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Referred: Health, Education & Social  
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BY M.M. MILLER, CLOCKSIN,  
MARROU, PIGNALBERI AND SUND

1 IN THE HOUSE

2 HOUSE BILL NO. 188

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to alternative correctional facili-  
7 ties for prisoners participating in community service  
8 or employment programs."

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

10 \* Section 1. AS 11.56.340(a) is amended to read:

11 (a) A person commits the crime of unlawful evasion in the first  
12 degree if the person fails to return to official detention on a charge  
13 of a felony following temporary leave granted for a specific purpose  
14 or limited period, including privileges granted under AS 33.30.150,  
15 33.30.250, [OR] 33.30.260, or 33.30.288.

16 \* Sec. 2. AS 11.56.350(a) is amended to read:

17 (a) A person commits the crime of unlawful evasion in the second  
18 degree if the person fails to return to official detention on a charge  
19 of a misdemeanor following temporary leave granted for a specific  
20 purpose or limited period, including privileges granted under AS 33.-  
21 30.150, 33.30.250, [OR] 33.30.260, or 33.30.288.

22 \* Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

23 (e) If the defendant is ordered to serve a definite term of  
24 imprisonment, the court may recommend that the defendant serve all or  
25 part of the term in a correctional restitution center. The term of  
26 service in a correctional restitution center may not exceed the maxi-  
27 mum term of imprisonment that could have been imposed.

28 \* Sec. 4. AS 12.55.055(d) is amended to read:

29 (d) The court may offer a defendant convicted of an offense the

1 option of performing community work in lieu of a sentence of imprison-  
2 ment. Substitution of community work shall be at a rate of eight  
3 hours for each day of imprisonment. A court may not offer substitu-  
4 tion of community work under this section for any mandatory minimum  
5 period of imprisonment or for any period of a presumptive term of  
6 imprisonment.

7 \* Sec. 5. AS 12.55.086(a) is amended to read:

8 (a) When the imposition of sentence is suspended under AS 12.-  
9 55.085, the court may require, as a special condition of probation,  
10 that the defendant serve a definite term of continuous or periodic im-  
11 prisonment, and may recommend imprisonment in a correctional restitu-  
12 tion center, not to exceed the maximum term of imprisonment that could  
13 have been imposed.

14 \* Sec. 6. AS 28.15.291(a) is amended to read:

15 (a) A person may not drive a motor vehicle on a highway or  
16 vehicular way or area at a time when that person's driver's license,  
17 or privilege to drive has been canceled, suspended or revoked in this  
18 or another jurisdiction, or when driving in violation of a limitation  
19 placed upon that person's license or privilege to drive in this or  
20 another jurisdiction. Except as provided in (c) of this section, upon  
21 conviction of a violation of this section, the court shall impose a  
22 sentence of imprisonment of not less than 10 days. The execution of  
23 sentence may not be suspended nor may probation or parole be granted  
24 until the minimum imprisonment provided in this section has been  
25 served; nor may imposition of sentence be suspended. The sentence may  
26 be served in a correctional restitution center if recommended by the  
27 court under AS 12.55.015. In addition, the person's license or privi-  
28 lege to drive shall be revoked, and the person may not be issued a new  
29 license nor may the privilege to drive be restored for an additional

1 period of not less than one year after the date that the person would  
2 have been entitled to restoration of driving privileges.

3 \* Sec. 7. AS 28.35.030(c) is amended to read:

4 (c) Upon conviction under this section the court shall impose a  
5 minimum sentence of imprisonment of not less than 72 consecutive hours  
6 and a fine of not less than \$250 if the person has not been previously  
7 convicted in this or another jurisdiction of driving while intoxicated  
8 under this or another law or ordinance with substantially similar  
9 elements or refusal to submit to a chemical test under AS 28.35.032 or  
10 another law or ordinance with substantially similar elements. Upon  
11 conviction under this section the court shall impose a minimum sen-  
12 tence of imprisonment of not less than 20 consecutive days and a fine  
13 of not less than \$500 if, within the preceding 10 years, the person  
14 has been previously convicted once in this or another jurisdiction of  
15 driving while intoxicated under this or another law or ordinance with  
16 substantially similar elements or refusal to submit to a chemical test  
17 under AS 28.35.032 or another law or ordinance with substantially  
18 similar elements. Upon conviction under this section the court shall  
19 impose a minimum sentence of imprisonment of not less than 30 consecu-  
20 tive days and a fine of not less than \$1,000 if, within the preceding  
21 10 years, the person has been previously convicted in this or another  
22 jurisdiction of more than one of the following offenses or has more  
23 than once been previously convicted of one of the following offenses:  
24 (1) driving while intoxicated under this or another law or ordinance  
25 with substantially similar elements; (2) refusal to submit to a chemi-  
26 cal test under AS 28.35.032 or another law or ordinance with substan-  
27 tially similar elements. The execution of sentence may not be sus-  
28 pended nor may probation be granted except on condition that the  
29 minimum imprisonment provided in this section is served. Imposition of

1 sentence may not be suspended. The sentence may be served in a cor-  
2 rectional restitution center if recommended by the court under AS 12.-  
3 55.015. In addition, if the offense involved driving a motor vehicle  
4 for which a driver's license is required, the person's driver's  
5 license shall be revoked in accordance with AS 28.15.181 and the  
6 vehicle used in commission of the offense may be forfeited under  
7 AS 28.35.036. In addition, the court shall order, and a person con-  
8 victed under this section shall undertake, for a term specified by the  
9 court, that program of alcohol education or rehabilitation that the  
10 court, after consideration of any information compiled under (d) of  
11 this section, finds appropriate.

12 \* Sec. 8. AS 28.35.032(g) is amended to read:

13 (g) Upon conviction of a person under this section, the court  
14 shall impose a minimum sentence of imprisonment of not less than 72  
15 consecutive hours and a fine of not less than \$250 if the person has  
16 not been previously convicted in this or another jurisdiction of  
17 driving while intoxicated under AS 28.35.030 or another law or ordi-  
18 nance with substantially similar elements or refusal to submit to a  
19 chemical test under this section or another law or ordinance with  
20 substantially similar elements. Upon conviction under this section the  
21 court shall impose a minimum sentence of imprisonment of not less than  
22 20 consecutive days and a fine of not less than \$500 if, within the  
23 preceding 10 years, the person has been previously convicted once in  
24 this or another jurisdiction of driving while intoxicated under AS 28.  
25 35.030 or another law or ordinance with substantially similar elements  
26 or refusal to submit to a chemical test under this section or another  
27 law or ordinance with substantially similar elements. Upon conviction  
28 under this section the court shall impose a minimum sentence of  
29 imprisonment of not less than 30 consecutive days and a fine of not

1 (b) The commissioner shall adopt regulations setting standards  
2 for the operation of the centers including

3 (1) requirements that the centers be secure and in compli-  
4 ance with state and local safety laws;

5 (2) standards for disciplinary rules to be imposed on  
6 prisoners confined to the centers;

7 (3) standards for the granting of emergency absence to  
8 prisoners confined to the centers;

9 (4) standards for classifying prisoners to the centers;

10 (5) standards for periodic review of the performance of  
11 prisoners confined to the centers; and

12 (6) standards for a mandatory employment and community  
13 service program in each center to be supervised by a program adminis-  
14 trator employed by the division.

15 Sec. 33.30.262. CONTRACTS FOR OPERATION OF RESTITUTION CENTERS.  
16 The commissioner may enter into an agreement with a public or private  
17 agency to provide necessary facilities under AS 33.30.261 - 33.30.288.  
18 The commissioner may not enter into an agreement with an agency that  
19 is unable to provide a degree of custody, care, and discipline similar  
20 to that required by the laws of the state.

21 Sec. 33.30.263. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL  
22 RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to  
23 serve time in a correctional restitution center unless the commis-  
24 sioner specifically finds that the prisoner meets the eligibility  
25 requirements imposed by this section.

26 (b) To be eligible to serve time in a correctional restitution  
27 center, the prisoner

28 (1) must be employable, agree to obey the rules of the  
29 center and agree to participate in an assigned program of gainful

1 employment or to participate in a community service program without  
2 pay; persons sentenced to serve no more than five days must agree to  
3 perform up to eight hours of community service daily; persons sen-  
4 tenced to more than five days must agree to participate in work as  
5 assigned;

6 (2) may not have been convicted of an offense involving  
7 violence or the use of force, as defined in AS 11.81.900, and may not  
8 have a history of violence; in this section, violence or the use of  
9 force includes possession of a dangerous instrument, as defined in  
10 AS 11.81.900, in the commission of an offense, whether or not the  
11 dangerous instrument was actually used; and

12 (3) may not have been convicted of an offense under AS 11.-  
13 41.410 - 11.41.470 or an offense in the state or another jurisdiction  
14 having elements substantially identical to an offense under AS 11.41.-  
15 410 - 11.41.470.

16 Sec. 33.30.264. COMMUNITY ADVISORY COMMITTEES. The commissioner  
17 shall appoint a community advisory committee for each center, to  
18 consist of five members of the community in which the center is locat-  
19 ed. The committee shall act as a liaison between the community and  
20 the department regarding community concerns with the center.

21 Sec. 33.30.266. EMPLOYMENT AND COMMUNITY SERVICE PROGRAM ADMIN-  
22 ISTRATOR. Duties of the employment and community service program  
23 administrator in each correctional restitution center shall include

24 (1) determining the acceptability of each person recom-  
25 mended for confinement in the correctional restitution center;

26 (2) identifying or creating employment or community service  
27 projects suitable for prisoner involvement;

28 (3) placing suitable prisoners into positions of employ-  
29 ment;

1           (4) placing other prisoners into community service proj-  
2           ects, when available; and

3           (5) promoting public understanding and acceptance of the  
4           employment and community service programs.

5           Sec. 33.30.268. CONDITIONS FOR RESIDENCE IN CORRECTIONAL RESTI-  
6           TUTION CENTER. (a) A center prisoner is required to maintain gainful  
7           employment or satisfactorily participate in a community service proj-  
8           ect when available.

9           (b) A first offender under AS 28.15.291, AS 28.35.030 or 28.35.-  
10          032 is required to participate in a community service project, when  
11          available, while in the center.

12          (c) A center prisoner who violates any law, rule of the center  
13          or specific condition applicable to that prisoner is subject to imme-  
14          diate transfer from the center to a conventional penal institution for  
15          the remainder of the prisoner's term.

16 \* Sec. 10. AS 33.30 is amended by adding new sections to read:

17          Sec. 33.30.282. STATUS OF ENROLLEES. (a) A prisoner enrolled  
18          in the employment and community service program is not an agent,  
19          employee or servant of a correctional institution, the department or  
20          the state.

21          (b) A prisoner going to and from and participating in a com-  
22          munity service project is subject to the provisions of AS 11.56.

23          Sec. 33.30.284. MEDICAL BENEFITS FOR ENROLLEES. Medical bene-  
24          fits for an individual injured while performing community service at  
25          the direction of the state shall be assumed by the state to the extent  
26          not covered by collateral sources. When the state pays medical bene-  
27          fits under this subsection, a claim for medical expenses by the in-  
28          jured individual against a third party is subrogated to the state.

29          Sec. 33.30.286. DISTRIBUTION OF PRISONER'S SHARE. The employer

1 of a gainfully employed prisoner confined to a center shall pay the  
2 prisoner's earnings to the commissioner. The commissioner shall  
3 deposit the earnings in a fund to be paid to the prisoner upon release  
4 from the center after making and distributing deductions for

5 (1) an amount determined by the commissioner for the cost  
6 of the housing, food, and clothing provided to the prisoner;

7 (2) necessary travel expenses to and from work and other  
8 incidental expenses of the prisoner;

9 (3) an amount determined by the commissioner to be neces-  
10 sary for the support of the prisoner's dependents; and

11 (4) an amount determined by the commissioner to be neces-  
12 sary for payment of court ordered fines and restitution to the victims  
13 of an offense committed by the prisoner.

14 Sec. 33.30.288. CONFINEMENT TO THE CENTER. A prisoner shall be  
15 confined to the center at all times except while

16 (1) seeking work;

17 (2) at work and traveling to and from work;

18 (3) attending and traveling to and from a community service  
19 project approved by the commissioner;

20 (4) attending and traveling to and from educational, train-  
21 ing, medical, psychiatric, or other rehabilitation programs approved  
22 by the commissioner; or

23 (5) on emergency absence.

24 \* Sec. 11. AS 33.30.900 is amended by adding new paragraphs to read:

25 (10) "center" means a correctional restitution center;

26 (11) "community service" means work on projects designed to  
27 reduce or eliminate environmental damage, protect the public health,  
28 or improve public lands, forests, parks, roads, highways, facilities,  
29 or education; community service may not confer a private benefit on a

1 person except as may be incidental to the public benefit.