

Offered: 4/13/83
Referred: Finance

Original sponsors: Fritz, Koponen,
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1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 103 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act establishing a Department of Corrections and
7 transferring certain functions of the Department of
8 Health and Social Services to the Department of
9 Corrections; and providing for an effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 44 is amended by adding a new chapter to read:
12 CHAPTER 30. DEPARTMENT OF CORRECTIONS.
13 Sec. 44.30.010 COMMISSIONER OF CORRECTIONS. The principal execu-
14 tive officer of the Department of Corrections is the commissioner of
15 corrections.
16 Sec. 44.30.020. DUTIES OF DEPARTMENT. The Department of Correc-
17 tions shall administer the state programs of adult corrections includ-
18 ing
19 (1) state prisons and state prisoners;
20 (2) probation and parole;
21 (3) extraditions and detainers.
22 * Sec. 2. AS 11.71.305 is amended to read:
23 Sec. 11.71.305. REHABILITATION. A person convicted of violating
24 a provision of this chapter may, when the violation relates to that
25 person's own personal use of a controlled substance, be committed to
26 the custody of the Department of Corrections [HEALTH AND SOCIAL SER-
27 VICES] for rehabilitative treatment for not to exceed one year. Such
28 treatment may be imposed in place of a fine or imprisonment, but only
29 where the imprisonment would not have exceeded one year.

1 * Sec. 3. AS 12.55.025(b) is amended to read:

2 (b) The sentencing report required under (a) of this section
3 shall be furnished within 30 days after imposition of sentence to the
4 Department of Law, the defendant, the Department of Corrections [DIVI-
5 SION OF CORRECTIONS], the state Board of Parole if the defendant will
6 be eligible for parole, and to the Alcoholic Beverage Control Board if
7 the defendant is to be sentenced for a conviction of a violation of
8 AS 04, a regulation adopted under AS 04, or an ordinance adopted under
9 AS 04.21.010.

10 * Sec. 4. AS 12.55.025(d) is amended to read:

11 (d) A sentence of imprisonment shall be stayed if an appeal is
12 taken and the defendant is admitted to bail. If an appeal is taken
13 and the defendant is not admitted to bail, the Department of Correc-
14 tions [HEALTH AND SOCIAL SERVICES] shall designate the facility in
15 which the defendant shall be detained pending appeal or admission to
16 bail.

17 * Sec. 5. AS 12.55.055(a) is amended to read:

18 (a) The court may order a defendant convicted of an offense to
19 perform community work as a condition of a suspended sentence or
20 suspended imposition of sentence, or in addition to any fine or re-
21 stitution ordered. If the defendant is also sentenced to imprison-
22 ment, the court may recommend to the Department of Corrections [HEALTH
23 AND SOCIAL SERVICES] that the defendant perform community work.

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

25 (b) When the return to this state is required of a person who
26 has been convicted of a crime in this state and has escaped from
27 confinement or broken the terms of [HIS] bail, probation, or parole,
28 the prosecuting attorney of the judicial district in which the offense
29 was committed, or the attorney general, the parole or probation au-

1 thority having jurisdiction over the person [HIM], or the commissioner
2 of corrections [THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] shall
3 present to the governor a written application for a requisition for
4 the return of that person. In the application there shall be stated
5 the name of the person, the crime for which the person [HE] was con-
6 victed, the circumstances of the person's [HIS] escape from confine-
7 ment or of the breach of the terms of [HIS] bail, probation, or pa-
8 role, and the state in which the person [HE] is believed to be, in-
9 cluding the location of the person in that state [THEREIN] at the
10 time the application is made.

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

12 (c) The application shall be verified by affidavit, shall be
13 executed in duplicate and shall be accompanied by two certified copies
14 of the indictment returned, or information and affidavit filed, or the
15 complaint made to the superior court judge or district judge, stating
16 the offense with which the accused is charged, or of the judgment of
17 conviction or of the sentence. The attorney general or the prosecut-
18 ing attorney, the parole or probation authority, or the commissioner
19 of corrections [THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] may also
20 attach further affidavits and other documents in duplicate considered
21 [HE DEEMS] proper to be submitted with the application. One copy of
22 the application, with the action of the governor indicated by endorse-
23 ment on the application, and one of the certified copies of the in-
24 dictment, complaint, information and affidavits, or judgment of con-
25 viction or sentence shall be filed in the office of the governor to
26 remain of record in that office. The other copies of all papers shall
27 be forwarded with the governor's requisition.

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

29 (2) "commissioner" means the commissioner of the Department

1 of Corrections [HEALTH AND SOCIAL SERVICES] or the designee of the
2 commissioner.

3 * Sec. 9. AS 33.15.010 is amended to read:

4 Sec. 33.15.010. STATE BOARD OF PAROLE. There is in the depart-
5 ment a board of parole consisting of five members to be appointed by
6 the governor, subject to confirmation by a majority of the members of
7 the legislature in joint session. One of the members, who shall be
8 chairman of the board, shall be a person with training or experience
9 in the field of probation and parole, [AND THAT MEMBER MAY BE AN
10 OFFICIAL OR EMPLOYEE OF THE DEPARTMENT] but that member may not be an
11 official or employee of the department [DIVISION OF CORRECTIONS]. The
12 term of each of the other four members of the board is four years and
13 until a successor is appointed and qualifies. Successors are ap-
14 pointed in the same manner as provided for the board members first
15 appointed. A vacancy shall be filled for the unexpired term.

16 * Sec. 10. AS 33.15.260(2) is amended to read:

17 (2) "commissioner" means the commissioner of the Department
18 of Corrections [HEALTH AND SOCIAL SERVICES] or the designee of the
19 commissioner;

20 * Sec. 11. AS 33.15.260(4) is amended to read:

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

23 * Sec. 12. AS 33.30.130(a) is amended to read:

24 (a) The commissioner of public safety shall provide for the
25 subsistence, care and safekeeping in suitable quarters of a person
26 arrested or held under the authority of state law pending arraignment
27 or commitment by a court to the custody of the commissioner of correc-
28 tions [HEALTH AND SOCIAL SERVICES] or to the custody of the keeper or
29 person in charge of a prison facility designated in advance by the

1 commissioner of corrections [HEALTH AND SOCIAL SERVICES].

2 * Sec. 13. AS 33.30.900(1) is amended to read:

3 (1) "commissioner" means the commissioner of the Department
4 of Corrections [HEALTH AND SOCIAL SERVICES] or the commissioner's
5 designee;

6 * Sec. 14. AS 33.30.900(3) is amended to read:

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

9 * Sec. 15. AS 33.32.010(1) is amended to read:

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

13 * Sec. 16. AS 33.32.015 is amended to read:

14 Sec. 33.32.015. POWERS AND DUTIES OF THE COMMISSIONER OF CORREC-
15 TIONS [HEALTH AND SOCIAL SERVICES]. (a) The commissioner of correc-
16 tions [HEALTH AND SOCIAL SERVICES] may establish and administer a
17 correctional industries program that is based on voluntary prisoner
18 participation.

19 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]
20 may

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

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

1 (3) if the Correctional Industries Commission established
2 in AS 33.32.070 approves, employ prisoners to provide services or
3 products as needed by private industry if the services or products
4 have potential for contributing to the economy of the state and will
5 have minimal negative impact on an existing private industry or labor
6 force in the state.

7 * Sec. 17. AS 33.32.020(a) is amended to read:

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

16 * Sec. 18. AS 33.32.030 is amended to read:

17 Sec. 33.32.030. MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS.

18 (a) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]
19 shall market correctional industries products to appropriate entities
20 as provided for in AS 33.32.015(b)(2). Because of the potential for
21 contributing to the economy of the state, agricultural produce may be
22 sold to commercial processors, wholesalers, or distributors, in addi-
23 tion to the entities provided for in AS 33.32.015(b)(2).

24 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]
25 may sell a product or service of a correctional industries program to
26 a private industry, subject to the approval of the Correctional Indus-
27 tries Commission established in AS 33.32.070. Before giving its ap-
28 proval, the Correctional Industries Commission must determine that the
29 product or service has potential for contributing to the economy of

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

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

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

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

26 * Sec. 19. AS 33.32.040(a) is amended to read:

27 (a) In administering the correctional industries program, the
28 Department of Corrections [HEALTH AND SOCIAL SERVICES] shall comply
29 with federal and state health and safety regulations, except for the

1 provision of workers' compensation under AS 23.30.

2 * Sec. 20. AS 33.32.050 is amended to read:

3 Sec. 33.32.050. WAGES OF CORRECTIONAL INDUSTRIES WORKERS; FOR-
4 FEITURE. (a) The commissioner of corrections [HEALTH AND SOCIAL
5 SERVICES] shall establish a pay plan for prisoners working in correc-
6 tional industries based on the quantity and quality of work performed
7 and the skill required. A wage established under the pay plan may not
8 exceed 50 percent of the minimum wage established under AS 23.10.065.
9 Wage incentive plans to increase productivity may be included in the
10 pay plan. The commissioner of corrections [HEALTH AND SOCIAL SER-
11 VICES] shall determine the amount to be credited to the prisoner after
12 disbursements made under (c) of this section.

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

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

22 (1) for support of the prisoner's dependents, if any;

23 (2) to reimburse the state for compensation awarded under
24 AS 18.67 resulting from the prisoner's criminal conduct;

25 (3) to pay a civil judgment resulting from the prisoner's
26 criminal conduct;

27 (4) for the purchase of clothing and commissary items for
28 the prisoner's personal use;

29 (5) to pay a restitution or fine of the prisoner ordered by

1 a sentencing court.

2 (d) Money credited to a prisoner must be retained by the commis-
3 sioner of corrections [HEALTH AND SOCIAL SERVICES] for the primary
4 purpose of being available to the prisoner at the time of release.
5 The commissioner of corrections [HEALTH AND SOCIAL SERVICES] may, how-
6 ever, permit the prisoner to draw upon a portion of the money for oth-
7 er purposes that the commissioner of corrections [HEALTH AND SOCIAL
8 SERVICES] considers appropriate.

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

14 * Sec. 21. AS 33.32.060 is amended to read:

15 Sec. 33.32.060. LIMITATION ON ATTACHMENT, ETC., OF WAGES. Only
16 the prisoner payments retained by the commissioner of corrections
17 [HEALTH AND SOCIAL SERVICES] under AS 33.32.050(d) are subject to
18 lien, attachment, garnishment, execution, or similar procedures to
19 encumber funds or property.

20 * Sec. 22. AS 33.32.070(a) is amended to read:

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

1 to serve as chairperson.

2 * Sec. 23. AS 33.32.080(a) is amended to read:

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

9 * Sec. 24. AS 33.32.080(c) is amended to read:

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

21 * Sec. 25. AS 33.32.090 is amended to read:

22 Sec. 33.32.090. COOPERATION WITH STATE AGENCIES. With the
23 approval of the commissioner of corrections [HEALTH AND SOCIAL SER-
24 VICES], a state agency may, without charge, transfer to the Department
25 of Corrections [HEALTH AND SOCIAL SERVICES] for the correctional
26 industries program any property or equipment suitable for the purposes
27 of that program.

28 * Sec. 26. AS 33.35.010 (Article III(b) of the Agreement on Detainers)
29 is amended to read:

1 (b) The written notice and request for final disposition re-
2 ferred to in paragraph (a) of this article shall be given or sent by
3 the prisoner to the warden, commissioner of corrections [HEALTH AND
4 SOCIAL SERVICES] or other official having custody of the prisoner
5 [HIM], who shall promptly forward it together with the certificate to
6 the appropriate prosecuting official and court by registered or certi-
7 fied mail, return receipt requested.

8 * Sec. 27. AS 33.35.010 (Article III(c) of the Agreement on Detainers)
9 is amended to read:

10 (c) The warden, commissioner of corrections [HEALTH AND SOCIAL
11 SERVICES] or other official having custody of the prisoner shall
12 promptly inform the prisoner [HIM] of the source and contents of any
13 detrainer against the prisoner [HIM], and shall also inform the pri-
14 soner [HIM] of the [HIS] right to make a request for final disposition
15 of the indictment, information or complaint on which the detainer is
16 based.

17 * Sec. 28. AS 33.35.010 (Article III(d) of the Agreement on Detainers)
18 is amended to read:

19 (d) Any request for final disposition made by a prisoner under
20 paragraph (a) of this article shall operate as a request for final
21 disposition of all untried indictments, informations or complaints on
22 the basis of which detainers have been lodged against the prisoner
23 from the state to whose prosecuting official the request for final
24 disposition is specifically directed. The warden, commissioner of
25 corrections [HEALTH AND SOCIAL SERVICES] or other official having
26 custody of the prisoner shall notify all appropriate prosecuting
27 officers and courts in the several jurisdictions within the state to
28 which the prisoner's request for final disposition is being sent of
29 the proceeding being initiated by the prisoner. Any notification sent

1 under this paragraph shall be accompanied by copies of the prisoner's
2 written notice, request, and the certificate. If trial is not had on
3 any indictment, information or complaint contemplated by this article
4 before the return of the prisoner to the original place of imprison-
5 ment, that indictment, information or complaint is of no further force
6 or effect, and the court shall enter an order dismissing it with
7 prejudice.

8 * Sec. 29. AS 33.35.040 is amended to read:

9 Sec. 33.35.040. CENTRAL ADMINISTRATOR AND INFORMATION AGENT.
10 The commissioner of corrections [HEALTH AND SOCIAL SERVICES] or the
11 designee of the commissioner of corrections [HEALTH AND SOCIAL SER-
12 VICES] is the central administrator of and information agent for the
13 Agreement on Detainers under AS 33.35.010.

14 * Sec. 30. AS 33.36.040 is amended to read:

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

20 * Sec. 31. AS 33.36.100 is amended to read:

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

27 * Sec. 32. AS 41.20.110(b) is amended to read:

28 (b) As an aid to the construction and maintenance of trails and
29 campsites under (a) of this section the commissioner of corrections

1 [HEALTH AND SOCIAL SERVICES] is authorized to establish a program that
2 would allow prisoners to volunteer for work on the trails and camp-
3 sites. The commissioner is authorized to grant remuneration for the
4 work, either in money or reduction of sentence, which the commissioner
5 [HE] considers sufficient.

6 * Sec. 33. AS 44.17.005 is amended by adding a new paragraph to read:

7 (18) Department of Corrections.

8 * Sec. 34. AS 44.29.020(9) is amended to read:

9 (9) management of state institutions other than adult
10 correctional institutions;

11 * Sec. 35. AS 47.08.050(8) is amended to read:

12 (8) medical services currently provided to persons in the
13 custody of the Department of Corrections [DIVISION OF CORRECTIONS];

14 * Sec. 36. AS 47.17.020(a)(4) is amended to read:

15 (4) peace officers, and officers of the Department of
16 Corrections [DIVISION OF CORRECTIONS];

17 * Sec. 37. AS 47.21.010(b)(1) is amended to read:

18 (1) certain delinquent juveniles in the custody of the
19 Department of Health and Social Services [DIVISION OF CORRECTIONS];

20 * Sec. 38. AS 47.30.845(5) is amended to read:

21 (5) the Department of Corrections [DIVISION OF CORRECTIONS]
22 in a case in which a prisoner confined to the state prison is a pa-
23 tient in the state hospital on authorized transfer either by voluntary
24 admission or by court order;

25 * Sec. 39. AS 47.37.040(3) is amended to read:

26 (3) cooperate with the Department of Corrections [DIVISION
27 OF CORRECTIONS] in establishing and conducting programs to provide
28 treatment for alcoholics and intoxicated persons in or on parole from
29 penal institutions;

1 * Sec. 40. The following laws are repealed: AS 12.55.185(2), AS 44.-
2 29.020(17).

3 * Sec. 41. On the effective date of this Act the Department of Health
4 and Social Services shall transfer facilities, supplies, equipment and
5 other assets relating to its adult corrections function to the Department
6 of Corrections to enable the Department of Corrections to perform the
7 duties imposed by this Act.

8 * Sec. 42. This Act take effect immediately in accordance with AS 01.-
9 10.070(c).