

Offered: 6/2/83
Referred: Rules

Original sponsors: Fritz, Koponen,
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1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 103 (Finance) am S
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. 44.30.030. CORRECTIONAL FACILITIES. The commissioner of
23 corrections may determine, with the concurrence of the commissioner of
24 transportation and public facilities, that money appropriated for the
25 construction of a correctional facility may be used instead for the
26 lease-purchase of a facility, if the lease-purchased facility will
27 better serve the purpose for which the appropriation is made and if
28 the facility is in the election district or political subdivision, if
29 any, specified in the appropriation.

1 * Sec. 2. AS 11.71.305 is amended to read:

2 Sec. 11.71.305. REHABILITATION. A person convicted of violating
3 a provision of this chapter may, when the violation relates to that
4 person's own personal use of a controlled substance, be committed to
5 the custody of the Department of Corrections [HEALTH AND SOCIAL SER-
6 VICES] for rehabilitative treatment for not to exceed one year. Such
7 treatment may be imposed in place of a fine or imprisonment, but only
8 where the imprisonment would not have exceeded one year.

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

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

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

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

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

26 (a) The court may order a defendant convicted of an offense to
27 perform community work as a condition of a suspended sentence or
28 suspended imposition of sentence, or in addition to any fine or re-
29 stitution ordered. If the defendant is also sentenced to

1 imprisonment, the court may recommend to the Department of Corrections
2 [HEALTH AND SOCIAL SERVICES] that the defendant perform community
3 work.

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

5 (b) When the return to this state is required of a person who
6 has been convicted of a crime in this state and has escaped from
7 confinement or broken the terms of [HIS] bail, probation, or parole,
8 the prosecuting attorney of the judicial district in which the offense
9 was committed, or the attorney general, the parole or probation au-
10 thority having jurisdiction over the person [HIM], or the commissioner
11 of corrections [THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] shall
12 present to the governor a written application for a requisition for
13 the return of that person. In the application there shall be stated
14 the name of the person, the crime for which the person [HE] was con-
15 victed, the circumstances of the person's [HIS] escape from confine-
16 ment or of the breach of the terms of [HIS] bail, probation, or pa-
17 role, and the state in which the person [HE] is believed to be, in-
18 cluding the location of the person in that state [THEREIN] at the
19 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
22 executed 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 corrections [THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] may also
29 attach further affidavits and other documents in duplicate considered

1 [HE DEEMS] proper to be submitted with the application. One copy of
2 the application, with the action of the governor indicated by endorse-
3 ment on the application, and one of the certified copies of the in-
4 dictment, complaint, information and affidavits, or judgment of con-
5 viction or sentence shall be filed in the office of the governor to
6 remain of record in that office. The other copies of all papers shall
7 be forwarded 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 33.15.010 is amended to read:

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

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

26 (2) "commissioner" means the commissioner of the Department
27 of Corrections [HEALTH AND SOCIAL SERVICES] or the designee of the
28 commissioner;

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

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

3 * Sec. 12. AS 33.20.060 is amended to read:

4 Sec. 33.20.060. RESTORATION OF LOST GOOD TIME. The commissioner
5 of corrections may restore forfeited or lost good time or such portion
6 of it which the commissioner considers proper upon recommendation of
7 the keeper or person in charge of the penal or correctional institu-
8 tion in which the prisoner is incarcerated.

9 * Sec. 13. AS 33.30.130(a) is amended to read:

10 (a) The commissioner of public safety shall provide for the
11 subsistence, care and safekeeping in suitable quarters of a person
12 arrested or held under the authority of state law pending arraignment
13 or commitment by a court to the custody of the commissioner of correc-
14 tions [HEALTH AND SOCIAL SERVICES] or to the custody of the keeper or
15 person in charge of a prison facility designated in advance by the
16 commissioner of corrections [HEALTH AND SOCIAL SERVICES].

17 * Sec. 14. AS 33.30.900(1) is amended to read:

18 (1) "commissioner" means the commissioner of the Department
19 of Corrections [HEALTH AND SOCIAL SERVICES] or the commissioner's
20 designee;

21 * Sec. 15. AS 33.30.900(3) is amended to read:

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

24 * Sec. 16. AS 33.32.010(1) is amended to read:

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

28 * Sec. 17. AS 33.32.015 is amended to read:

29 Sec. 33.32.015. POWERS AND DUTIES OF THE COMMISSIONER OF COR-

1 RECTIONS [HEALTH AND SOCIAL SERVICES]. (a) The commissioner of
2 corrections [HEALTH AND SOCIAL SERVICES] may establish and administer
3 a correctional industries program that is based on voluntary prisoner
4 participation.

5 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]
6 may

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

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

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

22 * Sec. 18. AS 33.32.020(a) is amended to read:

23 (a) There is established in the Department of Corrections
24 [HEALTH AND SOCIAL SERVICES] a fund to be known as the correctional
25 industries fund. All expenses of the correctional industries program,
26 except salaries and benefits of state employees, are to be financed
27 from the correctional industries fund and budgeted in accordance with
28 the Executive Budget Act (AS 37.07). The commissioner of corrections
29 [HEALTH AND SOCIAL SERVICES TO] shall report annually to the

1 legislature all activities and balances of the fund.

2 * Sec. 19. AS 33.32.030 is amended to read:

3 Sec. 33.32.030. **MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS.**

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

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

18 (c) A product or service provided by correctional industries
19 that meets marketable standards of quality and that meets the needs of
20 state agencies at reasonable cost, as determined by the commissioner
21 of administration, shall be purchased by state agencies through proce-
22 dures established by the Department of Administration in such a manner
23 as to facilitate the purchase. A product or service of the type and
24 quality of that supplied by the correctional industries may not be ob-
25 tained from a source outside correctional industries unless the com-
26 missioner of corrections [HEALTH AND SOCIAL SERVICES] certifies to the
27 Department of Administration that correctional industries is not able
28 to provide the product or service on a basis that is competitive with
29 other sources. State agencies shall make maximum use of the resources

1 of the correctional industries program both in the purchase of exist-
2 ing products and by assisting in the development of new products or
3 adaptation of existing products to meet future needs.

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

8 (e) The commissioner of administration shall establish suitable
9 methods of accounting and purchasing to facilitate the production and
10 marketing of correctional industries products and to assure accurate
11 cost data.

12 * Sec. 20. AS 33.32.040(a) is amended to read:

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

17 * Sec. 21. AS 33.32.050 is amended to read:

18 Sec. 33.32.050. WAGES OF CORRECTIONAL INDUSTRIES WORKERS; FOR-
19 FEITURE. (a) The commissioner of corrections [HEALTH AND SOCIAL
20 SERVICES] shall establish a pay plan for prisoners working in correc-
21 tional industries based on the quantity and quality of work performed
22 and the skill required. A wage established under the pay plan may not
23 exceed 50 percent of the minimum wage established under AS 23.10.065.
24 Wage incentive plans to increase productivity may be included in the
25 pay plan. The commissioner of corrections [HEALTH AND SOCIAL SER-
26 VICES] shall determine the amount to be credited to the prisoner after
27 disbursements made under (c) of this section.

28 (b) The commissioner of corrections [HEALTH AND SOCIAL SERVICES]
29 may establish a wage for work performed in the production of a product

1 that is higher than the maximum wage authorized under (a) of this sec-
2 tion to comply with federal law or regulation if that compliance is
3 required before the product may be sold to the federal government.

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

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

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

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

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

15 (5) to pay a restitution or fine of the prisoner ordered by
16 a sentencing court.

17 (d) Money credited to a prisoner must be retained by the commis-
18 sioner of corrections [HEALTH AND SOCIAL SERVICES] for the primary
19 purpose of being available to the prisoner at the time of release.
20 The commissioner of corrections [HEALTH AND SOCIAL SERVICES] may, how-
21 ever, permit the prisoner to draw upon a portion of the money for oth-
22 er purposes that the commissioner of corrections [HEALTH AND SOCIAL
23 SERVICES] considers appropriate.

24 (e) If a prisoner escapes, a portion of the earnings of the pri-
25 soner, as determined by the commissioner of corrections [HEALTH AND
26 SOCIAL SERVICES], is to be forfeited. The commissioner of corrections
27 [HEALTH AND SOCIAL SERVICES] shall deposit forfeited earnings in the
28 general fund.

29 * Sec. 22. AS 33.32.060 is amended to read:

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

6 * Sec. 23. AS 33.32.070(a) is amended to read:

7 (a) The Correctional Industries Commission is established to
8 provide general policy direction to the correctional industries pro-
9 gram through the commissioner of corrections [HEALTH AND SOCIAL SER-
10 VICES]. The commission consists of seven members, five of whom are to
11 be appointed by the governor to serve staggered terms of four years.
12 The appointed members must include a representative of private indus-
13 try, organized labor, agriculture, and the general public, and one
14 ex-offender. The commissioner of administration is also a member, as
15 is the commissioner of corrections [HEALTH AND SOCIAL SERVICES] who is
16 to serve as chairperson.

17 * Sec. 24. AS 33.32.080(a) is amended to read:

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

24 * Sec. 25. AS 33.32.080(c) is amended to read:

25 (c) The Correctional Industries Commission shall recommend to
26 the commissioner of corrections [HEALTH AND SOCIAL SERVICES] the ad-
27 visability of establishing, expanding, diminishing, or discontinuing
28 industrial, agricultural, or service activities to enable the program
29 to operate as nearly as possible in a self-supporting manner, to

1 provide as much employment for prisoners as is feasible, to provide
2 diversified work activities with minimal negative impact on an
3 existing private industry or labor force in the state, and contribute
4 to the economy of the state. In making recommendations, the Correc-
5 tional Industries Commission shall consider testimony received at
6 public hearings.

7 * Sec. 26. AS 33.32.090 is amended to read:

8 Sec. 33.32.090. COOPERATION WITH STATE AGENCIES. With the
9 approval of the commissioner of corrections [HEALTH AND SOCIAL SER-
10 VICES], a state agency may, without charge, transfer to the Department
11 of Corrections [HEALTH AND SOCIAL SERVICES] for the correctional
12 industries program any property or equipment suitable for the purposes
13 of that program.

14 * Sec. 27. AS 33.35.010 (Article III(b) of the Agreement on Detainers)
15 is amended to read:

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

23 * Sec. 28. AS 33.35.010 (Article III(c) of the Agreement on Detainers)
24 is amended to read:

25 (c) The warden, commissioner of corrections [HEALTH AND SOCIAL
26 SERVICES] or other official having custody of the prisoner shall
27 promptly inform the prisoner [HIM] of the source and contents of any
28 detainer against the prisoner [HIM], and shall also inform the pri-
29 soner [HIM] of the [HIS] right to make a request for final disposition

1 of the indictment, information or complaint on which the detainer is
2 based.

3 * Sec. 29. AS 33.35.010 (Article III(d) of the Agreement on Detainers)
4 is amended to read:

5 (d) Any request for final disposition made by a prisoner under
6 paragraph (a) of this article shall operate as a request for final
7 disposition of all untried indictments, informations or complaints on
8 the basis of which detainers have been lodged against the prisoner
9 from the state to whose prosecuting official the request for final
10 disposition is specifically directed. The warden, commissioner of
11 corrections [HEALTH AND SOCIAL SERVICES] or other official having
12 custody of the prisoner shall notify all appropriate prosecuting
13 officers and courts in the several jurisdictions within the state to
14 which the prisoner's request for final disposition is being sent of
15 the proceeding being initiated by the prisoner. Any notification sent
16 under this paragraph shall be accompanied by copies of the prisoner's
17 written notice, request, and the certificate. If trial is not had on
18 any indictment, information or complaint contemplated by this article
19 before the return of the prisoner to the original place of imprison-
20 ment, that indictment, information or complaint is of no further force
21 or effect, and the court shall enter an order dismissing it with
22 prejudice.

23 * Sec. 30. AS 33.35.040 is amended to read:

24 Sec. 33.35.040. CENTRAL ADMINISTRATOR AND INFORMATION AGENT.
25 The commissioner of corrections [HEALTH AND SOCIAL SERVICES] or the
26 designee of the commissioner of corrections [HEALTH AND SOCIAL SER-
27 VICES] is the central administrator of and information agent for the
28 Agreement on Detainers under AS 33.35.010.

29 * Sec. 31. AS 33.36.040 is amended to read:

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

6 * Sec. 32. AS 33.36.100 is amended to read:

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

13 * Sec. 33. AS 41.20.110(b) is amended to read:

14 (b) As an aid to the construction and maintenance of trails and
15 campsites under (a) of this section the commissioner of corrections
16 [HEALTH AND SOCIAL SERVICES] is authorized to establish a program that
17 would allow prisoners to volunteer for work on the trails and camp-
18 sites. The commissioner is authorized to grant remuneration for the
19 work, either in money or reduction of sentence, which the commissioner
20 [HE] considers sufficient.

21 * Sec. 34. AS 44.17.005 is amended by adding a new paragraph to read:

22 (18) Department of Corrections.

23 * Sec. 35. AS 44.29.020(9) is amended to read:

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

26 * Sec. 36. AS 47.08.050(8) is amended to read:

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

29 * Sec. 37. AS 47.17.020(a)(4) is amended to read:

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

3 * Sec. 38. AS 47.21.010(b)(1) is amended to read:

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

6 * Sec. 39. AS 47.30.845(5) is amended to read:

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

11 * Sec. 40. AS 47.37.040(3) is amended to read:

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

16 * Sec. 41. The following laws are repealed: AS 12.55.185(2), AS 44.-
17 29.020(17).

18 * Sec. 42. On the effective date of this Act the Department of Health
19 and Social Services shall transfer facilities, supplies, equipment and
20 other assets relating to its adult corrections function to the Department
21 of Corrections to enable the Department of Corrections to perform the
22 duties imposed by this Act.

23 * Sec. 43. This Act take effect immediately in accordance with AS 01.-
24 10.070(c).