

HOUSE BILL NO. 416

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE FOSTER

Introduced: 1/31/94

Referred: Health, Education & Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to access to and the distribution of presentence investigation
2 reports, and annulling provisions of current regulations of the Department of
3 Corrections that relate to the distribution of those reports; and amending Alaska
4 Rule of Criminal Procedure 32.1 as it relates to the preparation and distribution
5 of felony presentence investigation reports."

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

7 * Section 1. AS 33.16.130(b) is amended to read:

8 (b) Before the board determines a prisoner's suitability for discretionary parole,
9 the prisoner is entitled to a hearing before the board. The prisoner shall be furnished
10 a copy of the preparole reports listed in AS 33.16.110(a)(2) - (9), shall be
11 [AS 33.16.110, AND] permitted access to, but may not retain in the prisoner's
12 possession, a copy of the presentence report described in AS 33.16.110(a)(1), and
13 shall be permitted access to all other records that will be considered by the board in

1 making its decision except the reports and records [THOSE] that are made
2 confidential by law. The prisoner may also respond in writing to all materials
3 considered by the board, be present at the hearing, and present evidence to the board.

4 * Sec. 2. AS 33.16.170(a) is amended to read:

5 (a) Except as provided in (b) of this section and subject to the limitation
6 imposed by AS 33.16.110(b) on giving a prisoner access to a presentence report
7 described in AS 33.16.110(a)(1), the parole reports listed in AS 33.16.110, and
8 other information obtained and used by the board under this chapter, are confidential
9 and may not be disclosed to anyone other than the board, the sentencing judge, the
10 prosecuting and defense attorneys, the prisoner, the prisoner's attorney, the attorney
11 for the board, the staff of the board, or others granted access to this information under
12 this chapter.

13 * Sec. 3. Alaska Rule of Criminal Procedure 32.1(b)(1) is amended to read:

14 (1) The Department of Corrections shall prepare and deliver the report
15 of the presentence investigation not less than 30 days before the presentencing hearing.
16 The report shall contain any prior criminal conviction, [AND] any finding of
17 delinquency of the defendant, any finding that the defendant was a child in need
18 of aid, [AND] such information about the defendant's characteristics, financial
19 condition, and the circumstances affecting the defendant's behavior as may be helpful
20 in imposing sentence or in granting probation or in the correctional treatment of the
21 defendant, and such other information as may be required by the judge. The
22 presentence report shall comply with the Victims' Rights Act, AS 12.61.100 -
23 12.61.150. The report shall be submitted to the judge, the state's attorney, and the
24 attorney for the defendant; the defense attorney shall not be prohibited from making
25 [PROVIDING] a full copy of the report available to the defendant only for the
26 defendant's information before sentencing, unless the judge enters on the record
27 findings why providing specific portions of the report to the defendant would prove
28 detrimental to the rehabilitation of the defendant or the safety of the public. However,
29 the defendant may not retain a copy of the report in the defendant's possession.
30 Unless otherwise ordered, or except as specifically allowed by other provisions of law,
31 further disclosure of the report shall be limited to agents of the state's attorney or the

1 defendant's attorney, any reviewing courts, and the agencies having charge of the
2 defendant's rehabilitation.

3 * Sec. 4. Alaska Rule of Criminal Procedure 32.1(b)(2) is amended to read:

4 (2) In the event the parties request preparation of a presentence report
5 to aid them in reaching a plea agreement, the judge may order such a report made
6 prior to the time stated in this rule. If a report is prepared prior to entry of a verdict
7 or plea of guilty or no contest, the report shall be submitted only to the parties and not
8 to the judge. A report submitted to the defendant under this paragraph is
9 available to the defendant only for information purposes for reaching a plea
10 agreement, and the defendant may not retain a copy of the report in the
11 defendant's possession.

12 * Sec. 5. REGULATIONS ANNULLED. Each of the following is annulled:

13 (1) 22 AAC 20.125(b), authorizing the Department of Corrections to provide
14 copies of a "parole progress report" to a parole applicant, if the "parole progress report" has
15 the same meaning as "preparole report" under AS 33.16.110, the statute cited in the regulation
16 as its authority; and

17 (2) 22 AAC 20.470, directing the Department of Corrections to provide a
18 parolee "a copy of . . . other adverse material" before a parole revocation hearing, which
19 cites AS 33.16.170, amended by sec. 2 of this Act, as its authority.

20 * Sec. 6. Sections 3 and 4 of this Act take effect only if they receive the two-thirds
21 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.