

Introduced: 2/2/83
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 106

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to overcrowding of the state prison
7 system; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds
10 that the need for protecting the public is of paramount importance in re-
11 sponding to the problem of crime in Alaska. However, at the same time the
12 legislature recognizes that art. I, sec. 12, of the Alaska Constitution re-
13 quires that penal administration also be based on reformation of the of-
14 fender. When the state prison system is so overcrowded as to be unable to
15 function adequately, then both the principle of reformation and of protec-
16 tion of the public are adversely affected. Prison overcrowding adds to the
17 stress and frustration of persons convicted of violating criminal laws, and
18 interferes with participation in rehabilitative programs offered in correc-
19 tional institutions. Therefore the purpose of this Act is to alleviate
20 overcrowding in state prisons by providing for the early release and proba-
21 tionary supervision of certain prisoners who would be due to be released in
22 the near future.

23 * Sec. 2. AS 33.20 is amended by adding new sections to read:

24 ARTICLE 3. PRISON OVERCROWDING EMERGENCY ACT.

25 Sec. 33.20.100. CAPACITY OF PRISON SYSTEM. The commissioner
26 shall specify, by regulation adopted under the Alaska Administrative
27 Procedure Act (AS 44.62), the emergency capacity of the state prison
28 system.

29 Sec. 33.20.110. DIRECTOR TO CERTIFY PRISON OVERCROWDING. (a)

1 If the average daily prisoner population in the state prison system
2 exceeds the emergency capacity for a 30-day period, the director shall
3 within 48 hours, certify to the commissioner that a prison
4 overcrowding state of emergency exists.

5 (b) Within 15 days after certifying that a prison overcrowding
6 state of emergency exists, the director shall submit to the commis-
7 sioner and the attorney general a list of all prisoners who are eligi-
8 ble under AS 33.20.140 for early release under (c) of this section.
9 The list must include the offenses for which the prisoners were con-
10 victed, the dates the sentences were imposed, the lengths of sen-
11 tences, and the time remaining to be served on each sentence.

12 (c) If the commissioner confirms the director's certification
13 that a prison overcrowding state of emergency exists, and determines
14 that the average daily prisoner population exceeds the emergency ca-
15 pacity for the 15-day period following the director's certification,
16 he shall release each prisoner eligible under AS 33.20.140 within 72
17 hours.

18 (d) If the average daily prisoner population falls below the
19 emergency capacity for the 15-day period following the director's cer-
20 tification, the prison overcrowding state of emergency terminates, and
21 no prisoner may be released under this section.

22 Sec. 33.20.120. PROBATION SUPERVISION FOR PRISONERS RELEASED
23 EARLY. A prisoner released under AS 33.20.110 shall be placed on su-
24 pervised probation or parole during the period he would have been in-
25 carcerated, as follows:

26 (1) if the prisoner's sentence provides for probation to
27 follow his incarceration, then the probation is to follow the period
28 of supervision resulting from his early release under AS 33.20.110,
29 and the conditions of probation ordered by the court apply during the

1 entire period;

2 (2) if the prisoner's sentence does not provide for proba-
3 tion to follow his incarceration then, during the period of supervi-
4 sion resulting from his early release under AS 33.20.110, probation is
5 imposed and the conditions are that the prisoner violate no state or
6 federal law or municipal ordinance, and that the prisoner abide by the
7 reasonable conditions imposed by his probation officer; or

8 (3) if the prisoner is scheduled to be released on parole,
9 he or she is considered to be on parole during the period of supervi-
10 sion resulting from the early release under AS 33.20.110, and is sub-
11 ject to the conditions of parole established by the board of parole.

12 Sec. 33.20.130. VIOLATION OF CONDITIONS OF PROBATION OR PAROLE.

13 (a) The court may revoke the probation resulting from early release
14 under AS 33.20.110 for violation of a state or federal law, municipal
15 ordinance, or condition of probation.

16 (b) The board of parole may revoke the parole resulting from
17 early release under AS 33.20.110 for violation of a state or federal
18 law, municipal ordinance, or condition imposed by the board.

19 Sec. 33.20.140. PRISONERS ELIGIBLE FOR EARLY RELEASE. A state
20 prisoner who has been sentenced to a period of incarceration is eligi-
21 ble for early release under AS 33.20.110 if, at the end of the 15-day
22 period following the director's certification, the prisoner:

23 (1) has been continuously incarcerated during the 30-day
24 period upon which a prison overcrowding state of emergency, certified
25 by the director, is based;

26 (2) is serving a sentence for a crime other than:

27 (A) a crime against a person under AS 11.41.100 --
28 11.41.530, with the exception of custodial interference in the
29 first or second degree under AS 11.41.320 and 11.41.330;

1 (B) arson in the first or second degree under AS 11.-
2 46.400 or 11.46.410, respectively;

3 (C) criminal mischief in the first degree under
4 AS 11.46.480; or

5 (D) attempt or solicitation under AS 11.31.100 or
6 11.31.110, respectively, to commit any of these offenses listed
7 in this subsection; and

8 (3) has 90 days or less remaining to serve on his sentence.

9 Sec. 33.20.150. FREQUENCY OF EARLY RELEASE. Once prisoners are
10 released under AS 33.20.110(c), the 30-day period upon which a subse-
11 quent prison overcrowding state of emergency would be based does not
12 begin to run until after the commissioner releases prisoners under
13 AS 33.20.110(c) or until a prison overcrowding state of emergency ter-
14 minates under AS 33.20.110(d).

15 Sec. 33.20.160. DEFINITIONS. In AS 33.20.100 -- 33.20.150, un-
16 less the context otherwise requires,

17 (1) "average daily prisoner population" means the total of
18 the daily morning prisoner counts at each state prison facility divid-
19 ed by the number of days for which the counts were taken;

20 (2) "commissioner" means the commissioner of the Department
21 of Health and Social Services;

22 (3) "director" means the director of the division of cor-
23 rections;

24 (4) "emergency capacity" means the maximum number of pris-
25 oners, as determined by the commissioner, which can be held in the
26 state prison system, above which the system cannot adequately function
27 with available resources; and

28 (5) "state prison system" means all state prison facilities
29 which are owned or operated by the state and which hold persons

1 charged with or convicted of violations of law.

2 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-

3 10.070(c).