

CS FOR HOUSE BILL NO. 137(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/22/93
Referred: Finance

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing special medical parole for terminally ill prisoners."

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

3 * Section 1. AS 33.16.010(d) is amended to read:

4 (d) A prisoner released on special medical, discretionary, or mandatory parole
5 is subject to the conditions of parole imposed under AS 33.16.150. Parole may be
6 revoked under AS 33.16.220.

7 * Sec. 2. AS 33.16.010 is amended by adding a new subsection to read:

8 (e) A prisoner eligible under AS 33.16.085 may be released on special medical
9 parole by the Parole Board.

10 * Sec. 3. AS 33.16.060 is amended to read:

11 Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall
12 (1) serve as the parole authority for the state;
13 (2) upon receipt of an application, consider the suitability for parole of
14 a prisoner who is eligible for special medical or discretionary parole;

1 (3) impose parole conditions on all prisoners released under
2 discretionary or mandatory parole;

3 (4) under AS 33.16.210, discharge a person from parole when custody
4 is no longer required;

5 (5) maintain records of the meetings and proceedings of the board;

6 (6) recommend to the governor and the legislature changes in the law
7 administered by the board;

8 (7) recommend to the governor or the commissioner changes in the
9 practices of the department and of other departments of the executive branch necessary
10 to facilitate the purposes and practices of parole;

11 (8) upon request of the governor, review and recommend applicants for
12 executive clemency; and

13 (9) execute other responsibilities prescribed by law.

14 (b) The board shall adopt regulations under the Administrative Procedure Act
15 (AS 44.62)

16 (1) establishing standards under which the suitability of a prisoner for
17 special medical or discretionary parole shall be determined;

18 (2) providing for the supervision of parolees and for recommitment of
19 parolees; and

20 (3) governing procedures of the board.

21 * Sec. 4. AS 33.16 is amended by adding new sections to read:

22 Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a
23 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or
24 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term
25 of at least 181 days, may, upon application by the prisoner or the commissioner and
26 in the discretion of the board, be released on special medical parole if the board
27 determines that

28 (1) the prisoner is suffering from a terminal illness; and

29 (2) a reasonable probability exists that

30 (A) the prisoner will live and remain at liberty without violating
31 any laws or conditions imposed by the board;

1 (B) the prisoner will not pose a threat of harm to the public if
2 released on parole; and

3 (C) release of the prisoner on parole would not diminish the
4 seriousness of the crime.

5 (b) If the board finds a change in circumstances or discovers new information
6 concerning a prisoner who has been granted a special medical parole release date, the
7 board may rescind or revise the previously granted parole release date.

8 (c) The board shall issue its decision to grant or deny special medical parole,
9 or to rescind or revise the release date of a prisoner granted special medical parole, in
10 writing and provide a basis for the decision. A copy of the decision shall be provided
11 to the prisoner.

12 Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH
13 SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or
14 arson in the first degree requests notice of a scheduled hearing to review or consider
15 special medical parole for a prisoner convicted of that crime, the board shall send
16 notice of the hearing to the victim at least 30 days before the hearing. The notice
17 must be accompanied by a copy of the prisoner's or commissioner's application for
18 parole submitted under AS 33.16.085. However, the copy of the application sent to
19 the victim may not include the prisoner's proposed residence and employment
20 addresses.

21 (b) A victim who requests notice under this section shall maintain a current,
22 valid mailing address on file with the board. The board shall send the notice required
23 by this section to the last known address of the victim. The victim's address may not
24 be disclosed to the prisoner or the prisoner's attorney.

25 (c) The victim has a right to attend meetings of the parole board in which the
26 status of the prisoner convicted of the crime against that victim is officially
27 considered and to comment, in writing or in person, on the proposed action of the
28 board. Copies of any written comments shall be provided to the prisoner and the
29 prisoner's attorney before action by the board.

30 (d) The board shall consider the comments presented under (c) of this section
31 in deciding whether to release the prisoner on special medical parole.

1 (e) If the victim requests, the board shall make every reasonable effort to
2 notify the victim as soon as practicable in writing of its decision to grant or deny
3 special medical parole. The notice under this subsection must include the expected
4 date of the prisoner's release, the geographic area in which the prisoner is required to
5 reside, and other pertinent information concerning the prisoner's conditions of parole
6 that may affect the victim.

7 * Sec. 5. AS 33.16.140 is amended to read:

8 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the
9 board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the
10 date parole custody ends, shall be furnished to each prisoner released on special
11 medical, discretionary, or mandatory parole.

12 * Sec. 6. AS 33.16.150(a) is amended to read:

13 (a) As a condition of parole, a prisoner released on special medical,
14 discretionary, or mandatory parole shall refrain from conduct punishable by
15 imprisonment under state or federal law or municipal ordinance.

16 * Sec. 7. AS 33.16.150(b) is amended to read:

17 (b) The board may require as a condition of special medical, discretionary, or
18 mandatory parole that a prisoner released on parole

- 19 (1) meet family obligations;
- 20 (2) pursue employment, education, counseling, or training;
- 21 (3) remain within stated geographic limits unless written permission to
22 depart from the stated limits is granted the parolee;
- 23 (4) report upon release to the parole officer assigned to the parolee;
- 24 (5) report as required to the parole officer assigned to the parolee;
- 25 (6) reside at a stated place and notify the board of any change in place
26 of residence;
- 27 (7) not possess or control firearms or other dangerous weapons;
- 28 (8) refrain from possessing or consuming alcoholic beverages;
- 29 (9) submit to reasonable searches and seizures by a parole officer [,]
30 or a peace officer acting under the direction of a parole officer;
- 31 (10) submit to appropriate medical, mental health, or controlled

- 1 substance or alcohol examination, treatment, or counseling;
- 2 (11) submit to periodic examinations designed to detect the use of
- 3 alcohol or controlled substances;
- 4 (12) make restitution ordered by the court under [ACCORDING TO]
- 5 a schedule established by the board;
- 6 (13) refrain from opening, maintaining, or using a checking account or
- 7 charge account;
- 8 (14) refrain from entering into a contract other than a prenuptial
- 9 contract or a marriage contract;
- 10 (15) refrain from operating a motor vehicle;
- 11 (16) refrain from entering an establishment where alcoholic beverages
- 12 are served, sold, or otherwise dispensed;
- 13 (17) refrain from participating in any other activity or associating with
- 14 any other person that the board determines is reasonably likely to diminish the
- 15 rehabilitative goals of parole, or that may endanger the public.

16 * Sec. 8. AS 33.16.200 is amended to read:

17 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in

18 AS 33.16.210, the board retains custody of special medical, discretionary, and

19 mandatory parolees until the expiration of the maximum term or terms of

20 imprisonment to which the parolee is sentenced.

21 * Sec. 9. AS 33.16.900 is amended by adding a new paragraph to read:

22 (11) "special medical parole" means the release by the board before the

23 expiration of a term, subject to conditions imposed by the board and subject to its

24 custody and jurisdiction, of a prisoner who is suffering from a terminal disease.