec. 33.30.161. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY  
9 ADMINISTER OATHS AND ACKNOWLEDGEMENTS. The superintendent of a cor-  
10 rectional facility or his assistant may administer oaths to and take  
11 acknowledgements from a prisoner, but may not demand or accept compen-  
12 sation.

13 ARTICLE 3. GENERAL PROVISIONS.

14 Sec. 33.30.171. EFFECT OF JUDGMENT OF CONVICTION ON STATE RESOURCE  
15 DISTRIBUTION ENTITLEMENT. (a) A person convicted of a crime against  
16 the State of Alaska may not receive any distribution of state revenue  
17 based on the development of state resources for which he is eligible  
18 until he has otherwise paid, or the total amount of the distributions  
19 exceeds, any:

20 (1) restitution ordered by the sentencing court to the  
21 victims of the crime;

22 (2) child support ordered by any court with jurisdiction  
23 over the matter, whether or not located in this state;

24 (3) civil judgment arising out of his criminal conduct;

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

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

28 (6) cost of his custody and care while incarcerated, as  
29 determined by the commissioner; the commissioner shall determine that

1 cost based on the statewide average daily cost of incarceration for the  
2 fiscal year in which the person is incarcerated, including administra-  
3 tive and capital expenses.

4 (b) Whether or not the convicted person submits formal applica-  
5 tion under AS 43.23 or other relevant statutes, the distribution for  
6 which he would have been eligible had he not been convicted shall be  
7 directly disbursed by the commissioner of revenue for the purposes set  
8 out in (a)(1), (a)(2), and (a)(3) of this section. The order of  
9 priority of payments is the same order as appears in (a) of this sec-  
10 tion, and may not be diminished by levy, execution, garnishment, attach-  
11 ment, or any other remedy for the collection of a debt of the person  
12 convicted.

13 (c) The commissioner of revenue shall adopt regulations to imple-  
14 ment this section.

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

16 (a) A person who is convicted of a felony involving moral turpitude as  
17 defined in AS 15.60.010 is disqualified from voting in a state or muni-  
18 cipal election until his unconditional discharge.

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

21 (c) A person holding a public office who is convicted of a crime  
22 forfeits the office if

23 (1) he is convicted under the laws of this state of a felony  
24 or under the laws of another jurisdiction of a crime which, if committ-  
25 ed in this state, would be a felony; or

26 (2) he is convicted of a crime involving malfeasance in  
27 office; or

28 (3) the Alaska Constitution or a statute so provides.

29 (d) In this section, "unconditional discharge" has the meaning

1 ascribed to it in AS 12.55.185.

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

3 Sec. 33.30.200. DEFINITIONS. In this chapter, unless the context  
4 otherwise requires,

5 (1) "commissioner" means the commissioner of the Department  
6 of Health and Social Services or his designee;

7 (2) "correctional facility" or "facility" means a prison,  
8 jail, camp, farm, half-way house, group home, or other placement desig-  
9 nated by the commissioner for the custody, care, and discipline of  
10 prisoners; a "state correctional facility" means any correctional  
11 facility owned or run by the state;

12 (3) "court" means the supreme court, the court of appeals,  
13 the superior court, the district court, or a justice, judge, or magis-  
14 trate of a court;

15 (4) "department" means the Department of Health and Social  
16 Services;

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

19 (6) "political subdivision" means a borough, city, town,  
20 village, or other area of local government in the state permitted by  
21 law to establish correctional facilities;

22 (7) "prisoner" means a person, other than a juvenile, held  
23 under authority of state law in "official detention" as defined in  
24 AS 11.81.900(b);

25 (8) "temporary commitment" means detention of a person for  
26 any period under authority of state law, but does not include confine-  
27 ment upon conviction and judgment of a court of this state.

28 \* Sec. 4. AS 11.56.340 is repealed and reenacted to read:

29 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A

1 person commits the crime of unlawful evasion in the first degree if,  
2 while charged with or convicted of a felony,

3 (1) he fails to return to official detention within the time  
4 authorized following temporary leave granted for a specific purpose or  
5 limited period; or

6 (2) while on furlough under AS 33.30.101 -- 33.30.131, he  
7 fails to return to his place of confinement or residence within the  
8 time authorized by those having direct supervision over him.

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

10 \* Sec. 5. AS 11.56.350 is repealed and reenacted to read:

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

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

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

20 (b) Unlawful evasion in the second degree is a class B misdemea-  
21 or.

22 \* Sec. 6. AS 12.55.080 is repealed and reenacted to read:

23 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. (a) Upon  
24 entering a judgment of conviction of a crime, or at any time within 60  
25 days after the date of entry of that judgment of conviction, a court,  
26 when satisfied that the ends of justice and the best interest of the  
27 public as well as the defendant will be served by this action, may  
28 suspend the imposition or execution or balance of the sentence or a  
29 portion of it, and place the defendant on probation for a period and

1 upon the terms and conditions the court considers best.

2 (b) The period of probation must be specified in the judgment.  
3 If the crime is a felony, the period of probation may not exceed five  
4 years or the maximum term of imprisonment authorized for the crime less  
5 any term of imprisonment that is imposed, whichever is less. If the  
6 crime is a misdemeanor, the period of probation may not exceed two  
7 years. Upon revocation of probation as provided in AS 12.55.110, the  
8 prisoner may be required to serve the sentence imposed, or any lesser  
9 sentence, including any extension of the period of probation up to the  
10 period that may have originally been imposed under this subsection.

11 \* Sec. 7. AS 12.55.090(b) is amended to read:

12 (b) Upon application of the prosecuting attorney, the [THE] court  
13 may revoke or modify any condition of probation, or may change the  
14 period of probation, including any period or condition provided under  
15 AS 33.16.090.

16 \* Sec. 8. AS 12.55.100 is amended by adding new subsections to read:

17 (c) When a court imposes only a term of imprisonment, it may  
18 impose conditions under which the prisoner will be released under  
19 AS 33.16.090.

20 (d) If the court imposes a period of probation under AS 12.55.080  
21 or 12.55.085 without any period of imprisonment, the defendant is  
22 subject to formal probation supervision during the first half of his  
23 period of probation, unless the formal supervision period is extended  
24 by the sentencing court, for good cause shown, upon application of the  
25 prosecuting attorney. During the remainder of the period of probation,  
26 the defendant is subject to open probation supervision. As used in  
27 this subsection "formal probation supervision" and "open probation  
28 supervision" have the meaning set out in AS 33.16.160.

29 \* Sec. 9. AS 12.55.110 is amended to read:

1           Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.  
2   When probation has been granted under AS 12.55.080 or 12.55.085, or pro-  
3   vided under AS 33.16.090 [SENTENCE HAS BEEN SUSPENDED], it shall not be  
4   revoked except for good cause shown, upon application of the prosecuting  
5   attorney. In all proceedings for the revocation of probation [A SUS-  
6   PENDED SENTENCE], the defendant is entitled to reasonable notice and  
7   the right to be represented by counsel.

8 \* Sec. 10. AS 12.55.125(c) is amended to read:

9           (c) A defendant convicted of a class A felony may be sentenced to  
10   a definite term of imprisonment of not more than 20 years, and shall be  
11   sentenced to the following presumptive terms, subject to adjustment as  
12   provided in AS 12.55.155 -- 12.55.175:

13           (1) if the offense is a first felony conviction, other than  
14   for manslaughter, and the defendant possessed [OR USED] a firearm,  
15   used a deadly weapon, or caused serious physical injury during the  
16   commission of the offense, eight [SIX] years;

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

19           (3)[(2)] if the offense is a second felony conviction, 10  
20   years;

21           (4)[(3)] if the offense is a third felony conviction, 15  
22   years.

23 \* Sec. 11. AS 12.55.125(d) is amended to read:

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

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

29           (2)[(1)] if the offense is a second felony conviction, four

1 years;

2           (3)[(2)] if the offense is a third felony conviction, six  
3 years.

4 \* Sec. 12. AS 12.55.125(e) is amended to read:

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

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

10           (2)[(1)] if the offense is a second felony conviction, two  
11 years;

12           (3)[(2)] if the offense is a third felony conviction, three  
13 years.

14 \* Sec. 13. AS 12.55.125(g) is amended to read:

15           (g) If a defendant is sentenced under (c), (d), or (e) [(c)(1),  
16 (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2)] of this section,  
17 except to the extent permitted under AS 12.55.155 -- 12.55.175,

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

19           (2) imposition of sentence may not be suspended under AS 12.-  
20 55.085;

21           (3) terms of imprisonment may not be otherwise reduced.

22 \* Sec. 14. AS 12.55.155(a) is amended to read:

23           (a) If a defendant is convicted of an offense and is subject to  
24 sentencing under AS 12.55.125 (c), (d), or (e) [SEC. 125(c)(1), (c)(2),  
25 (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS CHAPTER] and

26           (1) the presumptive term is four years or less, the court  
27 may decrease the presumptive term by an amount as great as the presump-  
28 tive term for factors in mitigation or may increase the presumptive  
29 term up to the maximum term of imprisonment for factors in aggravation;

1 (2) the presumptive term of imprisonment is more than four  
2 years, the court may decrease the presumptive term by an amount as  
3 great as 50 percent of the presumptive term for factors in mitigation  
4 or may increase the presumptive term up to the maximum term of im-  
5 prisonment for factors in aggravation.

6 \* Sec. 15. AS 12.55.165 is amended to read:

7 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is  
8 subject to sentencing under AS 12.55.125(c), (d), or (e) [SEC.  
9 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS  
10 CHAPTER] and the court finds by clear and convincing evidence that  
11 manifest injustice would result from failure to consider relevant  
12 aggravating or mitigating factors not specifically included in AS 12.-  
13 55.155 or from imposition of the presumptive term, whether or not  
14 adjusted for aggravating or mitigating factors, the court shall enter  
15 findings and conclusions and cause a record of the proceedings to be  
16 transmitted to a three-judge panel for sentencing under AS 12.55.175.

17 \* Sec. 16. AS 33.15 and 33.20 are repealed.

18 \* Sec. 17. AS 33.16.010 -- 33.16.035, enacted in sec. 1 of this Act, are  
19 repealed effective July 1, 1983.

20 \* Sec. 18. Sections 10 -- 15 of this Act do not apply to or govern the  
21 punishment for any offense committed before July 1, 1981. An offense commit-  
22 ted before that date shall be punished according to the law existing at the  
23 time of the commission of the offense in the same manner as if this Act had  
24 not become law.

25 \* Sec. 19. This Act takes effect July 1, 1981.  
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