

Offered: 3/25/83
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 106 (State Affairs)
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 25-day period, the director shall
3 immediately certify to the commissioner that a prison overcrowding
4 state of emergency exists.

5 (b) Within five 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 five-day period following the director's certification,
16 the commissioner shall release each prisoner eligible under AS 33.20.-
17 140 within 72 hours.

18 (d) If the average daily prisoner population falls below the
19 emergency capacity for the five-day period following the director's
20 certification, the prison overcrowding state of emergency terminates,
21 and 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 the prisoner would have
25 been incarcerated, as follows:

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

1 period;

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

9 (3) if the prisoner is scheduled to be released on parole,
10 the prisoner is considered to be on parole during the period of super-
11 vision resulting from the early release under AS 33.20.110, and is
12 subject to the conditions of parole established by the board of
13 parole.

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

15 (a) The court may revoke the probation resulting from early release
16 under AS 33.20.110 for violation of a state or federal law or
17 municipal ordinance for which violation is punishable by imprisonment
18 or condition of probation.

19 (b) The board of parole may revoke the parole resulting from
20 early release under AS 33.20.110 for violation of a state or federal
21 law or municipal ordinance for which violation is punishable by
22 imprisonment or condition imposed by the board.

23 Sec. 33.20.140. PRISONERS ELIGIBLE FOR EARLY RELEASE. (a) A
24 state prisoner who has been sentenced to a period of incarceration for
25 a felony offense is eligible for early release under AS 33.20.110 if,
26 at the end of the five-day period following the director's certifica-
27 tion, the prisoner

28 (1) is serving a sentence for a crime other than:

29 (A) a felony against a person under AS 11.41.100 -

1 11.41.530, with the exception of custodial interference in the
2 first degree under AS 11.41.330;

3 (B) a felony against a person under former AS 11.15.-
4 010 - 11.15.300;

5 (C) arson in the first or second degree under AS 11.-
6 46.400 or 11.46.410, respectively or under former AS 11.20.010 or
7 AS 11.20.020 respectively;

8 (D) criminal mischief in the first degree under
9 AS 11.46.480; or

10 (E) attempt or solicitation under AS 11.31.100 or for-
11 mer AS 11.05.020 or AS 11.31.110, respectively, to commit any of
12 the offenses listed in this subsection if it results in a con-
13 viction for a felony;

14 (2) has 120 days or less remaining to serve on the
15 sentence; and

16 (3) has served at least one-half of the sentence.

17 (b) A state prisoner who has been sentenced to a period of in-
18 carceration for a misdemeanor offense is eligible for early release
19 under AS 33.20.110 if, at the end of the five-day period following the
20 director's certification, the prisoner

21 (1) is serving a sentence of 20 days or longer; and

22 (2) has served at least one-half of the sentence.

23 Sec. 33.20.150. FREQUENCY OF EARLY RELEASE. Once prisoners are
24 released under AS 33.20.110(c), the 25-day period upon which a subse-
25 quent prison overcrowding state of emergency would be based does not
26 begin to run until after the commissioner releases prisoners under
27 AS 33.20.110(c) or until a prison overcrowding state of emergency ter-
28 minates under AS 33.20.110(d).

29 Sec. 33.20.160. DEFINITIONS. In AS 33.20.100 - 33.20.150,

1 unless the context otherwise requires,

2 (1) "average daily prisoner population" means the total of
3 the daily morning prisoner counts at each state prison facility di-
4 vided by the number of days for which the counts were taken;

5 (2) "commissioner" means the commissioner of the Department
6 of Health and Social Services;

7 (3) "director" means the director of the division of cor-
8 rections;

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

13 (5) "felony" has the meaning ascribed to it in AS 11.81.-
14 900(b)(19); and

15 (6) "misdemeanor" has the meaning ascribed to it in AS 11.-
16 81.900(b)(31); and

17 (7) "state prison system" means all state prison facilities
18 owned or operated by the state that hold persons charged with or con-
19 victed of violations of law.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).