

IN SENATE - Offered: 1/18/83  
Referred: Health, Education  
& Social Services, Judiciary  
and Finance

IN HOUSE -- Offered: 1/17/83  
Referred: Health, Education  
& Social Services,  
Judiciary and Finance

EXECUTIVE ORDER NO. 54

1  
2 Under the authority of art. III, sec. 23, of the Alaska Constitution,  
3 and in accordance with AS 24.30.130(b), I order the following:

4 \* Section 1. FINDINGS. As governor, I find that it would be in the  
5 best interests of efficient administration, protection of the public, and  
6 reformation of persons convicted of violations of the criminal laws of the  
7 state to reorganize penal corrections functions by creating a Department of  
8 Corrections as a principal department of the state. The new department is  
9 being created from the current division of corrections which is located in  
10 the Department of Health and Social Services.

11 \* Sec. 2. AS 12.55.025(b) is amended to read:

12 (b) The sentencing report required under (a) of this section  
13 shall be furnished within 30 days after imposition of sentence to the  
14 Department of Law, the defendant, the Department of Corrections [DIVI-  
15 SION OF CORRECTIONS], the state Board of Parole if the defendant will  
16 be eligible for parole, and to the Alcoholic Beverage Control Board if  
17 the defendant is to be sentenced for a conviction of a violation of  
18 AS 04, a regulation adopted under AS 04, or an ordinance adopted under  
19 AS 04.21.010.

20 \* Sec. 3. AS 12.55.025(d) is amended to read:

21 (d) A sentence of imprisonment shall be stayed if an appeal is  
22 taken and the defendant is admitted to bail. If an appeal is taken  
23 and the defendant is not admitted to bail, the Department of Correc-  
24 tions [HEALTH AND SOCIAL SERVICES] shall designate the facility in  
25 which the defendant shall be detained pending appeal or admission to  
26 bail.

27 \* Sec. 4. AS 12.55.055(a) is amended to read:

28 (a) The court may order a defendant convicted of an offense to  
29 perform community work as a condition of a suspended sentence or

1 suspended imposition of sentence, or in addition to any fine or resti-  
2 tution ordered. If the defendant is also sentenced to imprisonment,  
3 the court may recommend to the Department of Corrections [HEALTH AND  
4 SOCIAL SERVICES] that the defendant perform community work.

5 \* Sec. 5. AS 12.55.185(2) is repealed.

6 \* Sec. 6. AS 12.70.220(b) is amended to read:

7 (b) When the return to this state is required of a person who  
8 has been convicted of a crime in this state and has escaped from con-  
9 finement or broken the terms of his bail, probation, or parole, the  
10 prosecuting attorney of the judicial district in which the offense was  
11 committed, or the attorney general, the parole or probation authority  
12 having jurisdiction over him, or the commissioner of the Department of  
13 Corrections [HEALTH AND SOCIAL SERVICES] shall present to the governor  
14 a written application for a requisition for the return of that person.  
15 In the application there shall be stated the name of the person, the  
16 crime for which he was convicted, the circumstances of his escape from  
17 confinement or of the breach of the terms of his bail, probation, or  
18 parole, and the state in which he is believed to be, including the lo-  
19 cation of the person therein at the time the application is made.

20 \* Sec. 7. AS 12.70.220(c) is amended to read:

21 (c) The application shall be verified by affidavit, shall be ex-  
22 ecuted in duplicate and shall be accompanied by two certified copies  
23 of the indictment returned, or information and affidavit filed, or the  
24 complaint made to the superior court judge or district judge, stating  
25 the offense with which the accused is charged, or of the judgment of  
26 conviction or of the sentence. The attorney general or the prosecut-  
27 ing attorney, the parole or probation authority, or the commissioner  
28 of the Department of Corrections [HEALTH AND SOCIAL SERVICES] may also  
29 attach further affidavits and other documents in duplicate he deems

1 proper to be submitted with the application. One copy of the applica-  
2 tion, with the action of the governor indicated by endorsement on the  
3 application, and one of the certified copies of the indictment, com-  
4 plaint, information and affidavits, or judgment of conviction or sen-  
5 tence shall be filed in the office of the governor to remain of record  
6 in that office. The other copies of all papers shall be forwarded  
7 with the governor's requisition.

8 \* Sec. 8. AS 33.05.080(2) is amended to read:

9 (2) "commissioner" means the commissioner of the Department  
10 of Corrections [HEALTH AND SOCIAL SERVICES] or the designee of the  
11 commissioner.

12 \* Sec. 9. AS 33.15.260(2) is amended to read:

13 (2) "commissioner" means the commissioner of the Department  
14 of Corrections [HEALTH AND SOCIAL SERVICES] or the designee of the  
15 commissioner;

16 \* Sec. 10. AS 33.15.260(4) is amended to read:

17 (4) "department" means the Department of Corrections  
18 [HEALTH AND SOCIAL SERVICES].

19 \* Sec. 11. AS 33.30.130(a) is amended to read:

20 (a) The commissioner of public safety shall provide for the sub-  
21 sistence, care and safekeeping in suitable quarters of a person ar-  
22 rested or held under the authority of state law pending arraignment or  
23 commitment by a court to the custody of the commissioner of correc-  
24 tions [HEALTH AND SOCIAL SERVICES] or to the custody of the keeper or  
25 person in charge of a prison facility designated in advance by the  
26 commissioner of corrections [HEALTH AND SOCIAL SERVICES].

27 \* Sec. 12. AS 33.30.900(1) is amended to read:

28 (1) "commissioner" means the commissioner of the Department  
29 of Corrections [HEALTH AND SOCIAL SERVICES] or the commissioner's

1       designee;

2       \* Sec. 13. AS 33.30.90(3) is amended to read:

3               (3) "department" means the Department of Corrections  
4       [HEALTH AND SOCIAL SERVICES];

5       \* Sec. 14. AS 33.32.010(1) is amended to read:

6               (1) develop and operate agricultural, industrial, and ser-  
7       vice enterprises employing prisoners under the jurisdiction of the  
8       commissioner of corrections [HEALTH AND SOCIAL SERVICES];

9       \* Sec. 15. AS 33.32.015 is amended to read:

10              Sec. 33.32.015. POWERS AND DUTIES OF THE COMMISSIONER OF CORREC-  
11       TIONS [HEALTH AND SOCIAL SERVICES] [REPEALED EFFECTIVE JULY 1, 1987].

12       (a) The commissioner of corrections [HEALTH AND SOCIAL SERVICES] may  
13       establish and administer a correctional industries program that is  
14       based on voluntary prisoner participation.

15       (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
16       may

17               (1) subject to the Fiscal Procedures Act (AS 37.05), use,  
18       purchase, lease, equip, and maintain buildings, machinery, and other  
19       equipment, and may purchase materials and enter into contracts, which  
20       may be necessary for the correctional industries program;

21               (2) provide for prisoners to be employed in rendering ser-  
22       vices and producing articles, materials, and supplies needed by a  
23       state agency, a political subdivision of the state, an agency of the  
24       federal government, other states or their political subdivisions, or  
25       for use by nonprofit organizations;

26               (3) if the Correctional Industries Commission established  
27       in AS 33.32.070 approves, employ prisoners to provide services or  
28       products as needed by private industry if the services or products  
29       have potential for contributing to the economy of the state and will

1 have minimal negative impact on an existing private industry or labor  
2 force in the state.

3 \* Sec. 16. AS 33.32.020(a) is amended to read:

4 (a) There is established in the Department of Corrections  
5 [HEALTH AND SOCIAL SERVICES] a fund to be known as the correctional  
6 industries fund. All expenses of the correctional industries program,  
7 except salaries and benefits of state employees, are to be financed  
8 from the correctional industries fund and budgeted in accordance with  
9 the Executive Budget Act (AS 37.07). The commissioner of corrections  
10 [HEALTH AND SOCIAL SERVICES TO] shall report annually to the legisla-  
11 ture all activities and balances of the fund.

12 \* Sec. 17. AS 33.32.030 is amended to read:

13 Sec. 33.32.030. MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS  
14 [REPEALED EFFECTIVE JULY 1, 1987]. (a) The commissioner of correc-  
15 tions [HEALTH AND SOCIAL SERVICES] shall market correctional indus-  
16 tries products to appropriate entities as provided for in AS 33.32.-  
17 015(b)(2). Because of the potential for contributing to the economy  
18 of the state, agricultural produce may be sold to commercial proces-  
19 sors, wholesalers, or distributors, in addition to the entities pro-  
20 vided for in AS 33.32.015(b)(2).

21 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
22 may sell a product or service of a correctional industries program to  
23 a private industry, subject to the approval of the Correctional Indus-  
24 tries Commission established in AS 33.32.070. Before giving its ap-  
25 proval, the Correctional Industries Commission must determine that the  
26 product or service has potential for contributing to the economy of  
27 the state and will have minimal negative impact on an existing private  
28 industry or labor force in the state.

29 (c) A product or service provided by correctional industries

1 that meets marketable standards of quality and that meets the needs of  
2 state agencies at reasonable cost, as determined by the commissioner  
3 of administration, shall be purchased by state agencies through proce-  
4 dures established by the Department of Administration in such a manner  
5 as to facilitate the purchase. A product or service of the type and  
6 quality of that supplied by the correctional industries may not be ob-  
7 tained from a source outside correctional industries unless the com-  
8 missioner of corrections [HEALTH AND SOCIAL SERVICES] certifies to the  
9 Department of Administration that correctional industries is not able  
10 to provide the product or service on a basis that is competitive with  
11 other sources. State agencies shall make maximum use of the resources  
12 of the correctional industries program both in the purchase of exist-  
13 ing products and by assisting in the development of new products or  
14 adaptation of existing products to meet future needs.

15 (d) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
16 shall periodically determine the prices at which products and services  
17 will be sold. Prices must approximate the fair market value of prod-  
18 ucts and services of comparable quality offered by commercial sources.

19 (e) The commissioner of administration shall establish suitable  
20 methods of accounting and purchasing to facilitate the production and  
21 marketing of correctional industries products and to assure accurate  
22 cost data.

23 \* Sec. 18. AS 33.32.040(a) is amended to read:

24 (a) In administering the correctional industries program, the  
25 Department of Corrections [HEALTH AND SOCIAL SERVICES] shall comply  
26 with federal and state health and safety regulations, except for the  
27 provision of workers' compensation under AS 23.30.

28 \* Sec. 19. AS 33.32.050 is amended to read:

29 Sec. 33.32.050. WAGES OF CORRECTIONAL INDUSTRIES WORKERS;

1 FORFEITURE [REPEALED EFFECTIVE JULY 1, 1987]. (a) The commissioner  
2 of corrections [HEALTH AND SOCIAL SERVICES] shall establish a pay plan  
3 for prisoners working in correctional industries based on the quantity  
4 and quality of work performed and the skill required. A wage estab-  
5 lished under the pay plan may not exceed 50 percent of the minimum  
6 wage established under AS 23.10.065. Wage incentive plans to increase  
7 productivity may be included in the pay plan. The commissioner of  
8 corrections [HEALTH AND SOCIAL SERVICES] shall determine the amount to  
9 be credited to the prisoner after disbursements made under (c) of this  
10 section.

11 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
12 may establish a wage for work performed in the production of a product  
13 that is higher than the maximum wage authorized under (a) of this sec-  
14 tion to comply with federal law or regulation if that compliance is  
15 required before the product may be sold to the federal government.

16 (c) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
17 shall disburse prisoners' payments in amounts determined to be appro-  
18 priate under procedures adopted by the commissioner based on the fol-  
19 lowing order of priority:

- 20 (1) for support of the prisoner's dependents, if any;  
21 (2) to reimburse the state for compensation awarded under  
22 AS 18.67 resulting from the prisoner's criminal conduct;  
23 (3) to pay a civil judgment resulting from the prisoner's  
24 criminal conduct;  
25 (4) for the purchase of clothing and commissary items for  
26 the prisoner's personal use;  
27 (5) to pay a restitution or fine of the prisoner ordered by  
28 a sentencing court.

29 (d) Money credited to a prisoner must be retained by the

1 commissioner of corrections [HEALTH AND SOCIAL SERVICES] for the pri-  
2 mary purpose of being available to the prisoner at the time of re-  
3 lease. The commissioner of corrections [HEALTH AND SOCIAL SERVICES]  
4 may, however, permit the prisoner to draw upon a portion of the money  
5 for other purposes that the commissioner of corrections [HEALTH AND  
6 SOCIAL SERVICES] considers appropriate.

7 (e) If a prisoner escapes, a portion of the earnings of the pri-  
8 soner, as determined by the commissioner of corrections [HEALTH AND  
9 SOCIAL SERVICES], is to be forfeited. The commissioner of corrections  
10 [HEALTH AND SOCIAL SERVICES] shall deposit forfeited earnings in the  
11 general fund.

12 \* Sec. 20. AS 33.32.060 is amended to read:

13 Sec. 33.32.060. LIMITATION ON ATTACHMENT, ETC., OF WAGES [RE-  
14 PEALD EFFECTIVE JULY 1, 1987]. Only the prisoner payments retained  
15 by the commissioner of corrections [HEALTH AND SOCIAL SERVICES] under  
16 AS 33.32.050(d) are subject to lien, attachment, garnishment, execu-  
17 tion, or similar procedures to encumber funds or property.

18 \* Sec. 21. AS 33.32.070(a) is amended to read:

19 (a) The Correctional Industries Commission is established to  
20 provide general policy direction to the correctional industries pro-  
21 gram through the commissioner of corrections [HEALTH AND SOCIAL SER-  
22 VICES]. The commission consists of seven members, five of whom are to  
23 be appointed by the governor to serve staggered terms of four years.  
24 The appointed members must include a representative of private indus-  
25 try, organized labor, agriculture, and the general public, and one  
26 ex-offender. The commissioner of administration is also a member, as  
27 is the commissioner of corrections [HEALTH AND SOCIAL SERVICES] who is  
28 to serve as chairperson.

29 \* Sec. 22. AS 33.32.080(a) is amended to read:

1 (a) The Correctional Industries Commission shall monitor the  
2 correctional industries program, annually review the proposed budget  
3 of the program, and make appropriate recommendations to the commis-  
4 sioner of corrections [HEALTH AND SOCIAL SERVICES]. This budget must  
5 be transmitted in the normal budgetary process to the legislature as  
6 part of the governor's budget.

7 \* Sec. 23. AS 33.32.080(c) is amended to read:

8 (c) The Correctional Industries Commission shall recommend to  
9 the commissioner of corrections [HEALTH AND SOCIAL SERVICES] the ad-  
10 visability of establishing, expanding, diminishing, or discontinuing  
11 industrial, agricultural, or service activities to enable the program  
12 to operate as nearly as possible in a self-supporting manner, to pro-  
13 vide as much employment for prisoners as is feasible, to provide di-  
14 versified work activities with minimal negative impact on an existing  
15 private industry or labor force in the state, and contribute to the  
16 economy of the state. In making recommendations, the Correctional In-  
17 dustries Commission shall consider testimony received at public hear-  
18 ings.

19 \* Sec. 24. AS 33.32.090 is amended to read:

20 Sec. 33.32.090. COOPERATION WITH STATE AGENCIES [REPEALED EFFEC-  
21 TIVE JULY 1, 1987]. With the approval of the commissioner of correc-  
22 tions [HEALTH AND SOCIAL SERVICES], a state agency may, without  
23 charge, transfer to the Department of Corrections [HEALTH AND SOCIAL  
24 SERVICES] for the correctional industries program any property or  
25 equipment suitable for the purposes of that program.

26 \* Sec. 25. AS 33.35.040 is amended to read:

27 Sec. 33.35.040. CENTRAL ADMINISTRATOR AND INFORMATION AGENT.  
28 The commissioner of corrections [HEALTH AND SOCIAL SERVICES] or the  
29 designee of the commissioner of corrections [HEALTH AND SOCIAL

1 SERVICES] is the central administrator of and information agent for  
2 the Agreement on Detainers under AS 33.35.010.

3 \* Sec. 26. AS 33.36.040 is amended to read:

4 Sec. 33.36.040. IMPLEMENTATION. The commissioner of corrections  
5 [HEALTH AND SOCIAL SERVICES] or the commissioner's designee shall do  
6 all things necessary or incidental to the carrying out of the Inter-  
7 state Corrections Compact. However, no contract is of any force or  
8 effect until approved by the commissioner of administration.

9 \* Sec. 27. AS 33.36.100 is amended to read:

10 Sec. 33.36.100. IMPLEMENTATION OF COMPACT. The commissioner of  
11 corrections [HEALTH AND SOCIAL SERVICES] may enter into such contracts  
12 on behalf of the State of Alaska as may be appropriate to implement  
13 the participation of this state in the Western Interstate Corrections  
14 Compact under art. III of the compact. No contract is of any force or  
15 effect until approved by the commissioner of administration.

16 \* Sec. 28. AS 44.17.005 is amended by adding a new paragraph to read:

17 (18) Department of Corrections.

18 \* Sec. 29. AS 44 is amended by adding a new chapter to read:

19 CHAPTER 28. DEPARTMENT OF CORRECTIONS.

20 Sec. 44.28.010. COMMISSIONER OF CORRECTIONS. The principal exe-  
21 cutive officer of the Department of Corrections is the commissioner of  
22 corrections.

23 Sec. 44.28.020. DUTIES OF DEPARTMENT. The Department of Correc-  
24 tions shall (1) manage state adult penal institutions, and (2) provide  
25 probation and parole supervision.

26 Sec. 44.28.030. REGULATIONS. The commissioner may adopt regula-  
27 tions to carry out or assist in carrying out the powers and duties of  
28 the department.

29 \* Sec. 30. AS 44.29.020(9) is amended to read:

1 (9) management of state institutions, except for adult  
2 penal institutions;

3 \* Sec. 31. AS 44.29.020(17) is repealed.

4 \* Sec. 32. TRANSITION. All litigation, hearings, investigations and  
5 other proceedings pending under a law amended or repealed by this Order, or  
6 in connection with functions transferred by this Order, continue in effect  
7 and may be continued and completed notwithstanding a transfer or amendment  
8 or repeal provided for in this Order. Certificates, orders, and regula-  
9 tions issued or adopted under authority of a law amended or repealed by  
10 this Order remain in effect for the term issued, or until revoked, vacated,  
11 or otherwise modified under the provisions of this Order. All contracts,  
12 rights, liabilities, and obligations created by or under a law amended or  
13 repealed by this Order, and in effect on the effective date of this Order,  
14 remain in effect notwithstanding this Order's taking effect. Records,  
15 equipment, and other property of agencies of the state whose functions are  
16 transferred under this Order shall be transferred commensurate with the  
17 provisions of this Order.

18 \* Sec. 33. NAME CHANGE. To be consistent with the changes made by this  
19 Order, wherever in the Alaska Statutes and in regulations adopted under  
20 those statutes "division of corrections" appears, and "division," "depart-  
21 ment," and "Department of Health and Social Services" appear in connection  
22 with administering the correctional institutions of the state (except those  
23 for juvenile offenders), they must be read as referring to the Department  
24 of Corrections. Similarly, wherever "director of corrections" appears, and  
25 "director," "commissioner," and "commissioner of health and social ser-  
26 vices" appear in connection with administering the correctional institu-  
27 tions of the state (except those for juvenile offenders), they must be read  
28 as referring to the commissioner of corrections. Under AS 01.05.031, the  
29 revisor of statutes shall implement this section in the statutes, and,

1 under AS 44.62.125(b)(6), the regulations attorney shall implement this  
2 section in the administrative regulations.

3 \* Sec. 34. This Order takes effect April 1, 1983.

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DATED: 1/17/83

  
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Bill Sheffield  
Governor