

H B

293

WHAT HB 293 DOES

I. Establishes New Parole System.

II. Sets Release Dates for Offenders  
Who Committed a Crime before  
July 1, 1981.

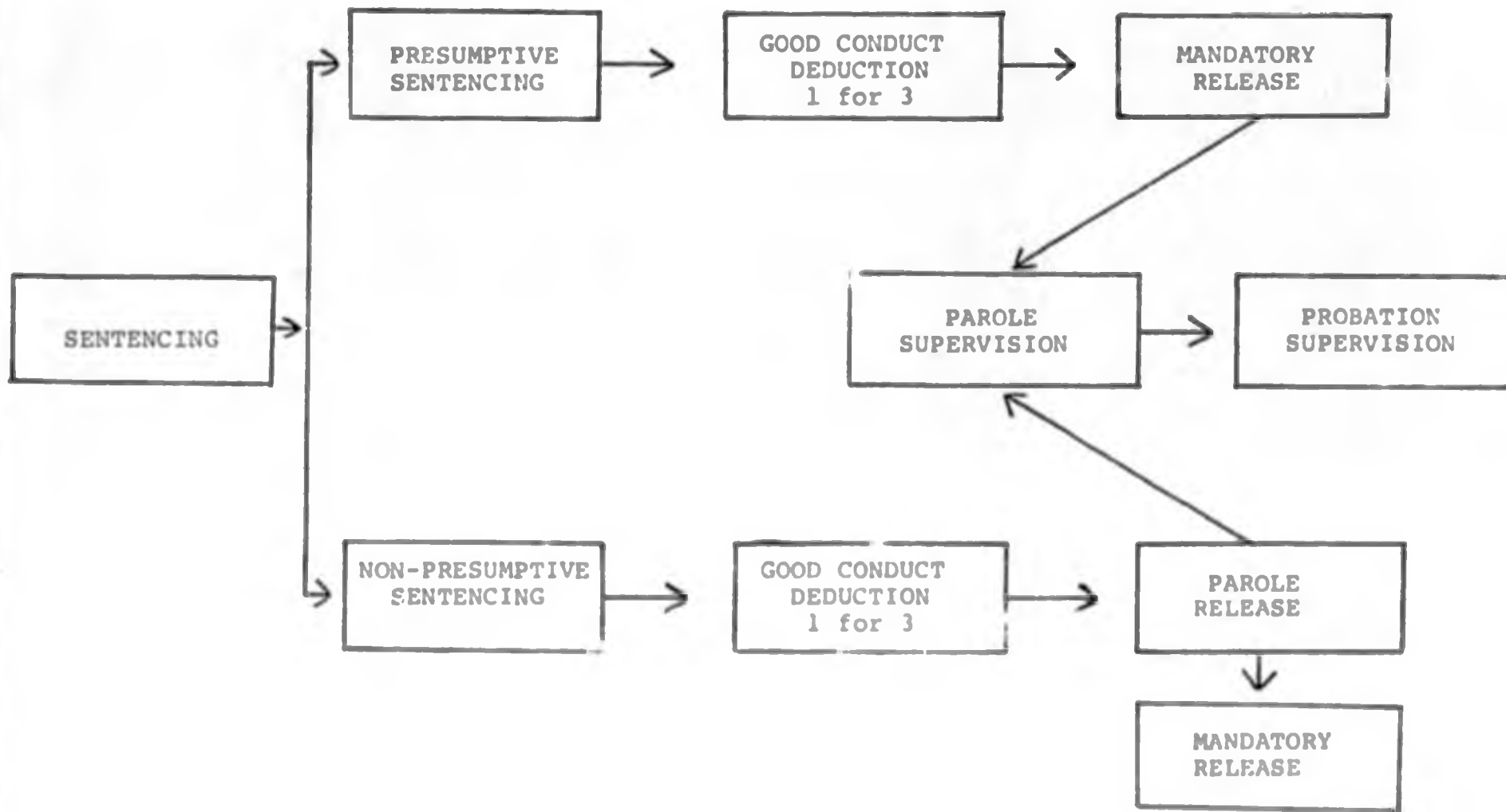
WHY CHANGE CURRENT SYSTEM

- I. Certainty in length of sentence served.
- II. "Just Desserts" theory of punishment.
- III. Rehabilitative programs are more effective.
- IV. Public's "right to know."

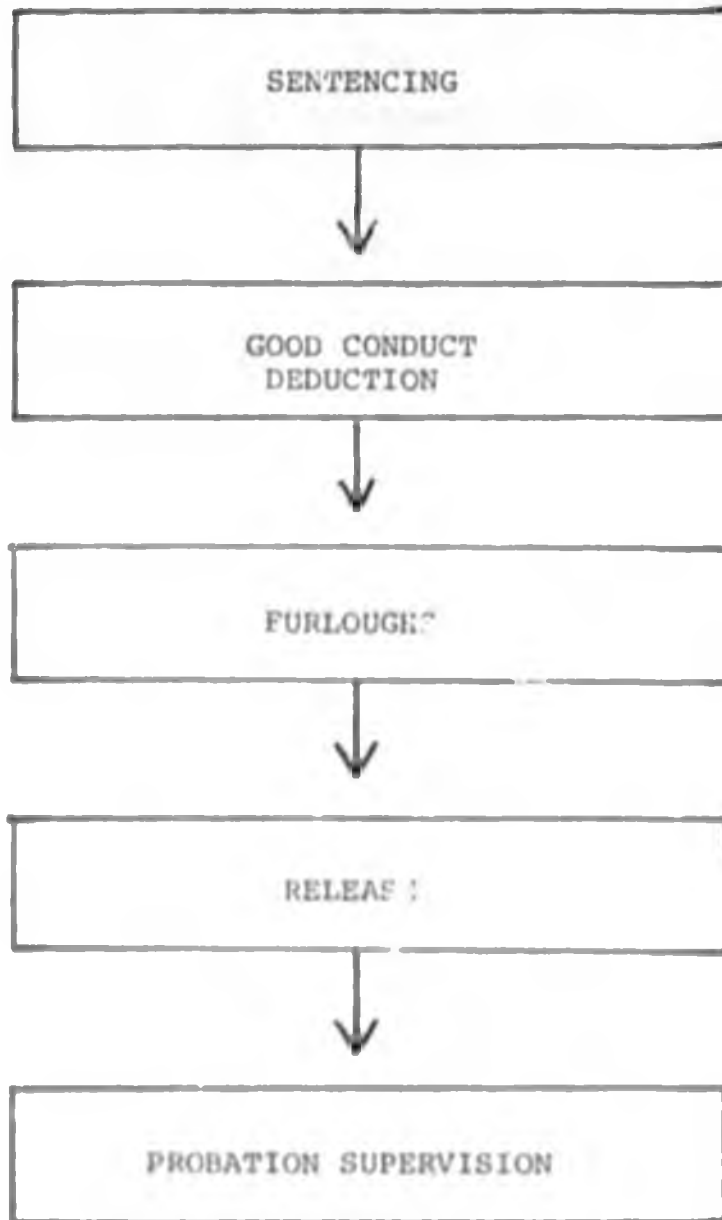
HIGHLIGHTS OF HB 293

- I. Parole Board Sunsets July 1, 1981.
  
- II. Interim Sentence Review and Parole Commission  
For Offenders Who Committed a Crime Before  
July 1, 1981.
  
- III. New Parole System -- Good Conduct Deductions  
Plus Furlough Programs.
  
- IV. Presumptive Sentencing for First Felony Offenders.

CURRENT PAROLE SYSTEM



PAROLE SYSTEM - HB 293



SUMMARY OF HB 293

I. AS 33.16. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

- A. Interim Sentence Review and Parole Commission.
- B. Parole of persons who commit crimes after 7/1/81.
- C. Supervision of prisoners released - probation.
  - 1. Length
  - 2. Conditions
  - 3. Formal/Open
- D. Defendant informed of release date at sentencing.

II. AS 33.30. CORRECTIONAL FACILITIES AND PROGRAMS.

- A. Establishment, Control and Management.
  - 1. Duties of Commissioner
  - 2. Custody of offenders
- B. Programs and Furloughs.
  - 1. Designation of facilities
  - 2. Designation of programs
  - 3. Furloughs
    - a. Types
      - i. Pre-release
      - ii. Short-duration
    - b. Eligibility
- C. General Provisions - Permanent fund dividend eligibility.

III. AS 12.55. SENTENCING.

- A. Probation amendments.
- B. Presumptive sentencing.

INTERIM SENTENCE REVIEW AND  
PAROLE COMMISSION

- A. Three member commission lasts two years.
  
- B. Sets parole release dates for prisoners who are or will be eligible for parole; and
  - 1. committed a crime before 7/1/81; and
  - 2. sentenced before 1/1/83.
  
- C. Hearing required where prisoner has a right to present evidence and cross-examine witnesses.
  
- D. Considerations in setting parole release date include:
  - 1. Whether there was unjustified disparity in sentence imposed; and
  - 2. Whether sentence deviated substantially from sentence under revised criminal code.

GOOD CONDUCT DEDUCTION

I. Computation

- A. One-quarter of sentence if
  - 1. Presumptive sentence for repeat felony; or
  - 2. Murder I, II, or Kidnapping;
  - 3. Life Sentence = 99 years.
- B. One-third of sentence for all other crimes.

II. Forfeiture of Deduction

- A. 90 days maximum for major incidents of bad conduct.
- B. 30 days maximum for minor incidents of bad conduct.
- C. Vesting of 90 days per year for incident-free conduct.

PRE-RELEASE FURLOUGH ELIGIBILITY

- I. If sentence of 5 years or less, eligible after serving one-third of sentence.
  
- II. If sentence of more than 5 years, eligible after serving one-third of sentence, or within 3 years of release, whichever is later.

TYPES OF FURLOUGHS

1. Obtain drug or alcohol treatment or counselling.
2. Vocational training.
3. Secure or engage in employment.
4. Attend school.
5. Prepare for release.
6. Other rehabilitative programs.

PRESUMPTIVE SENTENCING

	<u>FIRST</u>	<u>SECOND</u>	<u>THIRD</u>
<b>A</b>	2-1/2 - (5) - 20 4 - (8) - 20	5 - (10) - 20	7-1/2 - (15) - 20
<b>B</b>	0 - (2) - 10	0 - (4) - 10	3 - (6) - 10
<b>C</b>	0 - (1) - 5	0 - (2) - 5	0 - (3) - 5

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 293

Title An Act Establishing a Parole System and Relating to Correctional Facilities, etc...

Requested by Rules Committee by Request of the Governor Date 3/9/81

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Offender Confinement, Reformation & Supervision

BRU, Program, or Subprogram(s) Affected Adult Confinement

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		126.0	152.9	62.6	68.2	803.1
200 TRAVEL		1.6	1.8	-0-	-0-	14.0
300 CONTRACTUAL		148.5	43.6	825.0	1,251.9	220.6
400 COMMODITIES		2.6	4.3	4.2	6.0	233.1
500 EQUIPMENT		1.4	-0-	1.7	-0-	20.0
600 LAND & STRUCTURES		5,520.0	-0-	-0-	-0-	-0-
700 GRANTS CLAIMS ETC						42.8
<b>TOTAL</b>	<b>-0-</b>	<b>5,800.1</b>	<b>622.6</b>	<b>893.5</b>	<b>1,329.1</b>	<b>1,333.6</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	1	4	2	2	19
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Four specific areas within the Division of Adult Corrections will be impacted as a result of passage of House Bill 293. These are Adult Confinement, Major Medical, Director's Office and, for two-year period, Institutional Counseling. Individual analysis of each area follows:

1. Adult Confinement

As a result of presumptive sentencing, it is anticipated that the prison population will increase by 80 persons. This increase is assumed to occur at a uniform rate of 16 persons per year for five years.

In order to accommodate this increase in the prison population, construction of 80 beds would be requested in FY 1982. These beds would be added to a request for a 200 bed facility already anticipated. The capital funds identified represent the cost of the dormitory space for 80 beds. With funds

IV. DATE 4/9/81 PREPARED BY Jege C. Luge  
AGENCY Health & Social Services / Div. of Corrections  
PHONE 465-4376

Original Legislative Finance  
cc: Budget and Management  
Prime Sponsor (Must Legitimate Name) P&B Approval Date \_\_\_\_\_

appropriated in FY 1982, an opening date of July 1985 for the new beds would be anticipated. At that time, 17 staff positions would be needed to provide for security and program supervision of the 80 bed wing.

Contractual costs for housing the additional prisoners out-of-state would be necessary until July 1, 1985. Computation of these costs are, as follows:

<u>Fiscal Year</u>	<u>Full-Year Equivalents</u>	<u>Average Cost Per Day</u>	<u>Days</u>	<u>Total Cost</u>
1982	8	\$45.53	365	\$132,948
1983	24	49.63	365	434,759
1984	40	51.09	366	791,878
1985	56	58.96	365	1,205,142

2. Major Medical

With the increase in prisoner population, medical expenses related to these prisoners will result in a budgetary need. Costs were developed using an average of 8 prisoners for FY 1982, with an increase of 16 in each of the subsequent fiscal years. The FY 1982 budget figure of \$573.47 per prisoner year cost of medical care was used to compute estimated need.

Inflation for medical costs were estimated to be 11% per year for each of the successive fiscal years. The yearly cost of medical care per prisoner was multiplied by the estimated average prisoner population resulting from this legislation. The yearly costs were computed, as follows:

<u>Fiscal Year</u>	<u>Full-Year Equivalents</u>	<u>Average Cost Per Year</u>	<u>Total Cost</u>
1982	8	\$573.47	\$4,588
1983	24	653.76	15,690
1984	40	745.28	29,811
1985	56	849.62	47,579
1986	72	968.57	69,737

3. Director's Office

Section 33.30.131 - Furlough Involving Employment - stipulates that "when a prisoner is employed outside a correctional facility as a part of a furlough program, his earnings shall be sent by his employer to the commissioner." It is assumed the administrative responsibilities regarding these earnings will be delegated by the Commissioner to the Division of Adult Corrections.

With a large number of offenders in the furlough program, a sizable accounting responsibility for the earnings will result. To accomplish the accountability and disbursement of earnings as specified, an Accountant I position is identified to be hired January 1, 1982 and an Accounting Clerk to be hired July 1, 1983.

The cost of this activity, by fiscal year, is estimated to be

<u>Fiscal Year</u>	<u>Amount</u>
1982	\$18,100
1983	36,400
1984	71,800
1985	76,400
1986	83,400

4. Institutional Counselors

It will be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmate cases must be reviewed so that the inmate could be seen within a two-year period. In order to accomplish this additional increment of activity, it is estimated that 3 new Institutional Counselor positions (Probation Officer II classification) will be needed. The location and costs are, as follows:

<u>Position</u>	<u>Location</u>	<u>Cost - FY 1982</u>
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons inmates)	\$39,664
1 P.O. II	Eagle River/Palmer	39,664
1 P.O. II	Fairbanks	<u>45,202</u>

Total position cost (includes equipment, office space, etc) 124,530

These positions are requested for FY 1982 and FY 1983. During this period, the Institutional Counselors identified will prepare the pre-parole hearing reports for all individuals who committed a crime before July 1, 1981. Upon completion of this task, the specific function will no longer be needed.

It is noted, however, that additional staff is anticipated after June 30, 1983 as a result of several systems of good time calculations being in place. It will be extremely important that these calculations be kept current so that inmates are released at the appropriate time. No costs are included in this fiscal note for this activity increment.

- B. Inflation of 9% per year was used to carry forward all expenditure categories with the exception of medical costs at 14%, as noted above.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. #293  
Title An Act establishing a parole system, etc.  
Requested by Governor Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Health and Social Services  
Program Category Affected Offender confinement, reformation, and supervision  
BRU, Program, or Subprogram(s) Affected Parole Board

(Note: If more than one budget component is affected, set rate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		220.7	210.0	(168.4)	(183.6)	(200.1)
200 TRAVEL		72.0	17.2	(53.2)	(58.0)	(63.2)
300 CONTRACTUAL		32.1	35.0	(16.6)	(18.1)	(19.7)
400 COMMODITIES				(2.5)	(2.7)	(3.0)
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 OTHER (COMPENSATION)		(23.7)	(23.7)	(23.7)	(23.7)	(23.7)
TOTAL		305.4	268.5	(264.4)	(286.1)	(309.7)

FUNDING (Thousands of Dollars)

	(1)	(2)
GENERAL FUND	305.4	268.5
FEDERAL FUNDS		
OTHER (Specify Fund Source)		

POSITIONS

	(1)	(2)
FULL TIME	3	3
PART TIME		
TEMPORARY		

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- (1) Impact of new commission over and above current Parole Board
- (2) Negative impact of no commission or Parole Board

IV. DATE March 19, 1981 PREPARED BY Samuel H. Trivetto  
AGENCY Parole Board  
PHONE 465-3385  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) H&B Approval Date 3/23/81



Total staff and office moving expenses \$ 37,000

Total Moving and Travel \$117,589

C. CONTRACTUAL

a) FY-82 Request = \$14,000

b) Office Space = \$22,050

The Board will need to contract for office space. Current Board office has about 380 sq. ft. in Alaska Office Building. Assume 150 sq. ft. per employee.

Anchorage - 7 x 150 sq. ft. = 1,050 sq. ft.

c) "Time served" data update = \$10,000

Reassess data already collected to identify most recent information on time served by offenders in specific crime categories.

Total Contractual \$46,050

D. COMODITIES

FY-82 Request \$ 2,100

E. EQUIPMENT

Three Double pedestal desks (plain) @ \$534.56 = \$1,603.68

Three Executive Swivel Chairs w/arms @ \$235.54 = \$ 706.62

Two Printing Calculators @ \$273.97 = \$ 547.94

One Lanier Dictating Machine = \$ 582.93

One Lanier Transcribing Machine = \$ 582.93

\$4,024.10

*Jim Masten*

## PAROLE DECISION-MAKING

Parole policies and practices have an direct an effect on corrections as do court actions in pretrial release and sentencing decisions. Parole policies determine, within statutory and judicially determined limits, the length of time a sentenced inmate serves in prison, and the type of conditions that are imposed on his or her parole. The criteria used by the Alaska Parole Board in its decision-making shape the manner in which the Division of Corrections utilizes its institutional and community supervision resources.

As previously stated, if a sentencing guidelines model is adopted, eventually the need for parole as a means of adjusting for sentencing disparities may well disappear, and at this point it will become necessary to consider the statutory abolishment of parole decision-making. However, one must differentiate between paroling decisions and the reintegrative services offered by the Division of Corrections to parolees. Such "parole" services should not be discontinued; whether releasees are released through Parole Board action or at the end of a sentence determined by statute and guidelines, most will continue to require some type of "depressurization" to help them adjust to life in their home communities. Prerelease programs operated by the Division, such as work release and furlough, will become even more critical if parole is abolished. At this juncture, it may also prove to be necessary to statutorily provide for some portion of the

end of every sentence to incarceration to be served under community supervision (similar to the mandatory release law now in effect).

However, it is not likely that parole decision-making will be abolished in Alaska in the near future, since such a step would require a thorough reexamination of the revised Criminal Code, and concerted efforts to develop a guidelines matrix for sentencing decisions which could eliminate the need for Parole Board sentence adjustments. In addition, all inmates sentenced under old sentencing statutes will continue to be eligible for parole for some time to come. Therefore, given that the Parole Board will continue to function in Alaska for the foreseeable future, it is important that the Parole Board's policies and practices are consistent with the state's overall corrections philosophy, and that the Board is provided with sufficient resources and authority to efficiently accomplish its responsibilities. This section describes the current operations of the Board, comparing it with ACA standards, and suggests actions which could be taken to improve the Board's functioning and to enhance coordination between the Board and the Division of Corrections.

Operations of the Alaska Parole Board have attracted limited attention in recent years; the controversy which has surrounded other criminal justice decision-making areas (especially sentencing and correctional

classification) has been largely absent from Alaska's parole decision-making process. Although nationally the fairness of parole decision-making has come under attack from many sources (inmates, corrections agencies, the courts, researches), this has not been echoed in Alaska. This may in part be due to the fact that Alaska's Parole Board has observed the controversies in other parts of the nation, and has reacted with efforts to prevent such conflicts before they arise. In examining the Board's operations, as this section will illustrate, it is apparent that in most respects it meets or even exceeds national standards for adult paroling authorities. In addition, the Board received a grant from the National Institute of Corrections in 1978 to develop a parole guidelines model for Alaska, and work on this task has already commenced. In general, there seems to be a desire to professionalize the operations of the Board, so as to further ensure that decisions will be made in accordance with court requirements and national standards.

#### ORGANIZATION OF THE PAROLE BOARD

For the most part parole decision-making in most jurisdictions in the United States remains in the traditional pattern, dependent upon the judgments of individual board members augmented only by due process procedures imposed by the courts. This is also presently the situation in Alaska. The Alaska Parole Board is composed of 5 part-time members appointed by the Governor for staggered terms of 4 years; as of July 1, 1978 they are paid \$50 a day plus travel expenses when on official

business. The Board is administratively located in the Department of Health and Social Services, but is separate and apart from the Division of Corrections. It has a staff of 3 persons: an Executive Director, a Parole Board Officer, and a clerk. The office is located in Juneau.

The Board has jurisdiction over parole release, rescissions and revocations. The Parole Board is also responsible for processing mandatory release violators. The Board's Executive Director, in addition to performing the administrative work of the Board, is an advisor to the Governor's Executive Clemency Advisory Board and handles administrative duties for the Advisory Board, including investigations and recommendations.

The Board meets every three months at the institutions in Anchorage, Fairbanks and Juneau. At Anchorage hearings are held at Eagle River, and eligible applicants from Third Avenue, Sixth Avenue and Nome are transported to Eagle River for personal appearances. Hearings are also held at Ridgeview and Palmer. At Juneau, The Board also hears the cases of eligible applicants from Ketchikan, who are transported there for this purpose. Every six months two board members or one board member and one staff member travel to federal institutions, to conduct hearings for Alaska prisoners boarded in those institutions. At each institution counselors prepare reports for the use of the Board, assist inmates in the preparation of applications, counsel inmates, and work with community services offices in connection with

arrangements for releases on parole.

The board hears about 300 cases annually, although there may be a considerable variation in number by quarter, from about 60 to 100 or more. On the average, prisoners serve nearly half of their terms before being released on parole. While perhaps half of the applications (the proportion varies by quarter) are denied or continued for future consideration at their initial hearings, approximately two-thirds are eventually granted parole. At any one time there are about 200 offenders on parole, throughout the state.

Under current law prisoners serving more than an 180-day sentence must serve one-third of their maximum sentences (for lifers, 15 years) before becoming eligible for parole; however, the court can increase this one-third minimum up to the maximum sentence length. Under the new sentencing law, to become effective January 1, 1980, only first-time felony offenders will be eligible for parole consideration within the above limits. Under the new code, good time is computed at a ratio of one day off the sentence for every three served with good conduct.

As a result of parole hearings the Board may issue one of three alternative decisions in individual cases: (1) parole denied with no provision for further review (under which the prisoner will serve his full time minus good time), (2) parole granting deferred end date set for a future review, or (3) a grant of parole to an approved release plan.

## OPERATIONS OF THE BOARD

The work of the Board can perhaps best be examined by reviewing the recommended standards of the ACA's Accreditation Commission and comparing them with actual practice in Alaska. The organization of the Alaska Board is generally consistent with these recommendations of the "Manual of Standards for Adult Parole Authorities", which indicate that the Board should have full statutory authority for parole decision-making, it should be autonomous, it should be administratively independent of field services, and it should have the authority to impose general and specific parole conditions. The last recommendation in this section, which permits the use of hearing examiners, is not applicable to Alaska due to the relatively small workload in comparison to other states, excepting where the Board uses parole administrative staff for preliminary revocation hearings.

As suggested by the ACA Commission, the Alaska Board "has power to grant or deny parole and does not serve merely as an advisory body to another official or agency." The Board also "has the statutory power to cause the arrest of parolees and the power to revoke parole," and it has "the statutory power to secure prompt and full information... from institutional staff, parole field staff, and those responsible for the administration of part-way programs, such as halfway houses and furloughs" (although it should be noted that under current practice the use of

halfway houses and furloughs in Alaska is very minimal). The recommendation that written policy should set forth "the roles, functions, duties and responsibilities of the hearing examiners" is implemented in Alaska to the extent that Parole Board staff may conduct preliminary revocation hearings.

The Alaska Board does not have the "statutory power to discharge from parole" which is recommended by the ACA standards. It does have the authority to discharge parolees from supervision, but they must remain in parole status until the end of their terms, minus earned good time.

The seven ACA standards on planning and coordination are only partially implemented in Alaska. The Board does not have "a written set of long-range goals and policies which are developed continuously and reviewed annually..." and does not "document the existence of practical and specific plans to move toward the realization of these long-range goals and policies." The Board does participate "through the agency of which it is a part... in criminal justice planning efforts," but it does not "meet at least annually with representatives of relevant criminal justice agencies...to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans." Nor do members of the Board "meet at least semi-annually with the directors of institutions from which parolees are granted and/or with the head of the jurisdiction's correctional agency" for the same purpose. A mechanism of this kind seems

particularly appropriate and necessary.

The standards recommend similar meetings of Board members with field service staff, but in Alaska this is not done on any formal basis. Also, Board members are to "visit all institutions and a representative sample of the partway facilities in their jurisdiction at least annually, specifically for the purpose of gaining first-hand information about the operations and programs in these facilities from both staff and inmates/residents." The Alaska Board does meet on a quarterly basis at several institutions, but these meetings are exclusively for the purpose of holding hearings.

The last standard states that there should be "documentation that the parole authority promotes and enhances communication with field parole staff through such means as visits, conferences, and seminars at field parole offices." The Executive Director of the Alaska board does visit field offices from time to time to provide advice and some measure of training, although this interaction is limited due lack of time on the part of the Director.

In connection with all of the foregoing recommendations regarding planning and coordination, it is essential to point out that the Board's less-than-perfect compliance with these standards is due primarily to lack of sufficient staff to carry out all these activities. Moreover, it is frequently difficult for part-time Board members to find time to attend the quarterly

institutional hearings, let alone participate in supplementary meetings, visitations, conferences and seminars as recommended by the standards.

The Manual's section on administration and budget has 15 standards, the implementation of which in Alaska is also impeded by the organization of the Board and the lack of adequate staffing. The Board does have a "clearly defined budget" but is not a system "which allows it to weigh the costs of the various functions carried out and thereby plan effectively for the wise allocation of resources". However, the operation of the Board cannot be said to be so elaborate as to require a system of this kind.

The standards provide that the Chairman of the Board should be responsible for the preparation of the budget, that Board members and staff participate in this process, and that the Chairman participates in budget hearings. In Alaska, all of these functions are carried out by the Executive Director, who is not required to consult with the Chairman of the Board members (although such communication usually does occur). The Board does not have the staff needed to carry out "the variety of administrative tasks which are required of it," and while its "space and equipment" is adequate for the present number of staff, the space and equipment, as well as the staff, are not sufficient to meet the requirements of an "effective and efficient processing of the authority's business."

One of the standards recommends that "all current procedures and policies of the parole authority are written and available for public review." The Board does have two manuals which set forth procedures and policies, but these manuals have been modified and supplemented over the years by a variety of memoranda, which are not readily available for public review. As recommended in another standard, the Board does have "skilled legal assistance" available through the Attorney General's office, but it shares this attorney with the Division of Corrections, and occasionally other state agencies as well. The standards stress that "with present-day demands on parole authorities, sufficient and effective legal staff must be available on a continuous basis"; therefore, it is essential that the responsibility of the Assistant Attorney General assigned to work with the Board be clearly defined.

The Board is in general compliance with the standard recommending that the staff be covered by a merit system. However, the staff is not large enough that the recommendations providing for the grouping of tasks, for clear lines of demarcation between administrative personnel, and a supervision ratio of six to one, have any significant relevance.

The Board only recently drafted "a manual of administrative procedures which specifies the operating procedures of the parole authority's administrative staff." The standards also recommend that "all employees of the parole

authority attend staff meetings at least quarterly, where they participate in shaping policies which affect their work." The staff is so limited in numbers and works so closely together that it can virtually be said that they are in continuous staff meeting. The last standard, recommending at least 40 hours of training annually for "all staff who relate to offenders in either a decision-making or a supervisory capacity" would appear to apply to the Executive Director and the Parole Board Officer, but under current circumstances these two persons simply do not have time for this training, nor does the Board have the funds.

The ACA Commission makes a number of recommendations affecting the appointment of Parole Board members:

- members should be chosen through a statutorily or administratively defined system, with explicitly defined criteria, which results in the merit appointment of parole authority members.
- at least two-thirds of the members of the parole authority should have at least a B.A. or B.S. degree in one of the social or behavioral sciences or related fields.
- at least two-thirds of the members should have at least three years experience in a responsible criminal justice or juvenile justice position, or equivalent experience in a relevant profession, such as law or clinical practice.
- both sexes are represented among parole board members, as well as members of the racial and ethnic

groups which are represented significantly in the population of the jurisdiction.

- members of the parole authority do not seek or hold partisan elected office while a member of the authority.
- positions on the parole authority are full-time.
- tenure is no less than 5 years.
- if a fixed term of office is used, the terms of the members are staggered.
- salaries of parole board members are comparable to those paid judges of courts of general jurisdiction (or highest trial court).
- the Board consists of no less than three members.

In Alaska there is no merit system for the appointment of parole board members, nor any statutory requirement as to education and experience. There is a woman on the Board, and the major ethnic groups are represented. The statute does not prohibit members from seeking elective office. The five Board positions are part-time, and tenure is for four years, on a staggered basis. The salary rate, for the time worked, is not comparable to that of a Superior Court judge (which averages about \$200 per day statewide). Obviously, to meet accepted standards, some changes in the method of appointment and status of the Board members are warranted.

The standards also provide for the designation of one of the members as the Chairman, with the

responsibility for coordinating the work of members, acting as official spokesperson for the Board, directing the work of staff, and involving colleagues and staff in the formulation of policy. In Alaska, the Board does have a Chairman, who functions chiefly in that capacity at parole hearings. Due to the part-time status of the Board's members, the other functions are carried out by the Executive Director.

Three other standards, relating chiefly to hearing examiners are not currently applicable to Alaska. However, the last of these, which recommends that Parole Board members receive at least 40 hours of relevant training and education annually, is not in effect in Alaska. Again, considering the part-time status of members and the difficulty they have in finding time even for parole hearings, it would not be feasible to comply with this standard under current circumstances.

The first standard in the ACA Manual relating to management information systems recommends that the Parole Board have "available to it an organized system of information retrieval and review, which is part of an overall research capacity." The discussion on this standard states:

"A parole authority can neither chart new policies, control the applications of old ones, nor even be aware of their consequences without an organized system of information retrieval and review. Not only is such a system important in terms of controlling applications of policy, but also in providing

a base for evaluating different kinds of policy options. It is crucial that parole authority members have competent research personnel who are available to work with them in designing data to be collected and interpreting results."

Three other standards also recommend that the Parole Board should (1) maintain parole outcome measures, such as those developed by the Uniform Parole Reports, (2) receive at least quarterly summaries of the population characteristics and statuses of inmates in the correctional institutions and part-way programs from which paroles are granted, and (3) receive at least quarterly summaries of the population characteristics and statuses of parolees under supervision.

The Board does collect data on parolees, and has available to it the statistics prepared and analyzed by the research staff of the Division of Corrections. But the system is not as elaborate, as organized, nor as structured as the Accreditation Commission's standards call for. The Board itself does not have the staff and resources to develop and operate an information-gathering system on the scale recommended.

The limitations of the Board in this respect also impede its ability to comply with the standard recommending that the Board "receives management information from the institutions and field authorities pertinent to parole policy, that it puts aside regular time for study of this information, and that the authority demonstrate that management

information is considered and acted upon where appropriate." The Board does comply to some extent with the standard recommending that it "or the larger agency of which it is part collaborates with criminal justice and human service agencies in programs of information gathering, exchange, and standardization." As a participant since 1976 in the Uniform Parole Reports program sponsored by the National Council on Crime and Delinquency Center, the Board has enacted the standard recommending that "the parole authority or the larger agency of which it is a part participates in national data collection efforts."

The Board does not have a research capability, but as it moves to carry out its parole guidelines project under the National Institute of Corrections grant, the recommendations of the Accreditation Commission in its section on research would appear to apply. The completion and adoption of the proposed guidelines would implement the recommendation that "statistical and research data are used by parole authority members in decision-making and policy development," as well as the recommendation that "parole authority members participate with researchers in shaping the nature of data to be gathered, the form of its presentation, and the types of questions which are to be addressed." The Commission recognizes that "it is impractical for a parole agency to carry out

internally all research needed," and recommends that in addition to internal research, the parole authority "permits, encourages, and utilizes...research conducted by outside professionals." The Board, as a matter of course, recognizes the principle of the last standard in this research section, which states that "the privacy and interests of offenders, their families and other persons" should be safeguarded.

The Board has substantially implemented the standards in the section on scheduling and information. One of the Board's manuals sets forth "the criteria which are employed...in its decision-making," but whether or not these criteria "are specific enough to permit consistent application to individual cases" is questionable. The fact that the Board applied to the National Institute of Corrections for a grant to develop parole guidelines would suggest to the contrary. However, once developed and adopted, the guidelines would fulfill this recommendation.

In Alaska, offenders are not "scheduled automatically for hearing and review by the parole authority when they are first legally eligible for parole consideration, or within one year after being received in a correctional institution." Offenders must apply for parole, but this requirement would not appear to violate the intent or spirit of this recommendation. Similarly, although Alaska procedure differs, the Board's practice would appear to be consistent with the recommendation that:

"At the first hearing, the parole authority sets a tentative release date. If circumstances prevent the setting of a tentative release date at the first hearing, a subsequent hearing is held within one (1) year for the purpose of setting a tentative release date. In any event, the parole authority gives reasons in writing for any deferral of decision."

At the first hearing, the Board may deny a parole, with no further review, set a date for a future review, or grant a parole to an approved release plan. It also gives the applicant the reasons for a denial of parole or deferral of a decision until a future review date; these reasons are stated in writing and are specific and clear.

A further standard provides that "inmates are not held beyond tentative release dates once fixed, except upon a hearing by the authority at which time the reasons for deferral of parole are articulated in writing." This standard would appear to apply to Parole Boards which fixed advanced parole dates early in the term of sentence; this is not the practice in Alaska. Delays in releasing Alaska prisoners granted parole are infrequent and usually consistent with the standard's observation that "temporary delays may be required because of circumstances surrounding a specific release plan or situation."

The standard providing that "inmates are released earlier than initially anticipated, according to law and in

conformity with the authority's previously established and written criteria" would not appear to be fully applicable to Alaska. The Board may authorize a release earlier than scheduled for various reasons, but not as a result of "the behavior of the inmate in a work-release program, particularly meritorious efforts while in the institution, or a mutually agreed upon program contract." However, one of the Board's manuals does provide that applicants at initial hearings may present "the goals they hope to achieve while incarcerated, and the approximate length of time it will take to achieve them." This would appear to carry out the substance of the Commission's recommendation.

The Board does have "available in writing information about an offender's prior history, his current situation, events in his case since any previous hearing, information about the inmate's future plans, and relevant conditions in the community." Also, the materials in the Board's case files "are appropriately classified, organized, and identified according to the authority's established procedures." However, it does not appear that these materials "are clearly identified as to source, verification and confidentiality," although the Board's instructions as to their preparation include these considerations.

The Board is in substantial compliance with the recommendation that "in those cases which in the opinion of parole authority members require an

examination and opinion by psychiatrists or psychologists, certified members of the appropriate professions are available for such examination and review." For example, under Alaskan law, an offender convicted of lewd and lascivious acts towards a child cannot be parole "until the paroling authority receives a report from a reputable psychiatrist stating the mental condition of the person and stating that the person was under observation while confined in prison." It is the Board's policy that it will not review the case of an applicant who has not been seen by a psychiatrist, and at the time of the hearing the Board must have available to it a recent psychiatric report and a parole progress report in which appropriate attention has been given to this consideration.

The final recommendation in this section states that "the parole authority and the agency of which it may be a part have a written policy regarding the confidential nature of individual case information, and have promulgated specific rules as to the persons who may have access to such information, and the staff who are responsible for the release of that information." While the Board apparently does not have a written policy of this kind, it is reflected in section 302 of the proposed institutional manual of the Division of Corrections. Inasmuch as the Division has custody of the primary case files, the proposed regulation and its detailed procedures would appear to conform to the Commission's recommendation.

The practice of the Board are reasonably consistent with most of the Accreditation Commission's recommendations in the section on hearings. However, the Board's practice does not conform to the Commission's recommendation that "the person conducting the hearing records and preserves a summary of the major issues and findings in the hearing." In this connection the Commission comments:

"It is essential that a record of the events of the hearing be kept for the purpose of subsequent review. It is particularly important for future hearings to be able to review the record of a hearing, and have an awareness of the issues which had been raised previously. The use of dictating equipment is quite appropriate for this purpose."

The Board does not record the hearing or prepare a summary. However, during the hearing, notes are taken.

The Board's practice is generally consistent with the Commission's recommendations on conditions of parole.

However, the Board's practice is in conflict with one standard in this section which recommends that "general conditions for release which apply to all parolees and mandatory releases under supervision are limited to requirements that a parolee observe the law, maintain appropriate contact with the parole system, and notify the parole agency of

changes in residence." The Board's general conditions for parolees and mandatory releasees are rather numerous. However, in view of the trend toward increasing litigation in the corrections field, the Board's practice can be supported. Offenders should be fully advised of the rules and regulations that will be expected of them, so that they cannot charge that the correctional authority failed to inform them. Another standard in this section recommends that "the offender is given an opportunity to present his or her views to the parole authority about specific parole conditions which may be imposed on him or her." While this process is not formally reflected in written policy or procedure, it is informally carried out during the course of the hearing.

The Board's policies and procedures are for the most part in compliance with the standards in the manual on arrest and revocation. These standards discuss procedures for issuance of arrest warrants, use of pretrial release for arrested parolees, the timing and nature of preliminary hearings, and revocation procedures.

However, state law does not permit compliance with the recommendation that "in reimprisonment of the parolee, the parole authority's written policies provide for credit to the parolee for time served on parole in the community," with the Commission noting in this respect:

"Careful review of individual cases is required in reaching the decision on provision of credit to the parolee for time served in the community

when the parolee is reimprisoned for a parole violation. Written policy should state specific criteria for allowing or disallowing credit for time served in the community."

In Alaska, when parole is revoked, the parolee loses all credit for the time spent on parole, and he or she must serve the remainder of his term, less good time credits.

The Parole Board does not have the statutory authority to implement either of the two ACA recommendations concerning discharge from parole. The first of these provides that "The parole authority uses its power to provide both release from active parole supervision, and to grant complete discharge to offenders," with the comment:

"The powers to provide for no active supervision and the discharge of offenders are essential to the parole authority. These powers should be employed frequently. It is both uneconomical, and an unnecessary intrusion in the lives of offenders, to continue active supervision when it is no longer required. It is important that parole authorities look for opportunities to use means other than active parole supervision in individual cases."

The other standard suggests that parolees are not continued under active supervision after two years unless, consistent with the parole authority's written policy, good reasons exist to show that such continued supervision is

required," with the comment:

"There is evidence that the number of violations of parole decline after the first two years under supervision. There is also a tendency for parole systems to continue to exercise active supervision over cases when there is no longer a necessity to do so. A policy should exist stating that continued active supervision of an individual after two years under supervision requires a specific affirmative justification."

Alaska statutes do authorize the Board to adopt rules and regulations for discharge from supervision but do not provide for complete discharge from parole statutes. Under the Board's written policy a parolee may petition the Board for a conditional discharge from parole supervision. The parolee must discuss this request with the supervising parole officer, and receive a favorable recommendation from that officer. The Board hears these requests at its regularly scheduled quarterly meetings, and to be considered, the parolee must usually have served at least one year on parole with satisfactory performance. If the parolee is granted early discharge from supervision, he or she is no longer supervised but remains under the jurisdiction of the Board until his or her sentence expiration date, less good time. If the unsupervised parolee violates the conditions of parole, his or her parole may be revoked; alternatively if it is later determined that he or she requires parole supervision, the parolee may be reinstated to active supervision for the

remainder of his or her sentence. Thus, many cases not actively supervised remain on the paper caseload of the Board, some for many years; this may in part account for the relatively high percentage of murder convictees observed among parolees (see survey data).

The Parole Board is not sufficiently staffed to carry out as fully as might be desirable the remaining four recommendations of the Accreditation Commission, related to public legislative relations:

- The parole authority provides evidence of a public information program, which includes the development and distribution of information about the authority, its philosophy and operations.
- The parole authority publishes a report, at least biennially, which conveys the major work of the authority, and describes trends in parole release, revocation and discharge, along with similar information.
- The parole authority has a written policy which assures that accurate and timely information on cases is disseminated to the public (including written policy as to who is to provide such information and how it is to be provided).
- The parole authority maintains regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purpose of offering advice and opinions on appropriate

legislative matters.

The Board does not collect basic information and data concerning its operations, but these are not analyzed and presented in the structured and systematic way apparently contemplated by these standards. However, when requested to do so with reference to particular issues, the Executive Director of the Board does work closely with appropriate legislative committees.

#### Summary of Recommendations

As can be seen from the foregoing, the Alaska Parole Board is doing nearly all that it can within its current capabilities and limitations to operate a professionally competent parole authority. With some organizational changes and minor increases in staff it can do even better. However, the relatively small size of the Alaskan corrections system--in terms of the number of prisoners and parolees--will continue to dictate some compromises with the recommendations of the Accreditation Commission. The present status of the Alaska Parole Board presents an excellent base upon which to build, and it would appear highly desirable to undertake those additional steps which would improve the professional capability and efficiency of the Board.

For professional decision-making and operations, the Parole Board should be reorganized. While the current members of the Board are doing as well as can be expected under the circumstances that exist, the members are

reportedly hard-pressed to find time for their parole duties since Parole Board business requires 40 to 60 days annually of a member's time and there is an excessive turnover among members. Also, while under the current structure, the overburdened Executive Director is capably directing the work of the Board with its limited resources, the arrangement under which he in effect must perform the duties that normally would be assigned to the Board Chairman is somewhat awkward. Alaska should have a professionally qualified and structured board.

It is therefore recommended that legislation be enacted providing that:

- a. the Alaska Board of Parole be composed of three full-time members.
- b. appointments be made by the Governor from a panel of candidates submitted by the Commissioner of Health and Social Services, preferably with the aid of an inter-governmental committee.
- c. candidates for appointment to the Board should have a background of education and experience in the social or behavioral sciences, criminal justice, the law or clinical practice.
- d. the Board should represent the major ethnic and minority groups found in Alaska.
- e. the salary of Board members should provide adequate compensation for their work.

f. the Board members should be located in Juneau.

g. the Governor should designate one of the members as Chairman, who would serve as the operational head of the Board.

The caseload of the Parole Board is not sufficient to require the then full-time members of the Board to spend all of their time in parole decision-making. However, under the direction of the Chairman there are numerous other essential activities that could more than occupy their available time: (1) formulation of Parole Board policy, (2) budget preparation, (3) development of manuals (administrative, rules and regulations), (4) coordination with other criminal justice agencies, (5) public information and liaison, (6) their own training and the training of Parole Board and parole field services personnel, (7) review of appeals, and (8) information-gathering visitations to the facilities, both institutional and community-based, of the Division of Corrections.

The staff of the Board should be reorganized and augmented. With the Chairman directing the work of the Board, the position of Executive Director should be reconstituted as that of Staff Director, reporting directly to the Chairman. Another administrative assistant should be appointed, making a total of two, and the clerical staff increased to a total of 3. These personnel would assist the members of the Board in carrying out their respective responsibilities, as assigned by the Chairman. The

additional staff would make it possible for the Board to undertake tasks that are not now within its capabilities, particularly in the areas of research, report preparation, manual preparation and updating, and the increasingly detailed procedures that are being imposed upon modern paroling authorities. It is essential that the staff be enlarged, even if Board members are full-time appointees.

The Board should also have an Assistant Attorney General assigned to assist in the formulation of its policy and procedure, to review legal issues raised in individual cases, and to provide advice to Board members to assure that its work is carried out in accordance with the Constitution, as reflected in the mandates of the U. S. Supreme Court, and with the laws of the State of Alaska. The Attorney General's office presently provides such services, but it would be desirable for one AAG to be assigned to work exclusively with the Parole Board and the Division of Corrections. Parole boards elsewhere are becoming more heavily involved in litigation, as parole policies, rules and regulations are challenged in the courts, and such a designation would help to ensure that the assigned AAG would have sufficient time to work both to minimize such litigation and to facilitate the handling of litigation when actions are filed against the Board.

With the appointment of a full-time three-member Board, hearing procedures should be changed to

provide for parole grant and revocation hearings to be conducted by a two-member panel of Board members, composition of the panels alternating among the three members as directed by the Chairman; at present hearings are attended by three to five members of the Board. Also, one of the members should be designated to conduct the hearings; at present, the Executive Director of the Board performs this function. Preliminary hearings should be conducted by a single Board member.

All hearings--parole, parole rescission, parole revocation--should be recorded. This can be done electronically. The recordings need not be transcribed, but should be filed for availability in connection with appeals and litigation. At the conclusion of the hearing in individual cases, a Board member should dictate a short summary of the proceedings according to a format prescribed by the Board. These summaries should be transcribed by Board staff, and made a part of Parole Board records.

With a three-member Board, it is not possible to establish a procedure for considering an appeal by members who were not involved in the decision being appealed from. However, as a compromise the appeal should initially go to the Board member who was not a part of the two-member panel who made the decision. This member should be authorized to deny the appeal on his or her own signature. However, if he or she feels there are grounds for a different decision, the appeal

may be sent to the other two Board members together with the recommended decision and reasons for it, and if one of these members concurs, the original decision will be changed as recommended. If neither concurs, the original decision would stand and the appeal would be denied.

The adoption of a parole guidelines or matrix system similar to that in use in the federal system, Oregon and Michigan should be considered a long-range effort. Guidelines in use elsewhere cannot be applied to the Alaska prisoner population without considerable modification and research. While the guidelines in use in various jurisdictions have some common elements, the prisoner population differs in some respects from one jurisdiction to another, and this would particularly appear to be the case in Alaska. For example, guideline models usually includes a factor taking into consideration whether the offender was unemployed at the time of his crime or for a period of time prior to the crime. In Alaska, it would seem that the unemployment of a native offender who resides in a remote area in a subsistence economy would not have the same significance as unemployment would for a Caucasian in an urban area.

To develop a guidelines model in Alaska will require extended research into the decisions made by the Board in the past, and a trial run and an in-depth evaluation for a period of time on a sample of the Alaskan

either by parole or by mandatory release (the latter in effect a denial). Prisoners with maximum terms of more than five years would be heard at least a month prior to the completion of their minimum terms, also for the purpose of setting a presumptive release date, either by parole or by mandatory release, setting an effective date of parole, or setting a future date for a reconsideration hearing.

Where presumptive release dates have been set, the case should be reviewed administratively by a Parole Board member two to three months prior to the presumptive release date, to determine whether the conditions of the presumptive release date have been satisfied. Upon the basis of his or her findings, the member should be authorized to approve the parole date, advance or retard the parole date for good cause, or refer the case to a two-member panel for a rescission hearing at the next regularly scheduled quarterly meeting of a panel at the institution where the offender is confined.

The actual provisions of a proposal of this kind should be much more detailed. However, under this general procedure prisoners would be much more aware of their parole status than they presently are during the course of their confinement. Also, the Division of Corrections, with a similar awareness of prisoners' parole status, would be in a more informed position to make decisions concerning the prisoner such as custody classification

and assignment to community-based programs (halfway houses, furloughs and work, educational or vocational training release). It would give the prisoner, the Division of Corrections, and the Parole Board a mutual understanding of what would be expected of the offender during his or her imprisonment, and could facilitate joint programming and release preparation programming decisions.

A mechanism should be established within the Department of Health and Social Services to assure that the Board of Parole and the Division of Corrections function under a common correctional philosophy and policy. At present there appears to be some difference in the goals of these two organizations. As indicated in other sections of this master plan, for example, the Division of Corrections makes virtually no use of the community-based programs that are useful for pre-parole testing and preparation. Also, the Board has a very limited role in training parole supervision personnel, other than the occasional participation of the Executive Director. Joint meetings of Division of Corrections and Parole Board personnel should be established on a regular basis, to evaluate programs affecting parole readiness and to work out procedures under which, for example, the Parole Board may, in its decisions in individual cases, require that applicants be sent to halfway house or prerelease center for a period of time before the parole date becomes effective. Such considerations involve the use of personnel and funds of both agencies, and management policies and decisions affecting them should be worked out on a mutual basis.

FISCAL NOTE

HB  
293

I. REQUEST  
Bill/Resolution No. HOUSE BILL NO. 283  
Title Parole System relating to Correctional Facilities  
Requested by \_\_\_\_\_ Date MARCH 9, 1981

II. FISCAL DETAIL  
Agency Affected Department of Health & Social Services  
Program Category Affected Offender Treatment, Rehabilitation and Supervision  
BRU, Program, or Subprogram(s) Affected Adult Confinement, Probation and Community Programs  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	830.2	840.2	722.0	722.0	722.0	801.2
200 TRAVEL	20.2	20.2	20.2	20.2	20.2	20.2
300 CONSTRUCTION	1,801.2	1,811.2	1,821.2	1,831.2	1,841.2	1,851.2
400 COMMODITIES	11.2	11.2	11.2	11.2	11.2	11.2
500 EQUIPMENT	18.2	18.2	18.2	18.2	18.2	18.2
600 LAND & BUILDINGS						
700 GRANTS CLAIMS ETC	20.0	21.8	21.8	21.8	21.8	21.2
<b>TOTAL</b>	<b>2,901.0</b>	<b>2,943.7</b>	<b>2,772.7</b>	<b>2,772.7</b>	<b>2,772.7</b>	<b>2,904.2</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	2,379.9	2,543.7	2,772.7	2,772.7	2,772.7	2,794.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
REGULAR	12	12	12	12	12	12
SEASONAL						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)  
Continuing analysis may require revision of this fiscal note.

The concept represented by the bill places great reliance on community-based correctional programs as a means of off-setting the effect of there no longer being a discretionary parole function. This is a valid notion, provided we avoid placing people on extended furloughs in lieu of releasing them on parole and providing the Division of Adult Corrections is able to continue to utilize sound practices in administering its community-based correctional programs. This involves placing careful time limitations on the community phases of the correctional sentence.

IV. DATE MARCH 9, 1981 PREPARED BY Roger C. Lane  
AGENCY Department of Health & Social Services  
Original: Legislative Finance  
cc: Budget and Management  
Phone Speaker (If Not Legislator Name)

File 5-8

The Division of Adult Corrections can significantly reduce the number of offenders in community programs without resorting to improved, questionable practices, but to do so will require a significant increase in resources.

It is estimated that within two years we will be able to have 150 persons on some type of furlough status, or about 100 more than are presently in furlough placement. The probation/parole unit has been given the responsibility to supervise and provide resources to the persons placed on furlough. The workload standards, for the most part, will have to be changed for the investigation, reporting and supervision portions of the job because employees will be dealing with inmates, rather than just probationers and parolees. Inmates on furlough will require more scrutiny and resources, at least during the initial phase of release, than probationers and parolees, generally speaking, in order to help ensure community protection.

In order to provide the increased services, the Probation and Community Based Unit will need the following positions.

Position	Location	FT '52	Cost
1 P.O. II	Michigan	Investigation, supervision & arrange services	\$68,424
1 P.O. II	Ann Arbor	Investigation, Supervision	\$68,424
1 S.W. III	Ann Arbor	Arrange services, & supervise Center	\$43,125
1 P.O. II's	Ann Arbor	Investigation, Supervision	\$68,424
1 Com. Clerk	Ann Arbor	Arrange services	\$29,797
1 C.T. III	Ann Arbor	Clerical support	\$29,797
1 P.O. II	Fairfield	Investigation, Supervision	\$58,662
1 Com. Clerk	Fairfield	Arrange services	\$43,224
1 C.T. III	Fairfield	Clerical support	\$29,797
1 P.O. II	Detroit	Investigation, Supervision, Arrange services	\$77,226
1 P.O. II	New	Investigation, Supervision, Arrange services	\$77,226
Total position cost (includes equipment, office space, etc.)			\$524,363

In addition, approximately 100 more community program beds will be utilized at estimated cost of \$1,420,000.

It will also be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmate cases must be reviewed so that the inmate could be seen within a two year period. In order to accomplish this additional amount of activity, it is estimated that five new Institutional Counselor positions (Probation Officer if classification) will be needed. The location and cost, etc. are follows:

<u>Position</u>	<u>Location</u>	<u>Cost - FY 1982</u>
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons Location)	\$39,664
1 P.O. II	Eagle River	\$39,604
1 P.O. II	Palmer	\$40,406
1 P.O. II	Fairbanks	\$45,202
1 P.O. II	Juneau	\$39,964

Total Position cost (includes  
equipment, office space, etc.) \$203,840

It is assumed that there will be a constant 9% inflation rate through FY 1986. This percentage was applied to the applicable FY 1982 costs in computing subsequent fiscal year estimates.

16 new employees

This bill prohibits the public from participation, et. system can easily cover up its own mistakes. All new State employees would be involved - on the job training etc. Parole Board related membership.

Introduced: 3/9/81  
Referred: Health, Education & Social Services and Finance

1 IN THE HOUSE  
2 quite confusing

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 293

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act establishing a parole system and relating to  
7 correctional facilities, furlough programs, and sen-  
8 tencing; and providing for an effective date."

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

10 \* Section 1. AS 33 is amended by adding a new chapter to read:

11 CHAPTER 16. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

12 Sec. 33.16.005. DECLARATION OF LEGISLATIVE PURPOSE. The purpose  
13 of this chapter is to create a parole system as required by art. III,  
14 sec. 21 of the Alaska Constitution, by establishing programs for the  
15 reintegration of offenders into society and by providing for the early  
16 release of offenders subject to varying levels of supervision outside  
17 prison.

18 Sec. 33.16.010. INTERIM SENTENCE REVIEW AND PAROLE COMMISSION.

19 (a) There is established in the Department of Health and Social Ser-  
20 vices the interim sentence review and parole commission consisting of  
21 three members appointed by the governor. The governor shall appoint  
22 commission members on the basis of their qualifications to make deci-  
23 sions that are compatible with the welfare of the community and of  
24 individual offenders and their ability to consider the character and  
25 background of offenders and the circumstances of offenses. The governor  
26 shall designate the presiding officer of the commission.

27 (b) The governor shall seek nominations for commission members  
28 from civic, professional, and ethnic organizations in the state and  
29 shall make appointments to the commission with due regard for repre-

1       sentation of the racial, ethnic, sexual, and cultural populations of  
2       the state.

3           (c) Members of the commission are in the exempt service and are  
4       entitled to a monthly salary equal to Step A, Range 26 of the salary  
5       schedule in AS 39.27.011(a) for Juneau, Alaska. Members of the commis-  
6       sion are entitled to travel and per diem authorized by law for members  
7       of state boards and commissions under AS 39.20.180.

8           Sec. 33.16.020. QUORUM. Two members of the commission constitute  
9       a quorum for the conduct of business. Decisions and orders of the  
10      commission require the votes of a majority of the members present. The  
11      commission or a member of the commission may issue subpoenas and sub-  
12      poenas duces tecum enforceable in the superior court.

13          Sec. 33.16.030. EXECUTIVE DIRECTOR. The commission may hire an  
14      executive director who has training and experience in the field of  
15      probation and parole. The executive director shall serve as the admin-  
16      istrative officer of the commission at the pleasure of the governor.  
17      The executive director may employ a staff for the commission

18          Sec. 33.16.035. RESPONSIBILITIES OF THE COMMISSION. The commis-  
19      sion shall determine parole eligibility of prisoners, set parole release  
20      dates, and establish conditions of parole.

21          Sec. 33.16.040. PAROLE ELIGIBILITY OF PRISONERS WHO COMMITTED A  
22      CRIME BEFORE JULY 1, 1981. (a) Except as provided in (f) and (g) of  
23      this section, a state prisoner, other than a juvenile delinquent, who  
24      committed a crime before July 1, 1981, and who is serving a definite  
25      term of imprisonment of more than 180 days, is eligible for parole once  
26      he has served at least one-third of the period of confinement to which  
27      he was sentenced, unless at the time of sentencing the court designated  
28      a longer minimum term of imprisonment before he would be eligible for  
29      parole. If the prisoner was sentenced to a life sentence, he is eligi-

We have just gotten into the new criminal code law and presumptive sentencing. Let the current parole board continue to work with these. They have had time to adjust.

However with this new proposal coming right with the heel of ~~these~~ two new programs we have much confusion and risk to the public,

1 ble for parole once he has served 15 years.

2 (b) By June 30, 1983, the commission shall set a parole release ~~the prisoner and need~~  
3 date for each prisoner sentenced before January 1, 1983, who is or will ~~too much leniency to give fair, human~~  
4 be eligible for parole under (a) of this section. ~~hearings.~~

5 (c) Commencing July 1, 1983, the executive clemency advisory  
6 board shall set a parole release date for each prisoner who is or will  
7 be eligible for parole under (a) of this section who is sentenced on or  
8 after January 1, 1983. ~~By Parol board under complete control~~

9 (d) The parole release date required to be set under (b) and (c)  
10 of this section shall be fixed at a date not earlier than the date the ~~of the adm. they can have dictatory~~  
11 prisoner will be eligible for parole under (a) of this section and not ~~control over prisoners for exaggerated~~  
12 later than the prisoner's earliest possible release date. ~~not following correction Div rules etc.~~

13 (e) For purposes of (d) of this section, "earliest possible re-  
14 lease date" means the earliest date that the prisoner would be released  
15 through an application of former AS 33.20.010 enacted in ch. 107 SLA  
16 1960, or former AS 33.20.010 enacted in ch. 166 SLA 1978, as appli-  
17 cable.

18 (f) A state prisoner whose release under (b) or (c) of this sec-  
19 tion is revoked under AS 33.16.090 or who is imprisoned under a pre-  
20 sumptive sentence, whether or not adjusted for aggravating or mitigat-  
21 ing factors, for a second or third felony conviction under AS 12.55.125  
22 or for a first felony conviction under AS 12.55.125(c)(1), is not  
23 eligible for parole consideration. The prisoner shall be released on  
24 parole at the expiration of his sentence less the good conduct deduc-  
25 tion provided for in AS 33.16.080 under the terms and conditions set  
26 out in AS 33.16.090 and 33.16.100.

27 (g) A state prisoner imprisoned in accordance with AS 12.55.125(a)  
28 or (b) is not eligible for and may not be released on parole until he  
29 has served at least the prescribed minimum term of imprisonment.

1           Sec. 33.16.050. PAROLE ELIGIBILITY OF PRISONERS WHO COMMIT A  
2 CRIME AFTER JUNE 30, 1981. A state prisoner, other than a juvenile  
3 delinquent, who commits a crime after June 30, 1981, and who has been  
4 sentenced to serve a definite term of imprisonment in excess of three  
5 days

6           (1) shall be released at the expiration of his sentence less  
7 the time deducted for good conduct provided for in AS 33.16.080 under  
8 the terms and conditions set out in AS 33.16.090 and 33.16.100; and

9           (2) is eligible for participation in furlough programs in  
10 accordance with AS 33.30.091 -- 33.30.131.

11           Sec. 33.16.060. HEARING ON PAROLE RELEASE DATE. (a) The com-  
12 mission or the board, as applicable, shall hold a hearing to set a  
13 parole release date under AS 33.16.040.

14           (b) In setting a parole release date, the commission or board, as  
15 applicable, shall consider

16           (1) whether there was unjustified disparity in the sentence  
17 imposed in relation to other sentences imposed under similar circum-  
18 stances;

19           (2) whether the sentence imposed deviated substantially from  
20 the sentence that would have been imposed under the revised criminal  
21 code;

22           (3) information submitted by the prisoner, his attorney, the  
23 prosecuting attorney, the victim of the crime, and other interested  
24 persons;

25           (4) reports of physical, mental, and psychiatric examinations  
26 of the prisoner;

27           (5) the pre-sentence report including the prior record of  
28 convictions;

29           (6) the recommendations made by the sentencing court, and by

1 the parties at sentencing;

2 (7) the prisoner's conduct while in prison;

3 (8) the prisoner's parole release plan; and

4 (9) the pre-parole report specified in (c) of this section.

5 (c) The commissioner shall have a pre-parole report completed for  
6 each prisoner and shall furnish it to the commission or board with any  
7 recommendations which would be helpful in setting a parole release  
8 date.

9 (d) The prisoner shall be provided reasonable notice of the hear-  
10 ing, which shall be open to the public. The prisoner shall be permit-  
11 ted to have access to all information and records which will be consid-  
12 ered at the hearing no less than 30 days before the hearing and has a  
13 right to enter written responses to the information and records.

14 (e) The prisoner has a right to be present at the hearing, to be  
15 represented by an attorney, to present evidence on his behalf, and to  
16 cross-examine witnesses who testify against him. If the prisoner  
17 qualifies for a representation by the public defender agency under  
18 AS 18.85, the agency shall be notified and shall undertake his repre-  
19 sentation.

20 (f) The reasons for the parole release decision shall be stated  
21 in writing and provided to the prisoner.

22 Sec. 33.16.070. ADJUSTMENT OF RELEASE DATE. After a release date  
23 has been set or provided for under AS 33.16.040 or 33.16.050, a pris-  
24 oner who

25 (1) forfeits any amount of the good conduct deduction under  
26 AS 33.16.080 has his release date automatically extended by that amount;

27 (2) has any amount of good conduct deduction reinstated  
28 under AS 33.16.080 has his release date automatically accelerated by  
29 that amount;

1 (3) was convicted of a crime before January 1, 1980, and  
2 earns any amount of additional good conduct deduction under former  
3 AS 33.20.020, as enacted in ch. 107 SLA 1960, has his release date  
4 automatically accelerated by that amount.

5 Sec. 33.16.080. COMPUTATION OF GOOD CONDUCT DEDUCTION. (a) Ex-  
6 cept as limited by (b) of this section, a state prisoner, other than a  
7 juvenile delinquent, convicted of an offense against the state and  
8 sentenced to a term of imprisonment in excess of three days, who has  
9 observed the rules of the institution in which he is confined and the  
10 rules and conditions pertaining to a furlough program in which he  
11 participates, is entitled to a good conduct deduction of

12 (1) one-quarter of any term or portion of a term of impris-  
13 onment served on or after July 1, 1981, if he was sentenced

14 (A) to a presumptive sentence, whether or not adjusted  
15 for aggravating or mitigating factors for a second or third  
16 felony conviction under AS 12.55.125 or for a first felony convic-  
17 tion under AS 12.55.125(c)(1);

18 (B) under AS 12.55.125(a) or (b); or

19 (C) to a life sentence, in which case the good conduct  
20 deduction shall be computed as if the sentence were 99 years;

21 (2) one-third of any term or portion of a term of imprison-  
22 ment served on or after July 1, 1981, if he was sentenced for a crime  
23 not subject to the sentencing provisions set out in (1) of this subsec-  
24 tion.

25 (b) A prisoner who has been sentenced for a crime that requires  
26 imposition of a mandatory minimum term of imprisonment is entitled to  
27 the deduction set out in (a) of this section, except that the deduction  
28 only applies to the term of imprisonment that is in excess of the  
29 mandatory minimum term of imprisonment. As used in this section,

1 "mandatory minimum term of imprisonment" means that

2 (1) imprisonment for the prescribed minimum term may not be  
3 suspended under AS 12.55.080;

4 (2) imposition of sentence may not be suspended under AS 12.  
5 55.085;

6 (3) imprisonment for the prescribed minimum term may not be  
7 otherwise reduced.

8 (c) If the good conduct deduction applicable at the time the  
9 defendant committed his crime would result in a greater deduction than  
10 authorized under (a) or (b) of this section, the prior deduction  
11 applies.

12 (d) The deductions granted under this section may be forfeited in  
13 increments of up to 90 days for each major incident of bad conduct and  
14 in increments of up to 30 days for each minor incident of bad conduct  
15 as defined in regulations adopted by the commissioner. For each full  
16 year of incident-free conduct, 90 days of good conduct deduction vests  
17 and may not subsequently be forfeited. Good conduct deductions that  
18 have been forfeited may be reinstated under regulations adopted by the  
19 commissioner.

20 Sec. 33.16.090. PAROLE SUPERVISION. (a) A prisoner released on  
21 parole is subject to the jurisdiction of the sentencing court and the  
22 supervision of the commissioner and is on probation. The period of  
23 supervision consists of any period of the term of imprisonment not  
24 served plus any period of probation imposed by the court under AS 12.-  
25 55.080 or 12.55.085, except that

26 (1) if the prisoner was released by the board of parole, the  
27 commission, or the executive clemency advisory board, his period of  
28 supervision is reduced by the amount of good conduct deduction;

29 (2) if the prisoner was released under former AS 33.20.030 --

1 33.20.040 his period of supervision is reduced by 180 days.

2 (b) The conditions of release include any condition

3 (1) required by AS 33.16.100;

4 (2) set by the court as a condition of a suspended sentence  
5 or suspended imposition of sentence, or as a condition of release under  
6 AS 33.16.050 if no portion of the sentence is suspended;

7 (3) imposed by the board of parole, or by the commission or  
8 the executive clemency advisory board.

9 (c) The conditions set under (b)(2) and (3) of this section may  
10 be imposed if reasonably related to

11 (1) the nature and circumstances of the offense; or

12 (2) the prior criminal history of the prisoner.

13 (d) During the first half of the period set out in (a) of this  
14 section, the prisoner is subject to formal probation supervision,  
15 unless the period of formal supervision is extended by the sentencing  
16 court, for good cause shown, upon application of the prosecuting attor-  
17 ney. During the remainder of the period set out in (a) of this section  
18 the prisoner is subject to open probation supervision.

19 (e) At any time during the period set out in (a) of this section,  
20 the release of a prisoner who violates any of the conditions of his  
21 release is, upon application of the prosecuting attorney, subject to  
22 revocation by the sentencing court as provided in AS 12.55.110. The  
23 prisoner may be required to serve the sentence imposed, or any lesser  
24 sentence, including an extension of the period of probation up to the  
25 period that may have originally been imposed under AS 12.55.080(b),  
26 and, if imposition of sentence was suspended, any sentence which might  
27 originally have been imposed.

28 (f) As used in (a) of this section, "prisoner released on parole"  
29 includes a prisoner released

- 1 (1) by the board of parole under former AS 33.15;  
2 (2) as if on parole under former AS 33.20.030 -- 33.20.040;  
3 (3) by the commission, the executive clemency advisory  
4 board, or otherwise under AS 33.16.040; or  
5 (4) under AS 33.16.050.

6 Sec. 33.16.100. MANDATORY CONDITIONS OF PAROLE. The following  
7 conditions apply to prisoners released under AS 33.16.040 or 33.16.050,  
8 during the period set out in AS 33.16.090(a):

9 (1) that the person not violate a state or federal law or  
10 local ordinance;

11 (2) that during any period of formal probation supervision  
12 the person follow the reasonable instructions of his supervising proba-  
13 tion officer; and

14 (3) that, if the person was convicted of a felony, he not  
15 possess a firearm.

16 Sec. 33.16.110. NOTIFICATION TO PROSECUTING ATTORNEY. (a) The  
17 commissioner shall notify the prosecuting attorney at least 60 days  
18 before a release date that is set under or provided by AS 33.16.040 or  
19 33.16.050.

20 (b) The commissioner shall notify the prosecuting attorney at  
21 least 30 days before the expiration of a period of formal probation  
22 supervision under AS 33.16.090.

23 Sec. 33.16.120. NOTIFICATION TO PRISONER OF RELEASE DATE. At the  
24 time of sentencing, the court shall inform the defendant of his release  
25 date calculated on the assumption that he will earn the maximum good  
26 conduct deduction under AS 33.16.080.

27 Sec. 33.16.130. GOVERNOR'S EXECUTIVE CLEMENCY. The governor may  
28 grant executive clemency in the form of pardons, commutations or re-  
29 prieves of sentences, and suspension or remission of fines and forfeit-

1 ures, in whole or in part, for offenses against the laws of the State  
2 of Alaska or the Territory of Alaska.

3 Sec. 33.16.140. EXECUTIVE CLEMENCY ADVISORY BOARD; DUTIES. (a)  
4 There is created in the office of the governor the executive clemency  
5 advisory board. The board shall

6 (1) review applications for executive clemency at the re-  
7 quest of the governor; and

8 (2) set parole release dates under AS 33.16.040(c), within  
9 one year after a prisoner is sentenced.

10 (b) The board consists of three members: the lieutenant gover-  
11 nor, the attorney general, and one person selected by the governor who  
12 shall serve at the pleasure of the governor.

13 (c) The board shall investigate each case referred to it by the  
14 governor under (a)(1) of this section and submit to the governor a  
15 report of the investigation and its recommendation.

16 (d) In reviewing an application for executive clemency under  
17 (a)(1) of this section, the board may require the assistance of the  
18 commissioner.

19 Sec. 33.16.150. EFFECT OF PARDON. (a) Unless otherwise speci-  
20 fied on the face of the document granting a pardon by the governor, a  
21 pardon sets aside the conviction and prevents the fact of conviction  
22 from subsequently being used for any purpose. However, the facts  
23 giving rise to that conviction may be considered in any context in  
24 which the person's character is in issue.

25 (b) A pardon automatically restores civil rights under AS 33.30.-  
26 181.

27 Sec. 33.16.155. ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE. The  
28 Administrative Procedure Act (AS 44.62) does not apply to this chapter.

29 Sec. 33.16.160. DEFINITIONS. As used in this chapter, unless the

1 context requires otherwise,

2 (1) "board" means the executive clemency advisory board;

3 (2) "commission" means the interim sentence review and  
4 parole commission;

5 (3) "commissioner" means the commissioner of the Department  
6 of Health and Social Services or his designee;

7 (4) "formal probation supervision" means conditional re-  
8 strictions on an offender's liberty that include efforts designed to  
9 closely monitor his conduct so as to assure a smooth transition into  
10 the community and to prevent recidivism, and it may include mandatory  
11 contacts with a probation officer;

12 (5) "open probation supervision" means conditional restric-  
13 tions on an offender's liberty and includes rehabilitative counselling,  
14 advice, and aid, upon the request of an offender, to assure his con-  
15 tinued successful reintegration into society, but does not include  
16 mandatory contacts with a probation officer.

17 \* Sec. 2. AS 33.30.010 -- 33.30.090 and AS 33.30.250 -- 33.30.320 are  
18 repealed.

19 \* Sec. 3. AS 33.30 is amended by adding new sections to read:

20 CHAPTER 30. CORRECTIONAL FACILITIES AND PROGRAMS.

21 ARTICLE 1. ESTABLISHMENT, CONTROL AND MANAGEMENT.

22 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall:

23 (1) establish, operate, and control correctional facilities  
24 suitable for the custody, care, and discipline of persons charged or  
25 convicted of offenses against the state or otherwise held under author-  
26 ity of state law;

27 (2) classify prisoners and establish programs for persons  
28 committed to his custody in a manner which is reasonably calculated to:

29 (A) protect the public;

1 (B) maintain health;  
2 (C) create or improve occupational skills;  
3 (D) enhance educational qualifications;  
4 (E) support court ordered restitution; and  
5 (F) otherwise provide for the rehabilitation and re-  
6 formation of prisoners, facilitating their reintegration into  
7 society; and

8 (3) provide necessary medical services for prisoners in cor-  
9 rectional facilities or who are committed by a court to his custody  
10 including examinations for communicable and infectious diseases;  
11 psychological or psychiatric treatment shall be provided if a physician  
12 or other health care provider, exercising ordinary skill and care at  
13 the time of observation, concludes with reasonable medical certainty  
14 that a prisoner exhibits symptoms of a serious disease or injury, which  
15 is curable or may be substantially alleviated, and that the potential  
16 for harm to the prisoner by reason of delay or denial of care would be  
17 substantial.

18 Sec. 33.30.021. COMMISSIONER TO ADOPT REGULATIONS. The commis-  
19 sioner shall adopt regulations necessary to implement this chapter.

20 Sec. 33.30.031. COMMISSIONER MAY CONTRACT FOR CONFINEMENT AND  
21 CARE OF PRISONERS. (a) The commissioner shall determine the availa-  
22 bility of state correctional facilities suitable for the detention and  
23 confinement of persons held under authority of state law. If the  
24 commissioner determines that suitable state correctional facilities are  
25 not available he may enter into an agreement with an appropriate  
26 public or private agency to provide necessary facilities. Correctional  
27 facilities provided through agreement may be in this state or in any  
28 other state. The commissioner may not enter into an agreement with an  
29 agency unable to provide a similar degree of custody, care, and disci-

1 pline required by the laws of this state.

2 (b) Privately operated correctional facilities may be provided  
3 under (a) of this section only when necessary to involve prisoners in  
4 programs established under AS 33.30.091 -- 33.30.131, and not primarily  
5 for confinement.

6 (c) The commissioner may contract with the United States, another  
7 state, or a political subdivision of this state to provide correctional  
8 facilities for the custody, care, and discipline of persons held under  
9 authority of the law of that jurisdiction.

10 Sec. 33.30.041. LEASE OF STATE CORRECTIONAL FACILITY TO POLITICAL  
11 SUBDIVISION. (a) The commissioner may permit a political subdivision  
12 of this state to lease a state correctional facility or to use and  
13 operate a state correctional facility for the joint benefit of the  
14 political subdivision and the state, if he determines that it would be  
15 in the best interests of the state.

16 (b) The agreement executed by the commissioner shall provide that

17 (1) the state has the right to detain or confine persons  
18 held under authority of law in the correctional facility;

19 (2) the administrator of the correctional facility is amen-  
20 able to any order concerning a prisoner of any court of this state  
21 having jurisdiction over that prisoner;

22 (3) the administrator shall observe all statutes and all  
23 regulations adopted by the commissioner relating to the custody, care,  
24 and discipline of persons detained or confined in the correctional  
25 facility; and

26 (4) the commissioner may inspect the premises at reasonable  
27 times to determine the conditions under which prisoners are housed.

28 (c) In addition to the conditions specified in (b) of this sec-  
29 tion, the commissioner may require conditions which he considers neces-

1 sary for the protection of the public and to provide prisoners with the  
2 quality of care and programs required by this chapter and regulations  
3 adopted under this chapter.

4 ARTICLE 2. COMMITMENTS, PROGRAMS AND FURLOUGHS.

5 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted  
6 of an offense against the state shall be committed to the custody of  
7 the commissioner for the term of imprisonment which the court directs.

8 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The  
9 commissioner shall designate the correctional facility to which a  
10 prisoner is to be committed to serve a term of imprisonment or period  
11 of temporary commitment. The commissioner may designate any facility,  
12 whether or not it is maintained by the state, or is within the judicial  
13 district where the prisoner was convicted, or is within the state.

14 (b) Factors to be considered in designating a facility include:

- 15 (1) the prisoner's security classification;  
16 (2) the availability of program and facility space;  
17 (3) the location of family or other supportive relationships  
18 including cultural affiliations;  
19 (4) the length of the prisoner's sentence;  
20 (5) the preferences of the prisoner; and  
21 (6) any recommendations made by the sentencing court.

22 (c) The commissioner's decision to designate a facility for a  
23 prisoner pending appeal is not subject to review absent a clear and  
24 convincing showing by the prisoner that he would be denied his consti-  
25 tutional right to counsel. No other decision designating a facility is  
26 subject to review absent a clear and convincing showing by the prisoner  
27 of an abuse of discretion.

28 Sec. 33.30.071. PROVISIONS FOR PRISONERS PENDING COMMITMENT. (a)  
29 Notwithstanding AS 33.30.011(1) and (2), the commissioner of public

1 safety shall provide for the custody, care, and discipline of prisoners  
2 pending transfer to the custody of the commissioner of health and  
3 social services at a state correctional facility. However, except as  
4 provided in (c) of this section, the responsibility for providing  
5 necessary medical services for prisoners remains with the commissioner  
6 of health and social services under AS 33.30.011(3). Neither the  
7 commissioner of health and social services nor the commissioner of  
8 public safety is responsible for providing custody, care, and discipline  
9 for persons detained under AS 47.37.170, except when they are admitted  
10 into a state correctional facility.

11 (b) The responsibility of the commissioner of public safety under  
12 (a) of this section does not begin until a prisoner is accepted into  
13 his custody or admitted into a correctional facility or other facility  
14 designed for holding prisoners and the commissioner is so notified.

15 (c) Medical services for prisoners who are unconscious or in im-  
16 mediate need of medical attention before they are admitted into a  
17 correctional facility or committed by a court to the custody of the  
18 commissioner of health and social services must be provided by the law  
19 enforcement agency having custody of the prisoners.

20 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-  
21 sioner of public safety is responsible for transporting prisoners to  
22 and from the court having jurisdiction over them and for delivering  
23 prisoners to a correctional facility upon temporary or final commitment  
24 by a court or upon transfer of a prisoner from one correctional facil-  
25 ity to another whether inside or outside the state.

26 (b) The commissioner of health and social services is responsible  
27 for furnishing return transportation to the place of arrest for pris-  
28 oners held in a state correctional facility, upon their release from  
29 custody.

1 (c) The commissioner of public safety is responsible for furnish-  
2 ing return transportation to the place of arrest for prisoners who are  
3 released from custody before admission to a state correctional facil-  
4 ity.

5 (d) The commissioner of health and social services shall adopt  
6 regulations governing the furnishing of transportation, discharge  
7 payments, and clothing to prisoners upon release at any stage of crim-  
8 inal proceedings.

9 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
10 AS 33.30.111, the commissioner may assign a prisoner committed to his  
11 custody to any program established under AS 33.30.011(2) considering

- 12 (1) safeguards to the public;
- 13 (2) the prospects for the prisoner's rehabilitation;
- 14 (3) the availability of program and facility space;
- 15 (4) the prospect of future judicial proceedings requiring  
16 the prisoner's presence;
- 17 (5) the nature and circumstances of the offense for which  
18 the prisoner was sentenced;
- 19 (6) the needs of the prisoner as determined by a classifica-  
20 tion committee and any recommendations made by the sentencing court;
- 21 (7) the prisoner's record of convictions with particular em-  
22 phasis on crimes specified in AS 11.41;
- 23 (8) the prisoner's use of drugs or alcohol;
- 24 (9) the length of the prisoner's sentence; and
- 25 (10) other criteria as appear appropriate, including experi-  
26 mental evaluation of correctional programs, with particular regard to  
27 protection of the public.

28 Sec. 33.30.101. FURLOUGHS. (a) Programs established under  
29 AS 33.30.011(2) must include furloughs. The commissioner shall adopt

1 regulations governing the granting of furloughs to prisoners for the  
2 following purposes:

3 (1) to obtain counselling and treatment for alcohol or drug  
4 abuse;

5 (2) to secure or attend vocational training;

6 (3) to obtain medical or psychiatric treatment;

7 (4) to secure or engage in employment;

8 (5) to attend educational institutions;

9 (6) to secure a residence or make any other preparation for  
10 release;

11 (7) to appear before any group whose purpose is to obtain a  
12 better understanding of crime or corrections; and

13 (8) any other rehabilitative purpose the commissioner deter-  
14 mines to be in the interests of the prisoner and the public.

15 (b) If the commissioner determines that a prisoner can live under  
16 reduced supervision without violating the law or the conditions estab-  
17 lished for his conduct, the commissioner may grant a furlough after  
18 considering

19 (1) the factors set out in AS 33.30.091;

20 (2) whether the prisoner has violated a condition of a prior  
21 furlough;

22 (3) whether the prisoner has a history of inst'tution.  
23 misconduct; and

24 (4) whether granting a furlough would be in the best in-  
25 terests of the prisoner and the public.

26 Sec. 33.30.111. PRE-RELEASE FURLOUGHS. (a) Furlough programs  
27 established under AS 33.30.101 must include pre-release furloughs  
28 designed to facilitate the reintegration of prisoners into society.

29 (b) Facilities may be used for prisoners on pre-release furloughs

*Parolement? at E.R. - ?*  
*5 sep 19*  
*Executive? process*  
*cost to prisoners?*  
*conclusion of award -*  
*What about family first?*  
*staffing of each*  
*facilities? and cost per*

*mini-jails*  
*breakaway from jail*  
*get look into society*

1 which are specifically adapted to provide a residence outside prison,  
2 including halfway houses, group homes, or other placements which pro-  
3 vide varying levels of restriction and supervision.

4 (c) The levels of restriction and supervision required for pre-  
5 release furloughs must provide safeguards which minimize risk to the  
6 public and include, as a minimum,

7 (1) frequent contact with the prisoner by supervisory staff;  
8 (2) knowledge by supervisory staff of the location of the  
9 prisoner;

10 (3) periodic reports to the commissioner on the prisoner's  
11 performance while on furlough; and

12 (4) a residential setting where there are persons supervis-  
13 ing a prisoner who are obligated to immediately report to the commis-  
14 sioner any violation of a condition set for the prisoner's conduct.

15 (d) The levels of restriction and supervision required to be  
16 placed on a prisoner on a pre-release furlough under this section must  
17 be more extensive than those to which he will be subject when he is  
18 released on formal probation supervision under AS 33.16.090.

19 (e) Notwithstanding AS 33.30.101(b),

20 (1) a prisoner sentenced to a definite term of imprisonment  
21 of five years or less is eligible for a pre-release furlough only after  
22 he has served at least one-third of his sentence; *after 20 months or 1 3/4 yr.*

23 (2) a prisoner sentenced to a definite term of imprisonment  
24 of more than five years is eligible for a pre-release furlough only  
25 after he has served at least one-third of his sentence or is within  
26 three years of his release date, whichever is later.

27 (f) A prisoner may request a pre-release furlough under proce-  
28 dures adopted by the commissioner. If the commissioner denies a re-  
29 quest, he shall provide the prisoner with a written explanation of the

*Sounds like much new area for conflicts*

1 reasons. *Weekend liberty - too much added risk to*  
2 *public.*

3 Sec. 33.30.121. SHORT-DURATIONAL FURLONGHS. (2) A short-dura-  
4 tional furlough is an authorized leave of absence from a correctional  
5 facility for a limited purpose which may not exceed 12 hours at any one  
6 time, except for

7 (1) family visitation purposes, which may not exceed one  
8 week nor occur more frequently than once each six months; or

9 (2) medical purposes, which shall last only as long as  
10 necessary for treatment.

11 *A* (b) A short-durational furlough may be granted to a prisoner at  
12 any time under regulations adopted by the commissioner.

13 Sec. 33.30.131. FURLOUGH INVOLVING EMPLOYMENT. (a) When a  
14 prisoner is employed outside a correctional facility as part of a  
15 furlough program, his earnings shall be sent by his employer to the  
16 commissioner. When an employer transmits the earnings to the commis-  
17 sioner, the employer has no liability to the prisoner for the earnings.  
18 The commissioner shall disburse the earnings of the prisoner under  
19 procedures adopted by the commissioner, for the following purposes:

20 (1) to pay for the prisoner's room, board, and personal  
21 expenses;

22 (2) to pay any restitution or fine ordered by the sentencing  
23 court;

24 (3) to reimburse the state for an award made for violent  
25 crimes compensation under AS 18.67 arising out of the prisoner's cri-  
26 minal conduct;

27 (4) to pay a civil judgment arising out of the prisoner's  
28 criminal conduct; and

29 (5) to support the prisoner's dependents.

(b) After making the disbursements provided for in (a) of this

1 section, any balance remaining in the prisoner's account shall be  
2 retained by the commissioner for the primary purpose of being available  
3 to the prisoner at the time of his release. The commissioner may  
4 permit the prisoner to draw upon a portion of these funds for other  
5 purposes which the commissioner considers appropriate.

6 (c) Only the earnings retained by the commissioner under (b) of  
7 this section are subject to lien, attachment, garnishment, execution,  
8 or similar proceedings to encumber funds or property.

9 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR  
10 FAILURE TO RETURN. If a prisoner on a furlough violates the conditions  
11 established for his conduct, the commissioner may immediately require  
12 the prisoner's return to actual confinement for a period up to the  
13 balance of his term of imprisonment and may initiate disciplinary pro-  
14 ceedings authorized by regulations adopted by the commissioner. In  
15 addition, the failure of a prisoner on a furlough to return to his  
16 place of confinement or residence within the time authorized by those  
17 having direct supervision over him is an unlawful evasion and is punish-  
18 able as provided in AS 11.56.340 -- 11.56.350.

19 Sec. 33.30.151. TRANSMISSION OF DOCUMENTS. (a) When a prisoner  
20 is admitted to a correctional facility, copies of any form of commitment  
21 shall be delivered with the prisoner and serve as the authority to hold  
22 him. When a judgment of conviction has been entered, the court shall  
23 promptly deliver to the commissioner of public safety a certified copy  
24 of the judgment for transmission to the correctional facility where the  
25 prisoner is being held. The superintendent of the correctional facility  
26 shall require the prisoner's fingerprints to be placed on an appropriate  
27 space on the judgment. When the prisoner has been fingerprinted, the  
28 certified copy of the judgment shall promptly be returned to the court  
29 with the endorsement of the superintendent of the facility.

1 (b) When a person is sentenced to a term of imprisonment, copies  
2 of the pre-sentence report, sentencing report prepared under AS 12.55.-  
3 025, and any other relevant data shall be transmitted to the superin-  
4 tendent of the correctional facility in which the prisoner is confined.

5 (c) The commissioner shall adopt regulations providing for the  
6 security, confidentiality, and use of documents transmitted under (b)  
7 of this section.

8 Sec. 33.30.161. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY  
9 ADMINISTER OATHS AND ACKNOWLEDGEMENTS. The superintendent of a cor-  
10 rectional facility or his assistant may administer oaths to and take  
11 acknowledgements from a prisoner, but may not demand or accept compen-  
12 sation.

13 ARTICLE 3. GENERAL PROVISIONS.

14 Sec. 33.30.171. EFFECT OF JUDGMENT OF CONVICTION ON STATE RESOURCE  
15 DISTRIBUTION ENTITLEMENT. (a) A person convicted of a crime against  
16 the State of Alaska may not receive any distribution of state revenue  
17 based on the development of state resources for which he is eligible  
18 until he has otherwise paid, or the total amount of the distributions  
19 exceeds, any:

20 (1) restitution ordered by the sentencing court to the  
21 victims of the crime;

22 (2) child support ordered by any court with jurisdiction  
23 over the matter, whether or not located in this state;

24 (3) civil judgment arising out of his criminal conduct;

25 (4) civil judgment to reimburse the state for an award made  
26 for violent crimes compensation under AS 18.67.140;

27 (5) fine imposed by the sentencing court; and

28 (6) cost of his custody and care while incarcerated, as  
29 determined by the commissioner; the commissioner shall determine that

1 cost based on the statewide average daily cost of incarceration for the  
2 fiscal year in which the person is incarcerated, including administra-  
3 tive and capital expenses.

4 (b) Whether or not the convicted person submits formal applica-  
5 tion under AS 43.23 or other relevant statutes, the distribution for  
6 which he would have been eligible had he not been convicted shall be  
7 directly disbursed by the commissioner of revenue for the purposes set  
8 out in (a)(1), (a)(2), and (a)(3) of this section. The order of  
9 priority of payments is the same order as appears in (a) of this sec-  
10 tion, and may not be diminished by levy, execution, garnishment, attach-  
11 ment, or any other remedy for the collection of a debt of the person  
12 convicted.

13 (c) The commissioner of revenue shall adopt regulations to imple-  
14 ment this section.

15 Sec. 33.30.181. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL RIGHTS.

16 (a) A person who is convicted of a felony involving moral turpitude as  
17 defined in AS 15.60.010 is disqualified from voting in a state or muni-  
18 cipal election until his unconditional discharge.

19 (b) A person who is convicted of a crime is disqualified from  
20 serving as a juror until his unconditional discharge.

21 (c) A person holding a public office who is convicted of a crime  
22 forfeits the office if

23 (1) he is convicted under the laws of this state of a felony  
24 or under the laws of another jurisdiction of a crime which, if committ-  
25 ed in this state, would be a felony; or

26 (2) he is convicted of a crime involving malfeasance in  
27 office; or

28 (3) the Alaska Constitution or a statute so provides.

29 (d) In this section, "unconditional discharge" has the meaning

1 ascribed to it in AS 12.55 185.

2 \* Sec. 3. AS 33.30.200 is repealed and reenacted to read:

3 Sec. 33.30.200. DEFINITIONS. In this chapter, unless the context  
4 otherwise requires,

5 (1) "commissioner" means the commissioner of the Department  
6 of Health and Social Services or his designee;

7 (2) "correctional facility" or "facility" means a prison,  
8 jail, camp, farm, half-way house, group home, or other placement desig-  
9 nated by the commissioner for the custody, care, and discipline of  
10 prisoners; a "state correctional facility" means any correctional  
11 facility owned or run by the state;

12 (3) "court" means the supreme court, the court of appeals,  
13 the superior court, the district court, or a justice, judge, or magis-  
14 trate of a court;

15 (4) "department" means the Department of Health and Social  
16 Services;

17 (5) "furlough" means an authorized leave of absence from  
18 actual confinement for a designated purpose and period of time;

19 (6) "political subdivision" means a borough, city, town,  
20 village, or other area of local government in the state permitted by  
21 law to establish correctional facilities;

22 (7) "prisoner" means a person, other than a juvenile, held  
23 under authority of state law in "official detention" as defined in  
24 AS 11.81.900(b);

25 (8) "temporary commitment" means detention of a person for  
26 any period under authority of state law, but does not include confine-  
27 ment upon conviction and judgment of a court of this state.

28 \* Sec. 4. AS 11.56.340 is repealed and reenacted to read:

29 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A

1 person commits the crime of unlawful evasion in the first degree if,  
2 while charged with or convicted of a felony,

3 (1) he fails to return to official detention within the time  
4 authorized following temporary leave granted for a specific purpose or  
5 limited period;

6 (2) while on furlough under AS 33.30.101 -- 33.30.131, he  
7 fails to return to his place of confinement or residence within the  
8 time authorized by those having direct supervision over him.

9 (b) Unlawful evasion in the first degree is a class A misdemeanor.

10 \* Sec. 5. AS 11.56.350 is repealed and reenacted to read:

11 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A  
12 person commits the crime of unlawful evasion in the second degree if,  
13 while charged with or convicted of a misdemeanor,

14 (1) he fails to return to official detention within the time  
15 authorized following temporary leave granted for a specific purpose or  
16 limited period; or

17 (2) while on furlough under AS 33.30.101 -- 33.30.131, he  
18 fails to return to his place of confinement or residence within the  
19 time authorized by those having direct supervision over him.

20 (b) Unlawful evasion in the second degree is a class B misdemean-  
21 or.

22 \* Sec. 6. AS 12.55.090 is repealed and reenacted to read:

23 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. (a) Upon  
24 entering a judgment of conviction of a crime, or at any time within 60  
25 days after the date of entry of that judgment of conviction, a court,  
26 when satisfied that the ends of justice and the best interest of the  
27 public as well as the defendant will be served by this action, may  
28 suspend the imposition or execution or balance of the sentence or a  
29 portion of it, and place the defendant on probation for a period and

1 upon the terms and conditions the court considers best.

2 (b) The period of probation must be specified in the judgment.  
3 If the crime is a felony, the period of probation may not exceed five  
4 years or the maximum term of imprisonment authorized for the crime less  
5 any term of imprisonment that is imposed, whichever is less. If the  
6 crime is a misdemeanor, the period of probation may not exceed two  
7 years. Upon revocation of probation as provided in AS 12.55.110, the  
8 prisoner may be required to serve the sentence imposed, or any lesser  
9 sentence, including any extension of the period of probation up to the  
10 period that may have originally been imposed under this subsection.

11 \* Sec. 7. AS 12.55.090(b) is amended to read:

12 (b) Upon application of the prosecuting attorney, the [THE] court  
13 may revoke or modify any condition of probation, or may change the  
14 period of probation, including any period or condition provided under  
15 AS 33.16.090.

16 \* Sec. 8. AS 12.55.100 is amended by adding new subsections to read:

17 (c) When a court imposes only a term of imprisonment, it may  
18 impose conditions under which the prisoner will be released under  
19 AS 33.16.090.

20 (d) If the court imposes a period of probation under AS 12.55.080  
21 or 12.55.085 without any period of imprisonment, the defendant is  
22 subject to formal probation supervision during the first half of his  
23 period of probation, unless the formal supervision period is extended  
24 by the sentencing court, for good cause shown, upon application of the  
25 prosecuting attorney. During the remainder of the period of probation,  
26 the defendant is subject to open probation supervision. As used in  
27 this subsection "formal probation supervision" and "open probation  
28 supervision" have the meaning set out in AS 33.16.160.

29 \* Sec. 9. AS 12.55.110 is amended to read:

1           Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.

2   When probation has been granted under AS 12.55.080 or 12.55.085, or pro-  
3 vided under AS 33.16.090 [SENTENCE HAS BEEN SUSPENDED], it shall not be  
4 revoked except for good cause shown, upon application of the prosecuting  
5 attorney. In all proceedings for the revocation of probation [A SUS-  
6 PENDED SENTENCE], the defendant is entitled to reasonable notice and  
7 the right to be represented by counsel.

8 \* Sec. 10. AS 12.55.125(c) is amended to read:

9           (c) A defendant convicted of a class A felony may be sentenced to  
10 a definite term of imprisonment of not more than 20 years, and shall be  
11 sentenced to the following presumptive terms, subject to adjustment as  
12 provided in AS 12.55.155 -- 12.55.175:

13           (1) if the offense is a first felony conviction, other than  
14 for manslaughter, and the defendant possessed [OR USED] a firearm,  
15 used a deadly weapon, or caused serious physical injury during the  
16 commission of the offense, eight [SIX] years;

17           (2) if the offense is a first felony conviction, other than  
18 one specified in (1) of this subsection, five years;

19           (3)[(2)] if the offense is a second felony conviction, 10  
20 years;

21           (4)[(3)] if the offense is a third felony conviction, 15  
22 years.

23 \* Sec. 11. AS 12.55.125(d) is amended to read:

24           (d) A defendant convicted of a class B felony may be sentenced to  
25 a definite term of imprisonment of not more than 10 years, and shall be  
26 sentenced to the following presumptive terms, subject to adjustment as  
27 provided in AS 12.55.155 -- 12.55.175:

28           (1) if the offense is a first felony conviction, two years;

29           (2)[(1)] if the offense is a second felony conviction, four

1 years;

2 (3)[(2)] if the offense is a third felony conviction, six  
3 years.

4 \* Sec. 12. AS 12.55.125(e) is amended to read:

5 (e) A defendant convicted of a class C felony may be sentenced to  
6 a definite term of imprisonment of not more than five years, and shall  
7 be sentenced to the following presumptive terms, subject to adjustment  
8 as provided in AS 12.55.155 -- 12.55.175:

9 (1) if the offense is a first felony conviction, one year;

10 (2)[(1)] if the offense is a second felony conviction, two  
11 years;

12 (3)[(2)] if the offense is a third felony conviction, three  
13 years.

14 \* Sec. 13. AS 12.55.125(g) is amended to read:

15 (g) If a defendant is sentenced under (c), (d), or (e) [(c)(1),  
16 (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2)] of this section,  
17 except to the extent permitted under AS 12.55.155 -- 12.55.175,

18 (1) imprisonment may not be suspended under AS 12.55.080;

19 (2) imposition of sentence may not be suspended under AS 12.-  
20 55.085;

21 (3) terms of imprisonment may not be otherwise reduced.

22 \* Sec. 14. AS 12.55.155(a) is amended to read:

23 (a) If a defendant is convicted of an offense and is subject to  
24 sentencing under AS 12.55.125 (c), (d), or (e) [SEC. 125(c)(1), (c)(2),  
25 (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS CHAPTER] and

26 (1) the presumptive term is four years or less, the court  
27 may decrease the presumptive term by an amount as great as the presump-  
28 tive term for factors in mitigation or may increase the presumptive  
29 term up to the maximum term of imprisonment for factors in aggravation;

1 (2) the presumptive term of imprisonment is more than four  
2 years, the court may decrease the presumptive term by an amount as  
3 great as 50 percent of the presumptive term for factors in mitigation  
4 or may increase the presumptive term up to the maximum term of im-  
5 prisonment for factors in aggravation.

6 \* Sec. 15. AS 12.55.165 is amended to read:

7 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is  
8 subject to sentencing under AS 12.55.125(c), (d), or (e) [SEC.  
9 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS  
10 CHAPTER] and the court finds by clear and convincing evidence that  
11 manifest injustice would result from failure to consider relevant  
12 aggravating or mitigating factors not specifically included in AS 12.-  
13 55.155 or from imposition of the presumptive term, whether or not  
14 adjusted for aggravating or mitigating factors, the court shall enter  
15 findings and conclusions and cause a record of the proceedings to be  
16 transmitted to a three-judge panel for sentencing under AS 12.55.175.

17 \* Sec. 16. AS 33.15 and 33.20 are repealed.

18 \* Sec. 17. AS 33.16.010 -- 33.16.035, enacted in sec. 1 of this Act, are  
19 repealed effective July 1, 1983.

20 \* Sec. 18. Sections 10 -- 15 of this Act do not apply to or govern the  
21 punishment for any offense committed before July 1, 1981. An offense commit-  
22 ted before that date shall be punished according to the law existing at the  
23 time of the commission of the offense in the same manner as if this Act had  
24 not become law.

25 \* Sec. 19. This Act takes effect July 1, 1981.  
26  
27  
28  
29

*Proposal for  
for eliminating parole  
board*

*Mr. Marouba  
of Judicial Council.*

TABLE I

STATISTICAL DESCRIPTION OF  
PRESUMPTIVELY SENTENCED  
CLASS B AND C  
FELONIES

HB 293

(1980 URBAN COURTS)

I. Class C Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 24 Mos.	2	6.2%	18.0
24 Mos. (Presump)	18	56.3%	24.0
Over 24 Mos.	12	37.5%	40.5
	<u>N=32</u>	= <u>100.0%</u>	

II. Class B Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 48 Mos.	4	20.0%	27.0
48 Mos. (Presump)	6	30.0%	48.0
Over 48 Mos.	10	50.0%	72.0
	<u>N=20</u>	= <u>100.0%</u>	

*Has more previous  
for longer time.*

*HB-273*

TABLE II

STATISTICAL DESCRIPTION  
OF NON-PRESUMPTIVELY SENTENCED  
CLASS B AND C FELONIES  
FOR OFFENDERS WITH A  
PRIOR FELONY CONVICTION

(1980 URBAN COURTS)

I. Class C Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 24 Mos.	23	51.1%	9.0
24 Months	14	31.1%	24.0
Over 24 Mos.	8	17.8%	36.0
	<u>N=45</u>	= <u>100.0%</u>	

II. Class B Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 48 Mos.	20	83.3%	21.7
48 Months	1	4.2%	48.0
Over 48 Mos.	3	12.5%	72.0
	<u>N=24</u>	= <u>100.0%</u>	

STATISTICAL DESCRIPTION  
OF PRESUMPTIVE  
CLASS A  
FELONY SENTENCES

(1980 URBAN COURTS)

I. First Felony Offenders:\*

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 72 Mos.	4	50.0%	58.5
72 Mos. (Presump)	4	50.0%	72.0
Over 72 Mos.	0	0.0%	----
	<u>N=8</u>	= <u>100.0%</u>	

II. Repeat Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 120 Mos.	0	0.0%	----
120 Mos. (Presump)	1	25.0%	120.0
Over 120 Mos.	3	75.0%	200.0
	<u>N=4</u>	= <u>100.0%</u>	

\* A six year presumptive term applies if first A felony conviction other than manslaughter, a defendant used or possessed a firearm during the offense or caused serious physical injury.

STATISTICAL DESCRIPTION  
OF NON-PRESUMPTIVE  
CLASS A FELONY  
SENTENCES

(1980 URBAN COURTS)

I. First Felony Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 72 Mos.	17	85.0%	22.8
72 Mos.	0	0.0%	----
Over 72 Mos.	<u>3</u>	<u>15.0%</u>	100.0
	<u>N=20</u>	= <u>100.0%</u>	

II. Repeat Felonies:

1 case at 240.0 months to serve.

Sec. 1 adds chapter 6 to AS 33.

Sec. 33.16.005. States purpose of chapter.

Sec. 33.16.010 Establishes a professional interim sentence review and parole commission in DHSS appointed by the Governor.

Sec. 33.16.020. Establishes quorum of commission and powers of subpoena.

Sec. 33.16.030. Establishes Executive Director.

Sec. 33.16.035 Responsibilities of Commission.

Sec. 33.16.040 Establishes parole eligibility for prisoners committing crimes prior to 7/1/81. Sets up schedules for determining parole release dates and assigns responsibilities between interim commission and clemency board and sets deadlines.

Sec. 33.16.050. Establishes parole eligibility, release computation, and furlough eligibility of persons who committed a crime after 6/30/81.

Sec. 33.16.060. Establishes hearings on parole release dates and sets out criteria: Directs Commission to prepare a pre-parole report. Establishes prisoner's rights to notice, response, representations, cross-examination, and a written copy of the reasons for the decision.

Sec. 33.16.070. Establishes automatic adjustment of release date due to computations of good time deductions.

Sec. 33.16.080. (a) For prisoners serving sentences on or after 7/1/81;  $\frac{1}{2}$  of sentence = good time if he was presumptively sentenced under AS 12.55.125. or  $\frac{1}{3}$  of sentence for those not presumptively sentenced.

(b) Mandatory Minimum

good time will only be computed on portions of sentence that exceed the minimum prescribed imprisonment.

(b)(1)-(3) Defines "mandatory minimum term of imprisonment".

(c) Allows the computation formula for good time which prevailed at time of sentencing, if more time would have been credited.

(d) Vests 90 days of good time per year and sets maximum forfeitures.

Sec. 33.16.090. Assigns responsibility for parole supervision, defines supervision period, sets out parameters for conditions of release and revocation. (d) designates that the first half of supervision period for "formal" type of supervision and remainder under "open" type.

- Sec. 33.16.100. Sets 3 mandatory conditions of release.
- Sec. 33.16.110. Provides that prosecutor be notified before release and expiration of probation dates.
- Sec. 33.16.120. Provides prisoner receive calculation of release date from court at time of sentencing which assumes maximum amount of good time computation.
- Sec. 33.16.130. Defines Governor's powers of clemency.
- Sec. 33.16.140. Establishes Executive Clemency Advisory Board and provides for its caseload as those prisoners who committed crime before 7/1/81 for which he was sentenced in excess of 180 days. They are eligible for parole after serving 1/3 of the term (AS 33.16.040). Includes prisoners applying for clemency.
- Sec. 33.16.150. Defines effect of Governor's pardon as setting aside conviction and restoring civil rights.
- Sec. 33.16.155. Administrative Act (AS 44.62) does not apply.
- Sec. 33.16.160. Provides definitions for:  
1. "Board", 2. "Commission",  
3. "commissioner", 4. "formal probation supervision", 5. "open probation supervision".

SEC. 2 Repeals AS 33.30.010-090 and AS 33.30.250-320.

SEC. 3 Correctional Facilities & Programs

- Sec. 33.30.011. Sets out responsibility of commissioner regarding facilities, classification of prisoners and criteria, and prisoner's physical care.
- Sec. 33.30.021. Provides for regulations to be promulgated.
- Sec. 33.30.021. (a) Gives the commissioner the authority to determine availability of suitable facilities, enter into agreements with appropriate public or private agencies for the provision of facilities in Alaska or another state. Privately operated facilities may be used only to involve prisoners in programs and not primarily for confinement. Confinement facilities may be provided by the U.S., another state, or a political subdivision of this state.
- Sec. 33.30.041. Provides for the leasing of correctional facilities by political subdivisions of this state, specifies conditions to be included in the agreement along with other conditions deemed necessary by the commissioner.

- Sec. 33.30.051. Establishes that convicted persons are committed to commissioner's custody for the term of imprisonment.
- Sec. 33.30.061. Determines the authority of the commissioner to designate location of facility, factors to consider in facility designation, and allows prisoners pending appeal to petition their location.
- Sec. 33.30.071. Designates Commissioner of Public Safety as responsible for prisoners pending transfer if they are in custody in a facility. Responsibility for medical care is designated as either the responsibility of DHSS or law enforcement agencies.
- Sec. 33.30.081. Assigns DPS responsibility for transporting persons committed to custody. DHSS is responsible for returning released persons to place of arrest. Assigns Commissioner of DHSS responsibility for promulgation of regulations.
- Sec. 33.30.091. Makes furloughs under 30.011(2) compulsory.  
(a) Delineates purposes for furloughs: 1) employment, 2) training, 3) treatment, 4) employment, 5) education, 6) release preparation, 7) group appearances, 8) rehabilitation.  
(b) delineates criteria for furlough for living under reduced supervision.
- Sec. 33.30.111. (a)-(d). Pre-release furloughs are established to facilitate reintegration of persons into society. Provides minimum guidelines for supervision and restriction levels which must be more extensive than those of "formal" probation. Establishes eligibility standards for pre-release furloughs and procedures for granting them.
- Sec. 33.30.121. Establishes short-duration furloughs of 12 hours or less for family or medical purposes which may be granted anytime.
- Sec. 33.30.131. Establishes furlough for work and procedures for the commissioner's management of prisoner's earnings.
- Sec. 33.30.141. Establishes authority for dealing with furlough violations.
- Sec. 33.30.161. Delineates authority of superintendent regarding oaths.
- Sec. 33.30.171. Establishes priorities, categories to be paid before prisoner's account may be credited with any revenue from state resource distribution entitlement and requires commissioner adopt regulations to implement this.
- Sec. 33.30.181. Defines those rights forfeited by (a) persons convicted of a felony involving moral turpitude; (b) convicted of any crime; (c) a public office holder convicted of the equivalent of a felony, a malfeasance of office, or if the Alaska Constitution or statute so provides. "Unconditional discharge" is defined as in AS 12.55.185.

Sec. 3 Repealed and Reenacted

Sec. 33.30.200. Defines: 1 "commissioner", 2. "correctional facility", "facility", or "state correctional facility", 3. "court", 4. "department", 5. "furlough", 6. "political subdivision", 7. "prisoner", 8. "temporary commitment".

Sec. 4 Repealed and Reenacted

Sec. 11.56.340. \*Defines "unlawful evasion" and classifies it as a Class A misdemeanor.

Sec. 5 Repealed and reenacted

Sec. 11 56.350. \*Defines "evasion in 2nd degree and classifies it as Class B misdemeanor.

(\* changes in statute include furloughs)

Sec. 6 Repealed and Reenacted

Sec. 12.55.080. Establishes authority to suspend sentences, or portions thereof and sets maximum limits for probationary periods. Changes the existing law to allow full discretion to change length or conditions upon the prosecutor's request.

Sec. 8 AS 12.55.100 (c) Amended by adding the court's rights to impose conditions of release on flat time sentences.

(d) probation only sentences require "formal" supervision for at least the first half of the period and "open" suspension the second half unless the prosecutor applies for an extension to the court.

Sec. 9 AS 12.55.110. Amended to include specified types of probation and puts the burden of revocation on the prosecutor. Changes the term "suspended sentence" to "probation".

Sec. 10 Changes proposed here would increase presumptive sentence from 6 to 8 years, and creates new class of 5 year presumptive sentences for 1st felony offenders.

Sec. 11 Changes<sup>to this</sup> proposed in this section would establish 2 year presumptive sentences for first felony Class B convictions.

Sec. 12 This would establish presumptive sentences of 1 year for first felony- Class C offenses.

Sec. 13 Changes the reference to subsections.

Sec. 14 Also changes reference to subsections.

Sec. 15 " " " " "

Sec. 16 Repeals AS 33.15 and 33.20.

Sec. 17. Sunsets AS 33.16.010-035 as of 7/1/83.

Sec. 18. States that 10-15 of this act do not apply to offenses committed prior to 7/1/81.

\*

Sec. 19. Effective date 7/1/81.

A PERFORMANCE REVIEW  
OF THE  
ALASKA STATE BOARD OF PAROLE

May 9, 1979

*Handwritten:* 7-8-82

Commissioner of the Department of  
Health and Social Services  
Deputy Commissioner of the Department  
of Health and Social Services  
Deputy Commissioner of the Department  
of Health and Social Services  
Deputy Commissioner of the Department  
of Health and Social Services

Dr. Heien D. Beirne  
Allen Korhonen  
Frederick McGinnis  
Catherine M. Lloyd

Members of the  
Alaska State Board of Parole

Chairman  
Vice-Chairman  
Member  
Member  
Member

William Lyons  
Beverly Dunham  
Dan Kosoff  
Conrad Miller  
Al Widmark

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

## THE LEGISLATURE

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 19, 1979

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the  
Alaska Statutes, the attached report is submitted for your  
review.

### A PERFORMANCE REVIEW OF THE ALASKA STATE BOARD OF PAROLE

May 9, 1979



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Review. . . . .	4
Organization and Function. . . . .	5
Report Conclusion. . . . .	7
Findings and Recommendations . . . . .	9
Analysis of Public Need. . . . .	12
<b>Appendixes:</b>	
A. Alaska State Board of Parole, Schedule of Authorizations, Expenditures and Encumbrances . . . . .	16
B. Summary of Parole Revocations. . . . .	17
C. Summary of Parole Release Hearings Dispositions . . . . .	18
D. Questionnaire Sent to Board Members. . . . .	19
E. Questionnaire Sent to Probation/ Parole Officers. . . . .	23
<b>Responses:</b>	
Department of Health and Social Services . . . . .	25
Chairman of the Board. . . . .	26(a)
Legislative Audit's Additional Comments. . . . .	27(a)

## PURPOSE AND SCOPE OF THE REVIEW

### Purpose

In accordance with the intent of Alaska Statutes 24.20.271 (1) and 44.66.050 (sunset legislation), an audit of the Alaska State Board of Parole was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Board of Parole will be reestablished. The law currently specifies that this Board will terminate on June 30, 1980, but will continue until June 30, 1981, for the purpose of concluding its affairs.

### Scope

The functions reviewed include the Board's general operations and administration. Our review consisted of the following:

1. Evaluation of applicable statutes and regulations.
2. Questionnaires sent to current and past Board members.
3. Questionnaires sent to Parole/Probation Officers.
4. Interviews with employees in the criminal justice system associated with the parole system.
5. Review of other states' parole boards.
6. Analyses and tests of the board's records.
7. Complaints filed with the Ombudsman's Office.

### Scope Constraints

This review was hampered by the following constraint:

1. The Board has not developed and reported performance information regarding its effectiveness and accomplishments as required by AS 37.07.090 and AS 33.15.130.

## ORGANIZATION AND FUNCTION

Article III, Section 21, of the Alaska Constitution states that a parole system shall be established by law. AS 33.15, or the Parole Administration Act, is the law that establishes the Alaska State Board of Parole and its authority. The Board consists of five part-time members who meet quarterly to hear parole-related matters. The members are appointed by the Governor, with confirmation by the legislature, and serve without salary although travel costs and per diem is provided. The Board has an administrative staff which currently consists of an Executive Director, Parole Board Officer and two clerical personnel.

The Board basically conducts two types of hearings: release hearings and revocation hearings. By statute, an inmate may not be considered for parole release until a statutory minimum time in prison has been satisfied (AS 33.15.080 requires that at least one-third of the sentence be served in confinement before parole eligibility). Upon application, an eligible inmate will be considered for parole and will appear before the Board. The Board will consider the case in view of certain criteria (e.g., institutional behavior, release plans, past record, recommendations, etc.). A parole decision will either release an inmate on parole, continue the case for future consideration or deny parole. Since FY'74, the Board has averaged 225 release hearings per year of which an average of 80 per year were released on parole.

When it has been determined that a parolee has violated a law or condition of parole, the Board will hold a revocation hearing to decide upon the course of action to take in the case. The Board may choose to revoke the violator's parole and return the parolee to prison, whereby, no credit is allowed against the sentence for time served on parole; parole may be revoked and the parolee reparaoled without time credited against the sentence for prior time on parole; or no action may be taken. The Board has the authority to establish terms and conditions of parole, and their enforcement, which is accomplished through revocation proceedings. Since FY'74 the Board has averaged 27 revocation hearings per year.

AS 33.15.080 gives the Board the authority to release prisoners from confinement. Accompanying the Board's authority is the responsibility for public welfare. In each parole release case, the Board weighs the benefits of granting parole release against the inherent risks involved. The benefits of parole embrace opportunities for successful community life and reduced monetary and social costs which follow successful parole release cases. The risks involve additional social and monetary costs that will result from parole violations.

The Board receives General Fund appropriations to support its operations. The Board's primary expenditures are for personal services relating to the administrative staff and travel associated with the various Board meetings and hearings.

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

### Report Conclusion

Article III, Section 21, of the Alaska Constitution requires the establishment of a parole system. The current system comprises a parole release program administered by the Alaska State Board of Parole. We found no viable alternative to the present system at this time; therefore, in our opinion, the Board should continue to administer the parole release program.

The parole decision process requires a great deal of dedication of time and effort on the part of each Board member. We commend the members for their service in what is often-times a complex and difficult job. However, there are some areas where the Board can improve in efficiently and effectively serving the public interest.

In Recommendation No. 1 we recommend that the Board be more specific in formulating objectives so that performance can be gauged. Without specific objectives, strengths and weaknesses of Board activities cannot be readily identified. We also have recommended that the Board maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities. (see Recommendation No. 2).

Other areas that need to be addressed comprise making parole matters clear to interested parties and the public. The Board should codify its regulations and make it available to all interested persons (see Recommendation No. 5). In addition, periodical reports as required by law should be prepared and distributed to the governor and legislature (see Recommendation No. 3). The adoption of these recommendations will serve to clarify Board activities for individuals either directly or indirectly involved with parole matters.

Some Board members have expressed that the public is often confused about parole. Holding public meetings will serve to enlighten those with questions on Board activities and could be a means through which public input is recorded (see

Recommendation No. 4). Support for parole policy changes is one use of formal public input. Both clarifying parole issues and recording public input will contribute to public interest.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's FY 1979 budget documents state that its objective is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Measurement of this objective alone, however, is not sufficient to determine the degree of effectiveness experienced by the Board in serving the public. The Board has not established any other specific program objectives through which its performance can be evaluated.

Specific objectives should describe what the Board intends to accomplish during the current period and should be consistent with long range goals. To be capable of measurement, objectives should be well-defined including a description of methods of measurement. When specific objectives are not identified, both the Governor's office and the Legislature cannot adequately evaluate the Board's performance.

### Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board keeps case files on parolees and some statistics on types of cases heard. However, the information has not been adequately summarized for purposes of analyzing the parole program.

The Board needs information for purposes of measuring performance and analyzing decisions. It is essential for any decision-making body to review the significance and effects of past decisions to adequately plan for future decisions.

Maintaining complete information will benefit the Board in several ways. Some uses of such information may entail:

- 1) Scheduling workloads;
- 2) analyzing trends - similar decisions when viewed overtime may reveal positive or negative results and support policy changes;
- 3) assisting planning efforts and research of other agencies; and

- 4) controlling risk in parole decisions - valid statistics may support parole release or revocation decisions and show the degree of risk based upon historical evidence.

With sufficient information, any alternatives to the parole release system or parole procedures can be better analyzed. Procedures should be developed which address what and how information is to be maintained as well as reported.

#### Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board has not followed statutory reporting requirements, per AS 37.07.090 and AS 33.15.130. AS 37.07.090 requires each State agency to submit a performance report to the Division of Budget and Management no later than September 1, for the preceding fiscal year. AS 33.15.130 requires that annual reports containing various statistical data and a computation and analysis of dispositions in criminal matters by State courts be submitted to the Governor, the Commissioner of the Department of Health and Social Services and the Attorney General.

To contribute to governmental effectiveness, the Board should disseminate the results of its operations to appropriate parties. The report required by AS 33.15.130 is essential for planning and analyzing matters relating to parole. In the 1977 legislative session, the Legislature, in conjunction with sunset legislation, amended the performance reporting statute (AS 37.07.090) to require agencies to specifically address eight criteria. This report would provide a useful tool for evaluating the Board in relation to performance reviews and other matters.

#### Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

It is the Board's policy in the conduct of its meetings to allow the presence of only those individuals who are considered necessary under the circumstances. For parole hearings, this is required to secure the confidential nature of the hearings as well as protect the objectivity of hearing decisions. Administrative meetings, however, do not share the same characteristics as case hearings. Administrative meetings are held at irregular times during the year for the purposes of transacting general business of the Board.

We were informed by Board members that the public is sometimes confused about parole and may misconstrue the Board decisions. This has happened despite the Board's efforts to be in contact with various community groups and governmental organizations.

As another avenue in seeking public input the Board should hold public administrative meetings. Public meetings will provide broad public representation in the development of parole regulations and be a means to formally record public input, which would assist the Board in determining how much "risk" the public is willing to bear regarding parole release.

Further, procedures should be developed to cover the agendas of public meetings and notification of the public as to time, place and nature of each meeting. A formal record should be kept of each meeting which delineates matters acted upon and any changes in Board policy or procedures.

Recommendation No. 5

The Board should codify its regulations in a clear form readily available to the public, inmates and all others requiring information about the Board's operations.

AS 33.15.100 states: "The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees".

Rules governing the Board's operations should be a clear statement of its procedures and requirements in parole matters. However, the Board's rules are currently contained in two manuals, and an assortment of updating notices and various forms. This creates a situation in which the rules cannot be immediately or clearly identified and may be subject to arbitrary change.

Although the Board members and staff may personally know the rules, it is also important for the rules to be available for anyone requiring them; the present form does not adequately allow for this. A codification of the rules would not only make them readily available to others but also would facilitate making refinements and improvements in the Board's rules and procedures.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "Sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

1. The Board is working toward a "parole guidelines" approach to parole decisions which should, when implemented, provide additional support for parole decisions. Also, the guidelines should allow for more efficient Board operations.
2. The Board is currently addressing its informational needs through drawing upon resources available from other agencies. For example, the Criminal Justice Planning Agency is in the process of developing an information system through federal funding wherein the needs of the parole system will be considered.
3. We determined from our analysis of parole revocations for FY'74 - FY'77 that less than 8% of the paroles were revoked within one year after parole release as a result of new felonies. This compares favorably with available national statistics as well as other States on an individual basis.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

1. The Board has not codified its rules and procedures (see Recommendation No. 5).
2. The Board has not fully identified specific program objectives nor maintained proper information for performance evaluation (see Recommendation No. 1 and 2).
3. The Board has revised its filing system which will result in added efficiency in extracting case information.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. The Board has recommended the clarification of some areas of the Parole Administration Act. In addition, the Board attempts to monitor and provide input for legislation affecting the parole process.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. No formal record has been kept from which a determination can be made on how feedback from interested persons is used by the Board in evaluating its effectiveness. However, we were able to determine that the Board has been active in soliciting input from various public and private organizations.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. Public participation has not been allowed at administrative meetings, thus no formal public input has been recorded in developing procedures and regulations (see Recommendation No. 4).
2. Since regulations cannot be readily made available, interested parties cannot be confident of having all information for purposes of making observations or suggestions for improvements (see Recommendation No. 5).

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Seven complaints have been processed by the Ombudsman. Of the seven, five were determined to be unsupported and two were discontinued or rectified. As of February, 1979, one case was in process which related to improper parole consideration.

2. We found no record of complaints filed with the Department of Health and Social Services concerning the Parole Board.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. The Alaska State Board of Parole does not regulate entry into an occupation or profession.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. We found no evidence of hiring practices or Board appointments that are contrary to State personnel practices.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

**APPENDIXES**

APPENDIX A

ALASKA STATE BOARD OF PAROLE  
SCHEDULE OF AUTHORIZATIONS, EXPENDITURES AND ENCUMBRANCES  
 For the Year Ended June 30, 1978  
 (UNAUDITED)

	<u>Authorizations</u>	<u>Expenditures</u>	<u>Encumbrances</u>	<u>Lapsed</u>
Personal Services <sup>1</sup>	\$ 83,400	\$ 81,021	\$ 4,937	\$ (2,558)
Travel and Per Diem <sup>2</sup>	40,100	32,710	3,383	4,007
Contractual Services	24,189	7,268	421	16,500
Commodities	2,090	1,213	114	763
Equipment	<u>3,020</u>	<u>4,236</u>	<u>15</u>	<u>(1,231)</u>
<u>Totals</u>	<u>\$ 152,799</u>	<u>\$ 126,448</u>	<u>\$ 8,870</u>	<u>\$ 17,481</u>

- 
1. Personal service.. expenditures primarily relate to the Board's three permanent administrative staff.

The Board members reside in different areas of the State and parole hearings are held on location at the correctional institutions.

APPENDIX B  
SUMMARY OF PAROLE REVOCATIONS  
 For the Period July 1, 1973 - June 30, 1977

Parole Revocations, July 1, 1973 - June 30, 1977<sup>1</sup>

	<u>New Felonies</u>		<u>Technical Violations</u>	
	<u>f</u>	<u>%</u>	<u>f</u>	<u>%</u>
Revoked within one year after parole release	23	7%	28	9%
Revoked after more than one year after parole release <sup>2</sup>	12	11%	18	6%
<u>Totals</u>	<u>35</u>	<u>11%</u>	<u>46</u>	<u>15%</u>

- 
1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 8% new felony rate by parolees within a year of parole release.
  2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre-FY'78 parole release.

APPENDIX C  
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS  
 For the Period July 1, 1973 - June 30, 1978

<u>Fiscal Year</u>	<u>Total Cases Heard</u>	<u>Disposition of Parole Release Hearings</u>		
		<u>Paroled</u>	<u>Continued</u>	<u>Denied</u>
1974	220	81	115	24
1975	247	98	130	19
1976	223	69	110	44
1977	207	71	77	59
1978	228	79	80	69
<u>Total of all Fiscal years</u>	<u>1125</u>	<u>398</u>	<u>512</u>	<u>215</u>
Five year average	<u>225</u>	<u>80</u>	<u>102</u>	<u>43</u>

APPENDIX D

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. (A) What do you believe to be the goals and objectives of the Board of Parole?

<u>Description</u>	<u>Number of Responses (See Note 1)</u>
<i>To return people to society when ready.</i>	2
<i>To save taxpayers' money.</i>	1
<i>To help the parolee in making social adjustment.</i>	3
<i>To have less than 8% new felonies by parolees.</i>	1
<i>Return parolees to custody to prevent future crime.</i>	1

- (B) What goals and objectives do you feel the Board has succeeded in meeting? Has not succeeded in meeting?

*No response.*

2. (A) How does the Board measure its progress in meeting its goals and objectives?

<u>Description</u>	<u>Number of Responses</u>
<i>By research.</i>	1
<i>Parolees' success or failure is a standard of measure.</i>	2

- (B) Is there anything additional that you would consider valuable in evaluating the performance of the Board?

<u>Description</u>	<u>Number of Responses</u>
<i>Need more research.</i>	1
<i>Need better case history and time to study cases.</i>	2

3. (A) Is the staff from the Department of Health and Social Services and/or other departments adequate to perform and enforce all laws and regulations relating to the Board of Parole?

<u>Description</u>	<u>Number of Responses</u>
<i>Attorney General's staff is adequate.</i>	1
<i>Administrative staff is inadequate.</i>	3

- (B) What staff support services are provided adequately? Inadequately?

<u>Description</u>	<u>Number of Responses</u>
<i>Attorney General's staff is adequate.</i>	1
<i>Policy, planning and support staff is inadequate.</i>	3

4. What evidence exists demonstrating that the Board has operated in the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>Some people never will be paroled.</i>	1
<i>We listen to the public.</i>	1
<i>Quality of the performance of the Board is high.</i>	2

5. What evidence exists demonstrating that the absence of Parole regulations and/or the Board would be detrimental to the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>The requirement of each regulation is intended to assist the parolees as well as protect the public.</i>	1

6. Has the Board recommended any statutory changes which are generally in the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>Yes.</i>	1

6. (cont'd)

<u>Description</u>	<u>Number of Responses</u>
No.	1
Not sure.	1

7. Are there any statutes or regulations that you believe to be obsolete, vague, unduly restrictive and/or inadequate to provide the Board with the responsibility and power to properly govern the purpose and activities of the Board? Please list and explain.

<u>Description</u>	<u>Number of Responses</u>
Yes.	2

8. What changes could be made to the Board which would improve its service to the public?

<u>Description</u>	<u>Number of Responses</u>
Need more personnel support.	1
Need more office space.	1
The Board is effective as it is.	1
There should be an alternate member in the Board.	2
There needs to be some younger Board members.	1
Compensation should be adjusted to meet expenses.	1
Board needs to have written guidelines.	1

9. Is the current five-person, part-time Board structure adequate to efficiently and effectively process parole cases?

<u>Description</u>	<u>Number of Responses</u>
The current structure is adequate.	3
Because of workload, a full-time board may be necessary.	1

10. Do you feel a "parole guidelines model" will be beneficial to the Board in deciding on Parole cases? Why?

<u>Description</u>	<u>Number of Responses</u>
Yes.	3

11. Additional comments.

<u>Description</u>	<u>Number of Responses</u>
If the Board is dissolved parolees would have to finish parole time under some system.	1
Many people do not understand or know the functions of the Board.	2
People don't know the difference between probation or parole.	1

---

Note 1

We sent the above questionnaire to five current Board members as of December 12, 1978 and seven previous members. Of the twelve questionnaires sent, we received three responses, representing current members. There may be more than three responses to each question since a member may have answered with more than one response.

APPENDIX E

QUESTIONNAIRE SENT TO PROBATION-PAROLE OFFICERS

	<u>Responses (Note 1)</u>		
	<u>Yes</u>	<u>No</u>	<u>No Opinic</u>
1. <u>What can be done to contribute to the parole system's effectiveness? Are there any services now provided by the Parole Board that need improvement? Should any additional services be rendered?</u>			
<u>Typical response (Note 2).</u>			
a. <i>Organize Parole Board to include professional members.</i>			
b. <i>The Board is doing a good job.</i>			
2. <u>Do you feel that your recommendations concerning parole cases are given adequate consideration (to pre-release plan responses; revocation petitions)?</u>	11	2	1
3. <u>Do you believe the Board has operated in the public's best interest, why or why not?</u>	10	3	1
<u>Typical response if Yes.</u>			
a. <i>The Board is mostly successful and mindful of its responsibilities.</i>			
<u>Typical response if No.</u>			
a. <i>Sometimes decisions are not well thought out.</i>			
4. <u>Do you ever have any problems in contacting a Board member for parole related business? Please specify.</u>	5	8	-0-
<u>Typical response if Yes.</u>			
a. <i>It has sometimes been difficult to contact a Board member to obtain an arrest warrant for a parole violator.</i>			
<u>Typical response if No.</u>			
a. <i>Parole Board staff are readily available.</i>			

- |    |   |   |   |     |
|----|---|---|---|-----|
| 5. | <u>Do you feel that parolees have had more or less success than probationers in readjusting to society?</u>         | 4 | 5 | 5   |
| 6. | <u>Do you feel the Board is overly lenient or restrictive in reviewing applications for parole, why or why not?</u> | 1 | 9 | 4   |
|    | <u>Typical responses if No.</u>   |   |   |     |
|    | a. <i>The Board is fair in granting parole and neither too lenient or restrictive.</i>                              |   |   |     |
| 7. | <u>Do you feel that those parolees you have been in contact with in the past have represented "good risks"?</u>     | 8 | 2 | 4   |
| 8. | <u>Should the Board be allowed to terminate parole at a date earlier than presently required by law?</u>            | 9 | 5 | -0- |

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Note 1

Total responses	<u>14</u>
Number of questionnaires mailed to State employed field probation-parole officers.	<u>40</u>
Questionnaire response rate	<u>35%</u>

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01 - JUNEAU 1979

August 6, 1979

RECEIVED

AUG 6 1979

LEGISLATIVE  
AUDIT

Gerald L. Wilkerson, CPA  
Division of Legislative Audit  
Legislative Affairs Agency  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Members of my staff have reviewed your audit report entitled "A Performance Review of the Alaska State Board of Parole". Generally, we find your recommendations helpful. There appears to be two areas where clarification is necessary.


The first is \$14,200 of the funds identified in Appendix A as lapsing where part of a LEAA Grant that was carried forward into Fiscal Year 1979.

The second item and more difficult is that of the information contained in Appendix B and C. There has been two methods of tabulating the information. Members of the Parole Board and your staff presented two differing opinions.

It would be greatly appreciated if your staff could provide the criteria used in compiling the grouping. This would allow myself and others in the Department to compare the two methods. Another response will be provided after the methods have been reviewed.

Thank you for the opportunity to respond to the audit report.

Sincerely,

  
Helen D. Beirne  
Commissioner

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE  
POUCH H - 01E  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3384

August 2, 1979

RECEIVED

AUG 3 1979

LEGISLATIVE  
AUDIT

Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Response to Audit  
Report - Parole Board

Dear Mr. Wilkerson:

The statement on page three under the section entitled "Scope Constraints" is erroneous. All reports required pursuant to AS 33.15.130 have been completed and filed with the Commissioner's office. Copies of these annual reports have been copied for your Division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature. Additional funding should be provided if more comprehensive reports are desired. The Governor's Budget and Audit staff should provide the necessary forms to all State agencies so that they can comply with AS 37.07.090. Neither of the reports outlined in AS 33.15.130 or AS 37.07.090 will be of much value in evaluating the performance of the Board without much more comprehensive data such as that being collected under the current "parole guidelines" grant on a limited number of cases and the information expected to be collected under the "OBSCIS" grant.

The statement in paragraph one, page five, is incorrect, regarding the Board having two clerical personnel. The Board has never had two clerical positions authorized in my eight years with the Board. We did have a temporary CETA for several months this past year.

Mr. Gerald L. Wilkerson  
Page 2  
August 2, 1979

Paragraph number three of page five does not correctly outline the options available to the Board at revocation hearings. The first two options in the second sentence are correct, the third is not. Besides the first two options, the Board may also:

1. Find the parolee in violation but allow him to remain on parole with any other conditions it deems appropriate.
2. Revoke parole and require the parolee to serve the remainder of his sentence minus good time earned.
3. Continue the case to the next hearing for additional information.

The last sentence in paragraph three of page five is also incorrect. The Board has averaged 22 revocations per year, not 27. This includes a substantial number of mandatory release revocations of those offenders placed on supervision by operation of law without any control by the Parole Board (AS 33.20.040). Five of the revocations in 1978 were in this category. Actual number of revocations of offenders released by a discretionary decision of the Board would probably be closer to 18 per year.

We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective.

The Board strongly disagrees with the "Report Conclusion" in paragraph four of page seven that the Board should "maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities". Elaboration is provided later in this response.

Mr. Gerald L. Wilkerson  
Page 3  
August 2, 1979

The Board agrees with the recommendation that it codify its regulations (elaboration provided later in this response). Current regulations have already been made available to all known interested parties and we will continue this practice. A comprehensive set of regulations was presented to the Board members on July 5, 1979, and they were approved with several minor changes by the Board members present on July 10, 1979. The Board awaits the comments of the Attorney General's Office before formally sending them out to interested parties for comment and then adoption.

Codifying Board regulations as suggested in paragraph five on page seven will benefit a small number of employees that frequently work with or within the criminal justice system. However, only a comprehensive education and information effort will have any impact on helping the general public understand and be able to offer realistic suggestions about the Parole Board. Public meetings attended by staff or Board members in the past have been of limited value in enlightening the public but we agree the public should have the opportunity for the input. Again, only a concerted public information effort will be of much value in educating the public. These comments are based upon many years of experience with the public in handling corrections-related matters.

#### FINDINGS AND RECOMMENDATIONS

The findings under recommendation number one on page nine are erroneous as written. The Board does have other specific and articulated objectives than the one referred to in your report. Legislative Audit staff have refused to acknowledge the presence of others not contained in the FY-79 budget even though contained in other related documents and in Board rules and regulations. All of these have been copied for Legislative Audit. (See memo of January 16, 1979 for a brief summary). The Board certainly wishes to establish long range goals but finds this impossible without adequate staff to compile data for the members to provide them with bases for future planning.

The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.

Mr. Gerald L. Wilkerson  
Page 4  
August 2, 1979

Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Boards' attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and management information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established once the staff is available to complete the work.

The Board has complied with the reporting requirements of AS 33.15.130 as noted earlier in this response. Comments have already been made about the lack of compliance with AS 37.07.090. We would gladly comply with this statute if provided the forms and instructions for completing them. AS 33.15.130 requires the Board to submit data regarding its decisions to the administration. This has been done. The statute does not require that the Board include "a computation and analysis of dispositions in criminal matters by State courts . . .", as stated in your report. The statutory language is clearly discretionary and the Board certainly does not anticipate taking on this mammoth task without specific legislative direction and the necessary staff.

Again, the Board wishes to comply with AS 37.07.090 if given the forms and instructions to accomplish the task. We would welcome the resources to enable us to complete a comprehensive rather than a perfunctory annual report pursuant to AS 33.15.130.

The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current

Mr. Gerald L. Wilkerson  
Page 5  
August 2, 1979

practice, is to make administrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjunction with Board hearings as time permits in recent years simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

The Board concurs in recommendation number five on page 11. Your report does not reflect that this has been a priority of the Board. The annotated regulations have been prepared by staff and reviewed by the members. The board is awaiting the comments of its attorney before sending the proposed regulations out to the affected agencies and the public for comment. The final step is making final changes, adopting the regulations, and training affected Corrections staff regarding the changes. If we are supplied with funds and staff, this task will be completed before the full Legislature holds hearings regarding this report.

#### ANALYSIS OF PUBLIC NEED

The Board concurs in the comments in Section I, page 12. Subsection three should point out that the documented figures show the parolees released by the Board were convicted of far fewer felonies than any other Board in the country, even with 1 1/2 to 4 1/2 year follow-up from release. This is very significant. This data was reviewed with your staff on July 18, 1979.

Regarding Section II, page 12, subsection 2 is incorrect for the reasons stated previously about recommendation number two, page nine. It is significant that your report made absolutely no reference to "budgetary, resource, and personnel matters" in your analysis as called for in the sunset statute.

Mr. Gerald L. Wilkerson  
Page 6  
August 2, 1979

Nor was any explanation given for failure to address this most important issue. A recent group of corrections professionals hired to help analyze the corrections system in Alaska and plan for the future of the system did discuss some of these issues.

First of all, they indicated the Alaska Parole Board exceeded the national standards developed for adult paroling agencies in most respects. In the areas where the Board fell short, most of the suggestions made to bring us in compliance with national standards were either changes in the statutes or increased funding by the Legislature. Of great significance is the fact that the Corrections Masterplan Legislative Subcommittee adopted most, if not all, of the recommendations of the corrections consultants regarding the operation of the Parole Board, at a meeting on July 16, 1979. Although there are some inaccuracies in the consultant's report, it is essentially accurate as provided to your staff earlier this year.

Although you have ignored our suggestions that changes are needed in the statutes, we strongly encourage the Legislators to review the recommendations of the corrections specialists contained in their report. I would also suggest a copy of the national standards be provided any legislator who is interested in what statutory changes would be necessary to allow the Alaska Board to become accredited. (Money was budgeted to allow the Board to apply for accreditation in 1978, but we did not pursue this, in great part because of the need for these statutory changes). Finally, the Masterplan report strongly recommended increased staff for the Board to allow us to comply in the few areas we do not at the present time. We believe that this is one case in which a small amount of additional funding will allow the Board to operate more efficiently and comprehensively and provide everyone with information that they all want about the Board's operation.

The Board agrees with Section III, page 13. Interestingly, much of the legislation we have recommended in recent years is also included in the national standards and in the recommendations in the Corrections Masterplan consultant report already referred to.

Mr. Gerald L. Wilkerson  
Page 7  
August 2, 1979

We agree with Section IV, page 13. Inasmuch as much of the feedback the Board gets is in the form of telephone calls, comments made at meetings attended by Board representatives, etc., this information will never be available for analysis. All of our old correspondence files were available for the legislative audit staff to review for comments if they had wished. The partial list of Board contacts with citizen and government groups is extensive. A survey of these contacts would take minimal time and would show the attitude of these people about the operation of the Board.

The comments listed under Section V, page 13 are not true. We have never barred anyone from attending an administrative Board meeting. These meetings are not advertised and public input has not been solicited in the past for the reasons enumerated in the comments regarding recommendation number four. Regulations of the Board have been made available to anyone that has requested them in the past and copies have been widely circulated in the Alaska criminal justice system. Where a change was made in the policy, the change was provided the party requesting the information. The Board has complied with this section to the greatest possible extent with the funds and staff available, even though we have been working to codify the regulations. See previous comments about the status of implementation of recommendation number five.

We have no problems with Section VI, pages 13 and 14. However, our correspondence files do contain many letters addressed to the Board that we answer, answer for the Commissioner, and for the Governor's office, that are available for analysis regarding the operation of the Board.

We concur with Section VII, page 4.

We concur with Section VIII, page 14. Of significance is that the Governor and the Board have made a concerted effort to insure a broad cross section of the Alaska community is represented on the Board. The current makeup of the Board includes 1 Alaska Native male, 1 white female, 1 black male, and 2 caucasian males.

Legislative Audit has chosen to not deal with Section IX, page 14. I strongly suggest that the recommendations of the

Mr. Gerald L. Wilkerson  
Page 8  
August 2, 1979

Corrections Masterplan consultants and the legislative subcommittee on Corrections recommendations be made available to the members of the Legislature that receive this report so that they will have some idea of what is recommended to allow the Board to operate more effectively and efficiently.

A footnote to Appendix A needs to be added to clarify that most of the \$17,481 "lapsed" money was money from a federal grant that was moved over to be used during calendar year 1979. It did not lapse.

Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 12, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachment A to this response.

The figures for Appendix C are somewhat inaccurate, but no gross errors exist. For the record, the corrected figures in the same format are attached to the letter as Attachment B.

The response to the questionnaire sent to probation/parole officers was low because many of the employees receiving the questionnaire were assigned to handle juvenile cases only. Also, questionnaires were not sent to the 1) institutional probation/parole officers who work extensively with the Board. Interest among these employees is high regarding Parole Board matters. Legislative Audit was notified of this oversight on their part in December, 1978, but questionnaires were never sent to these employees. I suggest they be included in any future questionnaires.

Overall, the Board agrees with most of the comments made under each of the five "recommendations", even though the

Mr. Gerald L. Wilkerson  
Page 9  
August 2, 1979

recommendations themselves are mostly very inaccurate. These recommendations should be corrected so the public and the Legislators are not misled or misinformed. The inaccuracies we have pointed out are mostly substantive rather than technical. The Board is very concerned by the reticence on the part of your staff to correct obvious inaccuracies in the report such as the data compiled in Appendix B regarding new felonies. We stand ready at any time to support our statements contained in this response and the figures we have supplied to correct the data included in the Appendixes.

Sincerely,



William B. Lyons  
Chairman

WBL/vh

cc: Helen D. Beirne  
Commissioner

P.S. Although your staff agreed to provide us with a copy of the audit report and receive our comments before making it available to the Legislative Budget and Audit Committee, I understand it has already been made available and discussed with the Committee members. I trust you will advise them of the errors in the data in your draft report. Of course, the errors we have pointed out in the audit report also apply to the summary report of June 19, 1979, and because of the abbreviated nature of it, the inaccuracies in that summary unfortunately are maximized. This summary certainly should be corrected. Since the other members of the Board have requested I reply in their behalf to the audit report, please accept this letter as representative of the comments of the entire Board.

COLLECTED

APPENDIX B  
SUMMARY OF PAROLE REVOCATIONS  
For the Period July 1, 1973 - June 30, 1977

Parole Revocations, July 1, 1973 - June 30, 1977<sup>1</sup>

	<u>New Felonies</u>		<u>Technical Violations</u>	
Revoke within one year after parole release	8	2.6%	56	18.5%
Revoked after more than one year after parole release <sup>2</sup>	4	1.3%	19	6.3%
<u>Totals</u>	<u>12</u>	<u>4.1</u>	<u>75</u>	<u>24.8%</u>

1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 5% new felony rate by parolees within a year of parole releases.
  2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre FY'78 parole release.
- Research verified and rechecked in June, 1979 By Alaska Board of Parole.

CORRECTED

APPENDIX C  
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS  
For the Period of July 1, 1973 - June 30, 1978

<u>Fiscal Year</u>	<u>Total Cases Heard</u>	<u>Dispositions of Parole Release Hearings</u>		<u>Denied</u>	<u>Other</u>
		<u>Paroled</u>	<u>Continued</u>		
1975	252	93	133	22	4
1976	214	53	92	61	8
1977	212	75	78	52	7
1978	226	64	72	70	12
<u>Total of all Fiscal Years</u>	<u>1132</u>	<u>362</u>	<u>496</u>	<u>241</u>	<u>33</u>
Five year average	<u>236</u>	<u>72</u>	<u>99</u>	<u>48</u>	<u>7</u>

\* Research verified and rechecked in June, 1979, By Alaska Board of Parole.

**THE LEGISLATURE**

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

August 7, 1979

Members of the  
Legislative Budget and Audit Committee:

We have reviewed the responses of the Parole Board and the Department of Health and Social Services and the auditor's comments are listed below.

Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's response to Recommendation No. 1 states in part:

"...We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective."

Auditor's Comment:

It is the position of Legislative Audit that it is the responsibility of the Board and its Executive Director to prepare and establish specific objectives to manage and evaluate the parole program of the State of Alaska. It is not appropriate for Legislative Audit to establish specific objectives necessary to manage and evaluate the activities of the Board. The other specific objectives mentioned in the Board's response are not program objectives but are administrative in nature.

Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board response in part states:

"...The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.

Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Board's attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and management information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established, once the staff is available to complete the work."

Auditor's Comment:

The Board in their response above states that most of their information has not been coded, compiled, or analyzed and made available in a usable fashion. It is the position of Legislative Audit that information must be usable in order to ensure the Board has the necessary information to manage its activities. For example, the Board as of the date of the audit (May 19, 1979) did not have statistical information on parole revocations (Appendix B). Information of this type is essential to evaluate the effectiveness of the parole program.

Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board agrees that they have not complied with AS 37.07.090. However, the Board states that they have complied with AS 33.15.130. The Board's response states in part:

"... all reports required pursuant to AS 33.15.130 have been completed and filed with the commissioner's office. Copies of these annual reports have been copied for your Division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature."

**Auditor's Comment:**

We have not received a copy of the annual report as stated in the Board's response. We requested a copy of the annual report again on July 18, 1979 from the Executive Director and of this date have not received a copy.

Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

**The Board's response to Recommendation No. 4:**

"...The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current practice, is to make administrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjunction with Board hearings as time permits in recent years simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

Auditor's Comment:

The thrust of this recommendation is to encourage more public participation in the parole process.

We affirm our recommendation as written.

Appendix A

Board's Comment:

The Board states that \$17,481 of funds identified in Appendix A as lapsing did not lapse.

Auditor's Comment:

The figures contained in Appendix A are per the State Annual Report. If the figures contained in the Annual Report are incorrect, we suggest that personnel of the Board contact the Division of Finance.

Appendix B

Board Comment:

"...Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 17, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachment A to this response."

Auditor's Comment:

We do not agree with the Board's statement that our figures are inaccurate or that the difference is insignificant.

Our figures in Appendix B for new felonies and technical violations are based on Board records as of the date the Parole Board revoked parole and does not include subsequent

Auditor's Comment Continued:

changes which may have reduced a felony to a technical violation. It should be noted that at the time of the audit the Board did not have any statistical information on parole revocations.

It is our position that a new felony should be measured at the time the Board revokes his or hers parole, because this is a clearer indication of the parolee's behavior while on parole rather than when the charges against a parolee for a new felony is finally resolved due to action by the Prosecuting Attorney or the courts.



Gerald L. Wilkerson  
Legislative Auditor  
Division of Legislative Audit

O V E R V I E W  
OF EFFECT OF DECISIONS IN C. J. SYSTEM

1975: Ban on Plea Bargaining |

Takes away informal bargaining outside of court for changes of plea to guilty in return for a specific sentence.

Makes District Attorney screen cases for trialability so that no frivolous cases are continued.

Gives judge almost total discretion in sentencing by banning recommendations from lawyers as a result of a bargain. Parole board retains power when not limited by judge's sentences.

1978/80: Presumptive Sentencing

Allows for more certainty as to what sentence defendants will get if they are convicted. Takes discretion away from judge except with respect to aggravating and mitigating circumstances that are introduced by lawyers. Gives the D.A.'s more power through their charging capacity. Takes away discretion from judges. Gives Corrections personnel power over the 1/4 of a sentence that is forgiven by good time provisions. They also have the power to furlough certain persons. Takes away power from parole board since the range of cases over which they have any discretion is limited.

Trends: Legislature has taken control of sentencing guidelines. Direction seems to be toward more certain sentencing and limitation of judges' power which was given back to them alone as a result of the 1975 policy decision.



Official Business

# Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

February 24, 1982

Pouch V  
State Capitol  
Juneau, Alaska 99811

## Agenda

- |                  |  |
|------------------|--|
| SSHB 500         | Relating to state funding of abortions |
| CSHB 210         | Relating to child custody              |
| HB 225, 261, 293 | Relating to parole board               |

## POSITION PAPER

PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. ~~25235~~ <sup>es</sup>

In February of 1981, the Governor submitted H.B. #293 as the second and concluding phase of the effort begun by the Administration and the Legislature in 1975 to devise a more determinative approach to sentencing. The effort was designed to reduce unjustified disparity and thus bring about greater uniformity in the sentencing process. The bill established presumptive sentences for all felonies, effectively removing the element of uncertainty many offenders now experience, both with respect to sentencing and parole board consideration. As originally drafted, the bill would have allowed the Parole Board to sunset, establishing in its place an interim sentencing review commission which, over a period of three years, would have given hearings to all prisoners with future eligibility for parole. The bill also included provisions aimed toward clarifying ambiguities in the present statutes with respect to sentencing and also with respect to furlough authority.

There were some unresolved issues in the original bill. The proposed committee substitute reflects resolution of these concerns as worked out in discussions between the Department of Law and the Department of Health and Social Services. The points which were at issue are enumerated below.

- (1) By eliminating the Parole Board and having an interim commission make parole decisions on all offenders with remaining parole eligibility, the decisions could, in many cases, be premature, depriving the offender of the time he or she normally would have had to prepare himself or herself for parole consideration.

This perceived problem has been addressed in the proposed committee substitute by providing for continuance of the Parole Board for as long as necessary to assure giving all offenders parole hearings at the appropriate time, or until an acceptable alternate procedure for making future parole decisions can be established.

- (2) It was also noted that while provisions of H.B. #293, as initially drafted, provided much needed clarification with respect to furlough authority, the Division of Adult Corrections would not have had, under the proposed provisions, the flexibility needed to develop a strong furlough program of the kind needed to assist in offsetting the effect of the loss of discretionary parole.

In the proposed committee substitute, several minor but significant changes have been made which would provide clear authority for establishment of a strong furlough program. Although greater flexibility is provided, better controls are also written into the bill, clearing up the ambiguities which have been troublesome in past attempts to find ways of moving ahead with responsible expansion of community based corrections.

- (3) The provision which calls for a one-year prison sentence for Class C offenders except where mitigation can be shown could have had the effect, on occasion, of requiring the courts to send first time property offenders to jail even though probation might be clearly more appropriate.

This concern has been addressed in the committee substitute by the addition of two mitigating factors: (a) The offense is mitigated if the offender is 21 years of age or younger at the time of the offense. (b) The offense is mitigated if the offender has not been previously convicted of a misdemeanor. It becomes virtually certain, with the addition of these factors, that sentencing courts will not be prevented from placing offenders on probation when probation is indicated.

- (4) There have been concerns about the effect of H.B. #293 on the prisoner population. An analysis jointly prepared by the Department of Law and the Division of Adult Corrections staff indicated that the bill would have necessitated building approximately 66 additional prison beds over the next five years.

By modifying the provisions relating to furlough authority and presumptive sentencing for Class C offenders, this concern has been alleviated to some extent. Of particular significance are provisions in the proposed committee substitute relating to good time allowances. Article 5 provides for a prisoner who conducts himself responsibly while imprisoned to have a good conduct deduction of one-third of his sentence. The effect of this provision is a good time formula of one day in good time for every two days served. Article 5 of the proposed committee substitute also provides for an additional good conduct deduction of one sixth of the term for those in pre-release furlough status. The effect would be a one-for-one good time formula for offenders who are finishing up their sentences in halfway houses or in other types of furlough programs. This provision has much merit as it would encourage inmates in community-based programs to perform well and would reward them for functioning responsibly in the community, reducing the State's costs, paying taxes and perhaps contributing to the support of their families.

Rather than requiring the addition of not less than 66 new prison beds, the bill, as revised, would have a negative impact of perhaps 46 beds and thus result in a modest but welcome alleviation of our need for additional prison bed spaces. In view of the phasing out of discretionary parole and the toughening up of the sentencing statutes with respect to serious offenders, the Department of Health and Social Services sees this proposal as entirely appropriate. Serious and dangerous offenders will be imprisoned for terms of appropriate length, while programs for providing responsible community-based alternatives can be developed for non-dangerous offenders as well as for those who need reintegration into the community after imprisonment. A one-for-two good time formula would, in fact, be somewhat conservative by comparison with a number of other states. Indiana, for example, is one of the states that is attempting to function without a parole board, has an across-the-board one-for-one formula. The State of Texas provides a three-state formula. Only those inmates in marginal behavior status are under the one-for-three formula in the Texas system, many inmates there earn one-day good time for every day served.

**POSITION PAPER/Department of Health & Social Services**

Our belief is that by making the improvements reflected in the proposed committee substitute for H.B. #293, a viable approach has been devised to the establishment of a determinative approach to sentencing under which the public would be protected and a greater measure of fairness and consistency will be achieved.

Recommended by:

*Walter B. Jones, Jr.*

Walter B. Jones, Jr.  
Acting Director  
Division of Adult Corrections

Date:

3/15/82

Approved by:

*Helen D. Beirne*

Helen D. Beirne  
Commissioner

Date:

3/15/82

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed Committee Substitute for HB 293  
 Title "An Act establishing a parole system"  
 Requested by House HESS Date March 1, 1982

*CS 225*

II. FISCAL DETAIL

Agency Affected Health and Social Services  
 Program Category Affected Offender Confinement Reformation & Supervision  
 BRU, Program, Or Subprogram(s) Affected Adult Confinement, Probation/Comm. Programs  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			108.8	160.5	218.9	234.2
200 TRAVEL			8.6	14.0	20.3	22.2
300 CONTRACTUAL			(13.3)	(10.1)	(6.5)	(7.1)
400 COMMODITIES			(113.6)	(123.0)	(133.2)	(145.2)
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>(5.9)</b>	<b>42.7</b>	<b>100.9</b>	<b>104.1</b>

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	-0-	(5.9)	42.7	100.9	104.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	3	4	5	5
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

House Bill 293 restructures Alaska's parole system, continues the existence of the Board of Parole, provide for the establishment of comprehensive furlough programs by the Division of Adult Corrections, and establishes presumptive sentences for first time felony offenders.

A. Adult Confinement

In April 1981, the Department of Health and Social Services and Department of Law projected an eventual impact of 66 additional offenders in Alaska's prisons within seven years if HB 293 was enacted without amendment. In arriving at this figure, the departments relied on the most recent available statistical data developed by the Alaska Judicial Council, the Court System and the Division of Adult Corrections. A copy of that analysis is attached to this fiscal note.

IV. DATE March 14, 1982 PREPARED BY Roger C. Lange  
 AGENCY Division of Adult Corrections  
 Original: Legislative Finance PHONE 465-2376  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

The increase in prison population projected in April 1981 was attributable to two factors having virtually identical impact: 34 additional offenders would be in Alaska's prisons seven years after the bill was enacted as a consequence of the elimination of discretionary parole release and an additional increase of 32 offenders would be attributable to amendments to the presumptive sentencing statutes.

At the time this analysis was completed, four amendments to HB 293 were identified. The enactment of any of these amendments would have the effect of significantly decreasing the projected increase in prison population attributable to the bill.

Three of the amendments identified in April 1981 have been included in the proposed committee substitute for HB 293. The three amendments will have the combined effect of reducing Alaska's existing prison population by approximately 64 within seven years after HB 293 is enacted. The decrease in prison population attributable to HB 293 could begin soon after the legislation is enacted. Since this bill does not mandate implementation of the furlough provisions, the Department is not requesting funding over the current budget projection level.

The three amendments that have been made to the proposed committee substitute for HB 293 that pertain to prison population forecasts and the effect of each amendment is summarized below. The total bed decrease attributable to the amendments is 112, but since HB 293 as originally drafted was projected to increase the prison population by 66, the net decrease in population resulting from enactment of HB 293 is 46.

1. Setting the presumptive sentence at seven years in the committee substitute for first offense class A felonies when a firearm is possessed or a dangerous instrument used results in a decrease of approximately 24 prisoners. Under the original version of the bill, the presumptive sentence was set at eight years. (Proposed CSHB 293, P. 31, line 2.)
2. Providing for a good conduct deduction of one-third for all offenses under the committee substitute results in an additional decrease of approximately 58 prisoners over the period of this fiscal note. Under existing law, offenders receive good conduct deductions at a rate equivalent to one-quarter of their sentences. (Proposed CSHB 293, p. 24, lines 10-13.)
3. Providing for a good conduct deduction of one-half for prisoners on furlough in the committee substitute results in an additional decrease of approximately 30 prisoners. Under current law, prisoners on furlough programs are only entitled to the good conduct deductions applicable to other offenders. (Proposed CSHB 293, p. 24, lines 14-18.)

It should be noted that these estimates are based on a projected decrease in the rate of probation for first offense class B and C felonies, from an estimated 50% and 80% under current practice, to 30% and 60% respectively under HB 293. If the rate of probation remains constant, the projected decrease in prison population will be even greater. The addition of two mitigating factors in sec. 17 of the proposed committee substitute, which are specifically applicable to first offense felonies, are expected to have the effect of maintaining existing probation rates.

B. Probation and Furlough Programs

Enactment of this legislation will have two distinct impacts on the Department's probation and furlough programs. While the need for field probation services will increase by approximately 8% as a result of the enactment of the one-for-two good conduct formula, sec. 17 of the bill provides that ordinarily only the first half of the probation period requires mandatory contact with a probation officer. These two provisions of the bill will have the combined effect of allowing supervision of probationers with current staffing and will require the department to place greater emphasis on the development of programs designed to assist a prisoner's reintegration into society after his period of formal probation supervision has ended.

This legislation does not mandate that a specific number of beds be created in furlough programs. Nevertheless, the Department's existing budget submission already includes funding for an additional 15 beds over current levels, which are required regardless of whether HB 293 is enacted. If the Department is successful in obtaining funding for additional furlough beds in subsequent years, it will be able to offer furloughs in appropriate cases within the guidelines specified in this legislation. It should be emphasized that the additional furlough beds that will be requested over the next several years do not represent fiscal impact caused by this legislation, as such programs are required regardless of whether this legislation is enacted.

The Department has requested funding for five additional field staff phased in over the period from FY 84 to FY 86 in order to coordinate and implement the furlough program and mandatory release aspects of this that will occur under this bill. These positions (four probation officers and one clerk typist) will be located in Anchorage and Fairbanks.

C. Cost Estimates

1. Reduced number of inmates. For purposes of this fiscal note the direct cost for food, clothing, medical, etc. for 46 persons are considered as cost reductions beginning in FY 1984. It is estimated that the FY 1984 savings will be \$115,700 in commodities and \$25,100 in contractual services. Since the Department is not planning to accelerate the movement of persons into the furlough program beyond the FY 1983 budget request, no savings are calculated for this period although some may accrue as a result of the change in the earning of good time.
2. Probation field services. To provide the field services related to the increased numbers of probationers/parolees identified above, five additional positions will be required. These staff would be placed in to coincide with caseload/workload increases, as follows:
  - a) FY 1983 - No new positions
  - b) FY 1984 - 2 Probation Officers II  
1 Clerk Typist III
  - c) FY 1985 - 1 Probation Officer II
  - d) FY 1986 - 1 Probation Officer II

FY 1984 estimated costs for the 3 positions are:

Personal Services	\$108,800
Travel	8,600
Contractual Services	11,800
Commodities	2,100
Equipment	3,600
	<u>\$134,900</u>

3. Inflation of 9% was used for years subsequent to 1984 with the exception of salaries where a 7% inflation rate was estimated.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

April 13, 1981

## HOUSE BILL 293 IMPACT ON PRISON POPULATION

The Department of Law and the Department of Health and Social Services have projected the effect of House Bill 293 on prison population if that legislation is enacted as currently drafted. In arriving at these projections we have relied on the most recent available statistical data developed by the Alaska Judicial Council, the Court System and the Division of Corrections.

While the projections that follow are only estimates, we believe we have taken an extremely conservative approach to the major assumptions required to complete this analysis. That is, our assumptions tend to overestimate any increase in prison population caused by HB 293. Our estimates, for example, are based on a projected decrease in the rate of probation for first offense class B and C felonies, from an estimated 50% and 80% under current practice, to 30% and 60% respectively under HB 293. If the rate of probation remains constant, the projected increase in population is reduced by more than half.

If HB 293 is enacted as drafted it would result in approximately 66 additional years of imprisonment served by defendants, sentenced during any year, over the life of their prison terms. The attached chart entitled "Projected Effect of HB 293 on Prison Population" details how this figure has been estimated. The 66 additional years of imprisonment represents the total increase in prison population that can be expected in the future as a result of the bill. The prison population will rise, over a period of several years, and level off at a point which is about 66 prisoners higher than if the bill had not been enacted. The attached chart entitled "Yearly Effect of HB 293 on Prison Population - Effect of Proposed Amendments" demonstrates the effect of HB 293 on prison population over the next ten years.

We have identified four amendments to HB 293, any one of which would significantly decrease the projected increase in prisoner population. The effect of the four

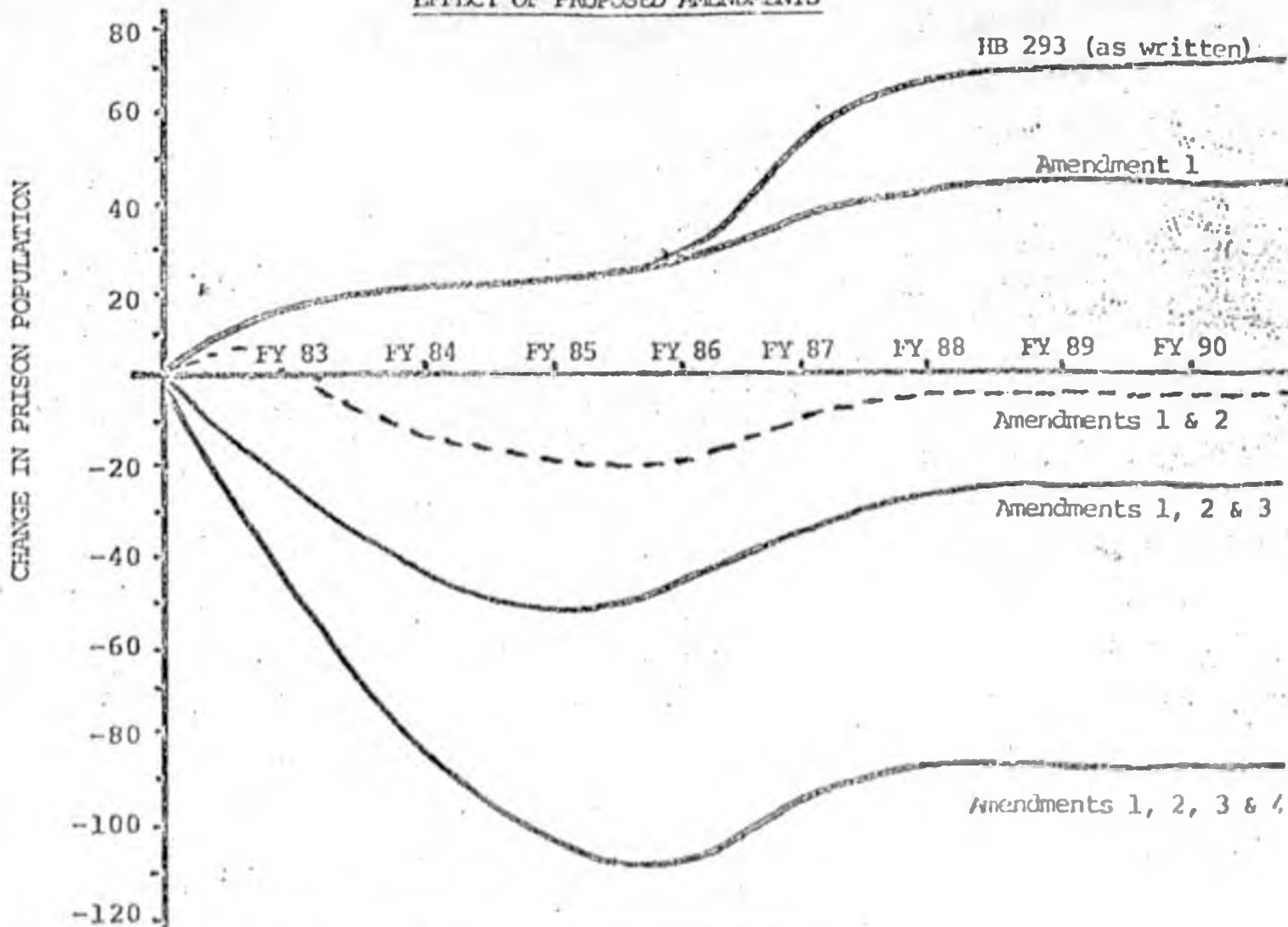
amendments on prison population, singly and in combination, is illustrated in the second chart. The four proposed amendments, which are listed in order of preference, are as follows:

1. Setting the presumptive sentence at seven years for first offense class A felonies where a firearm is possessed or a dangerous instrument used, results in a decrease of approximately 25 prisoners. (HB 293, p.26, line 16.)
2. Providing for a good conduct deduction of one-third for all offenses results in a decrease of approximately 45 prisoners. (HB 293, p.26, lines 12-24.)
3. Setting the presumptive sentence at six months for first offense class C felonies results in a decrease of approximately 25 prisoners. (HB 293, p.27, line 9.)
4. Providing for a good conduct deduction of one-half for prisoners on furlough results in a decrease of approximately 60 prisoners. (HB 293, p.6, lines 12-24.)

BJS:sl1

Attachments

YEARLY EFFECT OF HB 293  
ON PRISON POPULATION-  
EFFECT OF PROPOSED AMENDMENTS



Amendment 1: Presumptive Sentence for Class A felony with a Gun set at 7 years

Amendment 2: 1/3 Good Conduct Deduction for all offenders

Amendment 3: Presumptive Sentence for Class C felony set at 1/2 year

Amendment 4: 1/2 Good Conduct Deduction for Furloughed Prisoners

CLASS AND NUMBER OF FIRST OFFENDERS SAMPLED	NUMBER IMPRISONED	% IMPRISONED	AVERAGE SENTENCE (years)	FLAT TIME	OFFENDER YEARS	ESTIMATED SAVINGS IF PAROLED	NUMBER IMPRISONED	% IMPRISONED	AVERAGE SENTENCE (years)	YEARS SERVED	OFFENDER YEARS	NET CHANGE IN PRISON POPULATION ON FIRST OFFENSE
"A" FELONY With Deadly Weapon (32)	32	100%	6	4.5	144	0	32	100%	6	6	192	+48
"A" FELONY No Deadly Weapon (23)	18	80%	5.8	4.4	79	20	25	100%	5	3.33	77	-2
"B" FELONY (72)	39	50%	2.5	1.9	74	12	55	70%	2	2.33	73	-1
"C" FELONY (192)	38	20%	1.09	0.82	31	2	77	40%	1	0.67	51	+20

34  
total

Increase attributable to presump-  
tive sentencing for first offenders +65

Decrease attributable to increased  
good time for misdemeanants -33

Increase attributable to  
elimination of parole board +34

TOTAL INCREASE IN PRISON  
POPULATION CAUSED BY HB 293 +66



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: All Members of House H.E.S.S.  
FROM: Barbara Wilkins, Committee Assistant  
DATE: February 22, 1982  
RE: House Bills 225 & 261 on Parole

Subsequent to a meeting with the staff of the Senate H.E.S.S. Committee, the following issues were identified regarding possible amendment of HB 225. The Senate H.E.S.S. is using the counterpart to HB 261 for drafting, but are making substantial changes to incorporate certain portions of the counterpart to HB 225. Using HB 225 as a base, the following are areas of concern:

1. Good time computation for persons on parole. Because of due process considerations, the department feels that this would be too costly to implement. They also feel that it is only effective as a negative reinforcement measure, which is proven to be relatively ineffective in preventing behavior patterns.
2. Confidentiality of records release. The two bills differ in the pre-parole eligibility hearing materials made available to a prisoner upon request and their form. HB 225 would provide for release of the pre-parole report which is essentially the same summary the Parole Board receives. Mental health evaluations and evaluations from DOC personnel would be deleted. HB 261 would make all materials in the files available, including such evaluations.
3. Scope of statutory control of conditions of release. HB 261 seeks to set out specific conditions, with the addition of an escape clause to allow further expansion on the range of conditions set by the Board. HB 225 provides for the imposition of conditions which are to be determined by the Board. The 1980 Parole Regulations would be the guide under this legislation. An important point here is whether or not to invoke the Administrative Code (AS 44.62). If the Board were authorized, as is current law, to promulgate its own regulations, they would still have the authority of law but would not have to go through the lengthy and costly process set out in AS 44.62.
4. Notices of eligibility hearing and condition changes. HB 261 provides that prisoners will be given written notice of hearings and will be given a hearing on Board imposed changes in their conditions. Time periods differ between the two bills.

O V E R V I E W  
OF EFFECT OF DECISIONS IN C. J. SYSTEM

1975: Ban on Plea Bargaining

Takes away informal bargaining outside of court for changes of plea to guilty in return for a specific sentence.

Makes District Attorney screen cases for trialability so that no frivolous cases are continued.

Gives judge almost total discretion in sentencing by banning recommendations from lawyers as a result of a bargain. Parole board retains power when not limited by judge's sentences.

1978/80: Presumptive Sentencing

Allows for more certainty as to what sentence defendants will get if they are convicted. Takes discretion away from judge except with respect to aggravating and mitigating circumstances that are introduced by lawyers. Gives the D.A.'s more power through their charging capacity. Takes away discretion from judges. Gives Corrections personnel power over the 1/4 of a sentence that is forgiven by good time provisions. They also have the power to furlough certain persons. Takes away power from parole board since the range of cases over which they have any discretion is limited.

Trends: Legislature has taken control of sentencing guidelines. Direction seems to be toward more certain sentencing and limitation of judges' power which was given back to them alone as a result of the 1975 policy decision.



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: All Members  
FROM: Barbara Wilkins, Committee Assistant  
DATE: February 22, 1982  
RE: Parole Issues — HB 293

There are three bills currently being considered by the House H.E.S.S. Committee. Two bills have identical Senate counterparts -- HB 261 and HB 225. They differ on certain points which are delineated under separate cover. They are both a re-write of AS 33.15 relating to the Parole Board and would essentially preserve the Board in its present state.

House Bill 293 was introduced by the Governor and attempts to replace the Parole Board by a system of presumptive sentencing and good time computations. This is also a re-write of AS 33.15, but would result in a full-time interim commission to take care of the people falling under the old system.

This re-write is only one part of this bill. It also includes a portion which is a re-write of AS 33.30 relating to Corrections. This portion carries no fiscal impact. The reforms basically reflect current policy and ambiguities in the present statutes. Furloughs, contracting and leasing with private sector are included in this part.

Another section of this bill changes AS 12.55 presumptive sentencing to include first felony offenders, along with other modifications. Presumptively sentenced persons are not eligible for parole and are referred to as Mandatory Releases. This section merely seeks to make the presumptive sentencing model more homogenous system-wide.

It appears that the Committee needs to make certain basic choices such as whether or not it wishes to retain the Parole Board. After this, whether or not to pass out one bill and perhaps incorporate needed statute reforms from HB 293, or to pass out two or three CS's, each aimed at a specific issue/portion of law and separated by fiscal impact. If we are to get a good piece of legislation out in time to make it through the Senate, we need to act relatively quickly. Current statistics on just the presumptive sentencing portion will be unavailable until the first week in March.

INTRODUCTION OF BILLS (House) (cont'd)

HB 223 (cont'd)

New provisions are added to AS 47.25 under new sections 103 & 108, "Contractual Agreements," and "Eligibility." Effective July 1, 1981.

Introduced February 25 and referred to Health, Education & Social Services, then to Finance.

Delta/Greely  
REAA  
(adjusting  
FY 81 appro-  
priations)

HOUSE BILL NO. 224, by Rep. Moss. Repeals and reappropriates certain appropriations made to the Delta/Greely Regional Educational Attendance Area for FY 81. Reappropriates \$2.1 million to the Dept. of Transportation & Public Facilities for construction projects for the Delta/Greely REAA including: (1) a vocational education facility; (2) library expansion at Fort Greely; (3) sprinkler system at Delta; (4) administrative offices at Delta; and (5) classrooms at Fort Greely. No amounts specified for each.

Repeals Sec. 286, Ch. 50, SLA 1980, lines 22-25, page 42 and lines 4-5, page 43. Included: (23) Delta sprinkler system-- (\$200,000); (24) Library expansion, Fort Greely (\$300,000); (25) Vocational Education Fac. (\$1,000,000); (4) Delta Admin. Offices (\$200,000); and (5) Fort Greely classrooms (\$400,000).

States that the amount reappropriated is for capital projects and is subject to AS 37.25.020 (does not lapse). Effective immediately.

Introduced February 25 and referred to Health, Education & Social Services, then to Finance.

Parole of  
Offenders

HOUSE BILL NO. 225, by Rep. Martin. Extends the existence of the State Board of Parole (which expired on June 30, 1980) until June 30, 1984. Rewrites the Parole Administration Act (AS 33.15), adding new language to AS 33 under Chapter 16, "Parole Administration." Makes the following changes regarding the Board:

- Increases the term of board members from four to five years.
- Directs the Governor to designate the chairman, and stipulates that chairman must have a minimum two year's experience in the field.
- Adds prohibition that member of board may not seek or hold a statewide or national elective public office during his term.
- Requires the Governor to seek nominations for board members and outlines selection criteria for members.
- Add procedure for the removal of board members for "disability, nonfeasance, neglect of duty, malfeasance in office, or conviction of a crime."
- Allows board member to receive compensation of \$100 per day "for each day he is concerned with the business of the board."
- Requires board to meet at least four times a year (currently must meet at least twice a year).
- Requires a vote of at least three members on all decisions and orders.
- Deletes provision which currently allows board members to issue warrants to retake a parole violator.
- Expands on section which outlines the responsibilities of the board.

INTRODUCTION OF BILLS (House)(cont'd)

HB 223 (cont'd)

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- Increases the term of board members from four to five years.
- Directs the Governor to designate the chairman, and stipulates that chairman must have a minimum two year's experience in the field.
- Adds prohibition that member of board may not seek or hold a statewide or national elective public office during his term.
- Requires the Governor to seek nominations for board members and outlines selection criteria for members.
- Add procedure for the removal of board members for "disability, nonfeasance, neglect of duty, malfeasance in office, or conviction of a crime."
- Allows board member to receive compensation of \$100 per day "for each day he is concerned with the business of the board."
- Requires board to meet at least four times a year (currently must meet at least twice a year).
- Requires a vote of at least three members on all decisions and orders.
- Deletes provision which currently allows board members to issue warrants to retake a parole violator.
- Expands on section which outlines the responsibilities of the board.

HB 225 (cont'd)

Changes regarding the board (cont'd):

--States that Exec. Director serves at the pleasure of the board (currently serves at the pleasure of the Governor) and directs Exec. Director to employ the staff of the board.

New Chapter includes the following provisions regarding the parole process:

--Makes a distinction between "discretionary parole" (granted by the board) and "mandatory parole" (release "by operation of law" such as for good conduct).

--States that a prisoner other than a juvenile delinquent who is serving a definite term of over 180 days and who is not imprisoned for a committing a felony may, in the discretion of the board, be released on discretionary parole. Convicted felon may not be released until he has served at least the prescribed minimum term. A convicted felon who is released under AS 33.20-.030 (early release for good conduct) "shall be placed on mandatory parole for the period specified in the certificate of deduction subject to written conditions imposed by the board."

--Allows sentencing court to designate in the sentence of imprisonment a term at the expiration of which the prisoner is eligible for parole. Term shall be at least one-third of the period of confinement or the minimum term prescribed in AS 12.55-.125 for felonies, whichever is greater.

--Outlines conditions for granting of discretionary parole. States that prisoner may not be released until he has served either one-third of sentence or the minimum term required by law for felony convictions (currently parole may not be granted until prisoner has served either one-third of sentence or 15 years of a life sentence).

--Outlines information to be taken into consideration by the board when determining the suitability of a prisoner for discretionary parole. Includes: the presentence report; recommendations made by sentencing court, by prosecuting attorney & defense attorney, and any statement made by the prisoner at sentencing; the prisoner's history at the jail to which he was sent; a recommendation made by an officer at the jail; official reports of earlier crimes and earlier probation and parole experiences; physical, mental, and psychiatric exams of the prisoner; and information submitted by the prisoner, the prisoner's attorney, a victim of the crime, or other persons.

--Grants a prisoner the right to an interview with a member of the board to review the suitability of the prisoner for discretionary parole. Prisoner may waive such right.

--Requires the board to furnish to each person released under its supervision an order for parole. The order shall contain the conditions of parole and the date parole supervision expires. Order does not take effect until it is accepted and signed by the parolee and his parole plan is approved.

HB 225 (cont'd)

--Outlines mandatory conditions of parole: prisoner must refrain from violating state or federal laws. Board may require as a condition of parole that parolee accept any condition established by board under regulations adopted by it. Allow parolee to request reconsideration by the board of a condition of parole at any time.

--States that pre-parole reports submitted to the board are confidential.

--Allows a prisoner or a parolee to appeal a decision or order of the board to the superior court on the ground of arbitrariness or capriciousness.

--Outlines the duties of the Commissioner of Health & Social Services with regard to granting of parole. Only change over existing section is that Commissioner must "provide the board in a timely manner with information requested on sentenced prisoners who may be eligible for parole release or parole supervision." Also allows Commissioner to assign the duties of probation officers to parole officers appointed by him (no change over existing law).

--States that board retains legal custody of a discretionary parolee until the expiration of the maximum term or terms to which the parolee is sentenced less good time allowance. Board retains custody of a mandatory parolee until the expiration of the maximum term or terms to which he was sentenced. States that disability imposed by AS 33.30.320 (person sentenced to life imprisonment is considered "civilly dead") applies to a parolee as long as he is in the legal custody of the board, but the disability "does not deny a parolee access to the courts to protect the rights he may have." Parolee who has been on parole for five years shall be discharged from parole and from custody of board "unless the board finds after a hearing that continued supervision is necessary for the protection of society."

--Section on discretionary discharge states that board may discharge a parolee from supervision and custody and from further liability under his sentence after parolee has completed two years of parole. Requires annual review of a parolee's record after he has completed two years of parole.

--Allows board to release prisoner to answer a warrant issued by another court in Alaska, another state, the U.S., or by another authority, charging the prisoner with a crime (no change from existing law).

--Board may revoke parole for violation of state or federal law. Grants parolee arrested on charge of violation of state or federal law the right to a preliminary hearing before a single member of the board or before an authorized hearing officer to determine whether probable cause exists to revoke parole.

--Section dealing with arrest of parole violators states that parolee may be arrested without a warrant "only under exigent conditions which require immediate arrest" (more stringent than existing law which allows arrest without warrants).

INTRODUCTION OF BILLS (House)(cont'd)

HB 225 (cont'd)

--States that chapter applies to all persons convicted and sentenced in the Superior Courts and the District Courts of Alaska (no change).

Bill repeals and re-enacts 33.20.040(a) which relates to the release of prisoners who are released earlier than their term of confinement because of deductions for good conduct. New subsection reads: "A prisoner released under AS 33.20.030 [Discharge for Good Conduct] who is not granted parole under AS 33.16.100 and 33.16.120 [Eligibility for and granting of discretionary parole, under new provisions of bill] shall be released on parole for the period specified in the period of deduction subject to conditions imposed by the board and subject to its supervision."

Bill repeals AS 33.15 (Parole Administration Act).

New provisions apply to persons on parole or being considered for parole on the effective date of bill. States that terms of the members of the Board of Parole terminate on effective date of bill. Outlines initial terms of new members to be appointed by the Governor. Provides at effective July 1, 1981.

Introduced February 25 and referred to Health, Education & Social Services, then to Judiciary.

Marijuana  
(legalizing  
use for can-  
cer patients)

HOUSE BILL NO. 226, by Reps. Randolph, Beirne, Bettisworth, Brown and Rogers. Legalizes the use of marijuana by persons who have been diagnosed by a physician to be ill with cancer. (Bill adds new subsection to AS 17.12.020, authorized possession of depressant, hallucinogenic & stimulant drugs.) Does not provide for effective date.

Introduced February 26 and referred to Health, Education & Social Services, then to Judiciary.

Disputed Tax  
Payments

HOUSE BILL NO. 227, by Reps. Randolph, Abood, Barnes, Beirne, Bettisworth, Bylsma, Fanning and Metcalfe. Adds new section to AS 43.05 (Administration of Revenue Laws) which allows a person who prevails on a question of tax liability to recover from the state the expenses of preparing and presenting arguments and evidence relative to the tax or penalty in dispute. Person must present a certified statement of expenses to Dept. of Revenue in order to be reimbursed. States that bill has the effect of changing Rule 79 of the Alaska Rules of Civil Procedure by altering the manner of recovery of costs by a plaintiff entitled to recovery of expenses in an appeal of a disputed tax or penalty. Also changes Rule 82 of the Rules of Civil Procedure by mandating recovery of the entire amount of a plaintiff's attorney fees in the successful appeal of a disputed tax or penalty. Does not provide for effective date.

Introduced February 26 and referred to Judiciary and Finance.

General Obligation Bonds  
(retirement)

HOUSE BILL NO. 228, by Reps. Randolph, Abood, Anderson, Barnes, Beirne, Bettisworth, Bylsma, Fanning, Halford and Phillips. Amends AS 37.10.070 which outlines allowable investments for

INTRODUCTION OF BILLS (House)(cont'd)

HB 228 (cont'd)

state surplus funds, by adding primary requirement stating the surplus funds be used "in accordance with appropriations for that purpose, to purchase and retire state general obligation bonds issued under the provisions of the State Bonding Act." If Commissioner determines that there is a surplus in excess of the amount necessary to purchase and retire outstanding state g. o. bonds, that surplus may be invested in the other allowable investments currently contained in the section. Does not provide for effective date.

Introduced February 26 and referred to State Affairs and Finance.

Overtime  
Compensation

HOUSE BILL NO. 229. By Reps. Randolph, Anderson, Beirne, Bettisworth, Fanning and Metcalfe. Exempts from statute governing the payment of overtime compensation "an employee who is in sole charge of an independent establishment or a physically separated branch establishment." (Adds new paragraph to list of those currently exempted in AS 23.10.060.) Provides Act effective immediately.

Introduced February 26 and referred to State Affairs and Finance.

Permit &  
License  
Holders

HOUSE BILL NO. 230. by Reps. Randolph, Beirne, Bettisworth, Bylsma, Fanning and Metcalfe. Entitles permit or license holder to be reimbursed for the cost of their permit or license if the requirement for the permit or license is eliminated by law while person owns it. Amount of reimbursement shall be the sum last paid for the purchase of the permit or license by the present owner. Does not provide for effective date.

Introduced February 26 and referred to Labor & Commerce, then to Finance.

Fish & Game  
Violations  
(seizure of  
property)

HOUSE BILL NO. 231. by Reps. Randolph, Abood, Barnes, Beirne, Bettisworth, Bylsma, Fanning, Metcalfe and Montgomery. Amends section of the Fish and Game Code (AS 16.05) which relates to the seizure and confiscation by the court of items used in or in aid of a violation of AS 16.05. Allows seizure of guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of AS 16.05 or a regulation of the Dept. of Fish & Game (currently items may also be seized for violation of a rule of the department). Bill amends section to allow seizure only "if the person making the seizure determines that the seizure is necessary to preserve the items as evidence of a violation." Also amends section to require items to be returned to owner "within seven days after the seizure unless an extension is approved by court order for cause shown (currently items shall be returned "after completion of the case and payment of the fine, if any"). Section amended by bill is AS 16.05.190, "Seizure Without Warrant and Confiscation by Court." Does not provide for effective date.

Introduced February 26 and referred to Resources and Judiciary.

Acquitted  
Defendants  
(costs & atty.  
fees)

HOUSE BILL NO. 232. by Reps. Randolph, Beirne, Bettisworth, Fanning and Metcalfe. Adds new section to AS 12.45 (Trial) which provides for an award of costs and attorney fees to a defendant acquitted of

INTRODUCTION OF BILLS (House)(cont'd)

Appropriation  
(Special)  
(auto repair  
abuse study)

HOUSE BILL NO. 292, by Reps. Hayes, Abood, Anderson, Beirne, Bettisworth, Brown, Martin and Metcalfe. Appropriates \$65,000 from the general fund to the Dept. of Law, Consumer Protection Section, for investigation of abuses related to automobile repairs. Appropriation lapses June 30, 1982. Provides Act effective July 1, 1981.

Introduced March 9 and referred to Labor & Commerce and Finance.

Parole of  
Offenders/  
Executive  
Clemency

HOUSE BILL NO. 293, by the Rules Committee by request of the Governor. Governor's bill revamping the parole system in the state. Outline of bill is as follows:

--Sec. 1 adds new chapter to AS 33, Ch. 16 "PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY."

--Sec. 2 repeals AS 33.30.010 - 090 (Prison Facilities; Establishment, Control & Management) and AS 33.30.250 - 320 (portion of General Provisions). Sections of AS 33.30 which remain intact are Secs. 100 - 190, and Sec. 225.

--Sec. 3 adds new sections to AS 33.30 relating to the establishment, control and management of correctional facilities and programs; to the procedure for commitment; to programs and furloughs; and to miscellaneous provisions.

--Sec. 3 (misnumbered in bill--should be 4) repeals and reenacts AS 33.30.200, the definitions for AS 33.30.

--Secs. 4 & 5 repeal and reenact AS 11.56.340 & 350 (unlawful evasion in the first degree; unlawful evasion in the second degree).

--Sec. 6 repeals and reenacts 12.55.080 (Suspension of Sentence and Probation).

--Sec. 7 amends 12.55.090(b)(Grant of Probation); Sec. 8 amends 12.55.100 (Conditions of Probation); and Sec. 9 amends 12.55.110 (Notice and Grounds for Revocation of Suspension).

--Secs. 10 - 13 amend subsections of 12.55.125 (Sentences of Imprisonment for Felonies).

--Sec. 14 amends 12.55.155(a) (Factors in aggravation and mitigation--of presumptive sentencing).

--Sec. 15 amends 12.55.165 (Extraordinary Circumstances--in sentencing).

--Sec. 16 repeals AS 33.15 and AS 33.20 (Parole Administration Act and Pardons and Paroles).

--Sec. 17 terminates the Interim Sentence Review and Parole Commission established in Sec. 1 of bill on July 1, 1983.

--Sec. 18 states that Secs. 10 - 15 do not apply to or govern the punishment for any offense committed before July 1, 1981. Offenses committed before that date shall be punished according to the law existing at the time the offense was committed.

--Sec. 19 provides effective date of July 1, 1981.

INTRODUCTION OF BILLS (House)(cont'd)

HB 293 (cont'd)

Introduced March 9 and referred to Health, Education and Social Services, then to Finance.

In his message transmitting the bill to the House for consideration, Governor Hammond stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill pertaining to the treatment of prisoners. It allows the Alaska Board of Parole to "sunset" as provided by law on July 1, 1981, and establishes a parole system whereby a prisoner's release date is set at the time of sentencing. The bill also sets presumptive sentences for first-time felony offenders and constitutes a complete revision of AS 33.30 pertaining to correctional facilities. It clarifies ambiguous provisions in existing law pertaining to the custody of prisoners, and provides for the establishment of comprehensive furlough programs by the Department of Health and Social Services designed to facilitate an offender's reintegration into society before his final release after serving a term of imprisonment.

This bill should be viewed as the next logical step in the revision and modernization of Alaska's statutes pertaining to crimes and sentencing that began with passage of the revised criminal code in 1970. That legislation, in part, established presumptive sentences for repeat felony offenders and eliminated those offenders from consideration for early release by the parole board. This bill sets presumptive sentences for first-time felony offenders and makes that class of offenders ineligible for early release by the parole board.

To satisfy the requirements of art. III, sec. 21, of the Alaska Constitution, the bill establishes a parole system that allows for release of offenders before the expiration of their terms of imprisonment through the earning of a deduction from their sentences for good conduct while in prison and by permitting their participation in furlough programs established by the Department of Health and Social Services. The furlough programs are intended to foster successful reintegration of the offender into society by encouraging him to obtain employable skills, education, and appropriate counselling or treatment while serving the last part of his term of imprisonment.

This legislation also establishes a two-year interim sentence review and parole commission to set release dates for prisoners who commit crimes before July 1, 1981, the date the new parole system established by this bill takes effect. In setting a parole release date, the commission is specifically authorized to consider whether there was unjustified disparity in the sentence imposed when compared to other sentences imposed under similar circumstances. This provision of the bill will provide an appropriate mechanism to remedy any unjustified disparity in sentencing that may have occurred in the past that can be attributed to the race of the defendant or to any other reason. It is also responsive to the findings and recommendations of the Advisory Committee on Minority Sentencing Practices and the Anchorage Native Caucus arising out of the studies by the Alaska Judicial Council that first highlighted the problem of sentencing disparity in the state.

The central premise of this bill is that certainty in punishment, and certainty regarding the term of imprisonment a prisoner is required to serve, should be the central considerations applicable in establishing penalties for criminal conduct. This legislation insures certainty in sentencing of offenders by providing presumptive sentences for all felonies. Additionally, it also insures certainty in the correctional process by putting all offenders on an equal footing in terms of early release and participation in rehabilitative programs.

INTRODUCTION OF BILLS (House) (cont'd)

Community Work HOUSE BILL NO. 255, by the Judiciary Committee by Request.  
(damages) Adds a new subsection to AS 12.55.055 (Code of Criminal Procedure. Sentencing and Probation. Community Work) which reads: "(c) The state is liable for damages to other persons caused by an intentional or negligent act of a person while he is performing community work by order of a court under this section." Provides Act takes effect immediately.

Introduced March 4 and referred to Judiciary.

Housing HOUSE BILL NO. 256, by the Rules Committee by Request of the  
Authorities Legislative Budget and Audit Committee. (See Senate Bill No. 231, page 367, identical).

Introduced March 4 and referred to State Affairs, then to Finance.

ASEA HOUSE BILL NO. 257, by the Rules Committee by Request of the  
(family & Legislative Budget and Audit Committee. (See Senate Bill No. 234, page 368, identical).  
handicapped  
housing fund)

Introduced March 4 and referred to Labor & Commerce, then to Finance.

Appropriation HOUSE BILL NO. 258, by the Rules Committee by Request of the  
(special) Legislative Budget and Audit Committee. (See Senate Bill No. 235, page 369, identical).  
(family &  
handicapped

housing fund) Introduced March 4 and referred to Labor & Commerce, then to Finance.

ASEA HOUSE BILL NO. 259, by the Rules Committee by Request of the  
(sr. citizen Legislative Budget and Audit Committee. (See Senate Bill No. 233, page 368, identical).  
housing fund)

Introduced March 4 and referred to Community & Regional Affairs, then to Finance.

Appropriation HOUSE BILL NO. 260, by the Rules Committee by Request of the  
(special) Legislative Budget and Audit Committee. (See Senate Bill No. 232, page 368, identical).  
(ASHA-Sr. Cit.  
Housing)

Introduced March 4 and referred to Community & Regional Affairs, then to Finance.

Parole of HOUSE BILL NO. 261, by the Judiciary Committee by Request.  
Offenders (See House Bill No. 225, page 352, similar). Continues the existence of the State Board of Parole until June 30, 1985 (expired June 30, 1980). Repeals the Parole Administration Act (AS 33.15) and adds a new chapter to AS 37 (ch. 16) re-writing that section.

Section relating to the Board of Parole states that the board consists of seven members appointed by the governor subject to confirmation by a majority of the members of the legislature in joint session. Provides members serve staggered terms of

Jurors &  
Jury Panels

HOUSE BILL NO. 254, by the Judiciary Committee by Request.  
(See SB 171, page 216, similar). Makes several changes relating to jurors under the Code of Civil Procedure (AS 09.20):

- Changes age qualification of juror to 18 (presently 19).
- Amends section relating to limitation on jury service (025) stating that no person may be required to serve more than "a total of" three months during any consecutive two-year period. Also states that a person is serving as a juror whenever he is in attendance in court as a member of a jury or a jury panel.
- Amends section relating to the jury list (050) by including a list of persons who filed for a distribution of the Alaska permanent fund income, and deleting a list of persons who filed for a state income tax return, and if considered necessary by the administrative director of courts, a list of all persons who hold a valid Alaska drivers' license. Deletes all reference to the Lt. Governor and replaces with "director of elections."
- states that a copy of the appropriate portion of the jury list shall be transmitted "to the presiding judge of each judicial district", deleting "only to each district judge and each superior court judge" and states that it shall only be used to summon jurors and for other "purposes of judicial administration." (deleting "for state governmental purposes".) Also states that duplicate names and names of deceased persons and persons permanently excused shall be eliminated before transmitting it to the presiding judge).
- Amends sec. 060, "Use of Jury Box" to include the use of a computer list: "A randomly generated computer list of prospective jurors may be used in place of the jury box."
- Amends sec. 070 "Public drawing for jurors for panel" to allow a random selection of the jury panel by computer in place of the public drawing of names.
- Repeals and reenacts section 080 "Jury panel" by stating that the panel for trial or civil cases consists of at least twice the number of jurors needed to serve on a trial jury (presently "24"), including any needed alternate jurors. Adds new subsection (b) which states "If the list of prospective jurors for a court location does not produce sufficient names for a jury panel of minimum size, the administrative director of courts may authorize that additional names of prospective jurors be randomly selected from sources other than those listed in AS 09.20.050."
- Provides the Dept. of Revenue shall furnish the Dept. of Administration with a list of all persons who filed for the Alaska permanent fund within 30 days of the effective date of this Act.

Provides Act takes effect immediately.

Introduced March 4 and referred to Judiciary.

HB 261, (cont'd)

five years and until their successors are appointed and qualified. Vacancy to be filled for the unexpired term and governor to designate the presiding officer of the board.

--States that the governor shall seek nominations for board members and outlines selection criteria for members.

--Provides for removal of members for disability, inefficiency, neglect of duty or malfeasance in office.

--Allows member to compensation of \$100 per day for each day of board business and entitles him to per diem and travel allowances. Provides for a cost-of-living adjustment.

--Provides board may meet as often as it considers necessary, not less than four times a year. States that decisions and orders of the board require the votes of a majority of members present and in no case less than votes of three members.

--States the board or a member of the board may issue subpoenas and subpoenas duces tecum.

--Outlines responsibilities of the board, stating that the board shall serve as the state parole authority; consider the suitability of parole for eligible prisoners; discharge person from parole when supervision is no longer necessary; maintain records of the board; adopt fair standards for prisoners for determining parole; recommend changes relating to legislation and within state departments and the executive branch; execute other responsibilities prescribed and adopt regulations under the Administrative Procedure Act.

--Provides for hiring of an executive director who has training and experience in the field of parole.

--Section relating to parole eligibility (100) states that a prisoner, other than a juvenile delinquent, who is serving a term of over 180 days who is not imprisoned under a Class A, B, or C felony whose record shows that he has observed the institutional rules may be released on parole at the discretion of the board. States that a prisoner imprisoned for murder in the 1st or 2nd degree may not be released until he has served at least the prescribed minimum term of imprisonment. States that any prisoner imprisoned under a Class A, B, or C felony who is released at the expiration of his term (AS 33.20.030, Discharge) shall be placed on parole for the period specified in the certificate of deduction, subject to written conditions imposed by the board.

--allows court to fix eligibility for parole at the time of sentencing. States that the term of imprisonment shall be at least one-third of the period of confinement imposed by the court or the minimum term prescribed in sentences of imprisonment for felonies (AS 12.55.125).

--provides for the granting of parole if the board determines that the prisoner will live and remain at liberty without violating the laws or without violating the conditions imposed by the board; the prisoners release is not incompatible with the welfare of society. States a prisoner may not be released until he has served at least one-third of the period of confinement.

--Outlines considerations of the board in determination of suitability of parole including pertinent reports, recommenda-

HB 261. (cont'd)

tions, examinations, information and the prisoner's history.

--states that the board may not deny parole on the grounds that the prisoner did not obtain necessary or desirable treatment if it was not available at the correctional facility to which the prisoner was assigned.

--provides department shall hold a hearing to review suitability of a prisoner for parole or for the setting, posting of parole dates. Provides prisoner shall have reasonable notice, shall be permitted to have a copy of all information and records being considered 30 days before the hearing; prisoner has the right to enter written responses; right to be present at hearing, present evidence on his behalf and to cross-examine witnesses who testify against him. Decision of board shall be issued in writing and reasons for decision shall be provided.

--board shall provide each person released an order for parole which shall contain the conditions imposed and the date that the parole supervision expires. Order does not take effect until it is accepted and signed by the parolee.

--entitles person released a deduction from term of parole for good time, one day for every three days of good conduct while on parole. Good time earned on parole is subject to forfeiture if a violation of a condition of parole occurs during parole.

--Outlines conditions of parole: parolee required to refrain from violation of state or federal law; board may require person to accept one or more of listed conditions depending on the nature and circumstances of the crime. Conditions range from meeting family obligations to refraining from consuming alcoholic beverages, submission to searches and seizures conducted reasonably by a parole or peace officer acting under direction of a parole officer, submission to necessary medical treatment, to refraining from entering into contracts without permission.

--provides for a hearing on application for a change in parole conditions, waiver of hearing, confidentiality of records and information, appeals, outlines duties of the commissioner in relation to parolees, access to law by prisoners, and parole officers.

--provides for discharge of parolee, providing that the board retains legal custody of a parolee until the expiration of the maximum term to which parolee is sentenced less good time allowance. States parolee who has been on parole for five years and who has not been charged with a felony shall be discharged from parole and the custody of the board. Provides for discretionary discharge of a parolee after completion of two years of parole. Provides for release of prisoner to answer process.

--Provides for revocation of parole by board for violation of a state or federal law or a condition imposed by the board. Entitles parolee right to hearings. Provides for arrest of parole violator only on a warrant issued based on probable cause. Provides for execution of the warrant for arrest of parolee by parole officer or peace officer.

HB 261, (cont'd)

Provides Act takes effect July 1, 1981.

Introduced March 4 and referred to Health, Education and Social Services, then to Judiciary.

Fishery Industrial Tech. Center

HOUSE BILL NO. 262, by Rep. Zharoff. Establishes a Fishery Industrial Technology Center as a part of the University of Alaska. States that the center shall create employment opportunities in the state's fishing industry and other benefits to the state by providing training opportunities to citizens of the state on the most efficient and appropriate technologies for the harvesting, processing and conservation of the fishery resources of the state; by providing information and technical assistance on the adaptation of existing and new technologies to the users of the fishery resources of the state; by providing research and development activities to adapt existing technologies to enhance the economic viability of the industry; by providing research and development activities to create new technologies which will enhance the effectiveness of the industry, and provide economic benefits to state citizens; and by encouraging joint projects between industry and government in order to use industrial experience and government programs to enhance the productivity of the industry.

Establishes the Fishery Industrial Council to provide program and planning guidance to the center. Council to consist of 11 members appointed by the U of A president. Members to serve two year term. States that the principal activities of the center shall be located in Kodiak, Alaska. Provides for the issuance of an annual report and states that the center shall cooperate with other agencies in the development of its programs. Provides Act takes effect immediately.

Introduced March 4 and referred to Health, Education and Social Services, then to Finance.

Appropriation (special) (Fishery Indus. Tech. Center)

HOUSE BILL NO. 263, by Rep. Zharoff. Appropriates \$200,000 to the University of Alaska for the Fishery Industrial Technology Center. Provides unexpended and unobligated portion of the appropriation lapses into the general fund 6/30/82. Provides Act takes effect on effective date of a version of HB 262.

Introduced March 4 and referred to Health, Education and Social Services, then to Finance.

Appropriation (special) (Iliamna dock)

HOUSE BILL NO. 264, by Rep. Chuckwuk. Makes a special appropriation in the amount of \$175,000 to the Department of Community and Regional Affairs for payment as a grant to the village of Iliamna for design and construction of a dock. Provides Act takes effect immediately.

Introduced March 5 and referred to Transportation, then to Finance.

Proposed Amendments from HB 293

HB 293 addresses several areas of the corrections field not specifically related to parole board. The following have been selected as possible amendments to HB 225.

1. Page 8, line 13: Provides that a period of parole supervision be divided between formal and informal style. Ref. definitions on page 11, lines 7-16.

2. Page 9, line 6: Mandatory conditions of parole. Amplifies HB 225 by adding "or local ordinance" to (1). Adds (2) and (3) to statute.

? 3. Page 9, line 23: Provides that court shall compute release date at sentencing and inform prisoner of it.

4. Pages 12, line 20, through page 14, line 3: Provides for the contracting and leasing of facilities by the Commissioner. Expands existing law to include private agencies.

*no formal*  
5. Pages 14, line 4, through page 16, line 27: Constitutes a major re-write of existing statutes regarding commitment and classification of prisoners.

*OK*  
6. Page 16, line 29, through page 20, line 18: Addresses furloughs and specifies conditions of releases and types of furloughs.

7. Page 20, line 19 through page 21, line 7: Adds a section relating to documents transmission and provides that fingerprints be placed on the judgement order.

*change accordingly # 293*  
8. Page 22, line 15: This section would replace the similar section in HB 225 referencing access to civil process. It specifies the exact effects of conviction for specific types of crimes in regards to civil rights. These effects are in effect until the time of his unconditional discharge.

9. Page 23, line 2: Would change the section on definitions by adding "correctional facility" to replace the existing definition of "prison facility" and would add a definition of "furlough".

10. Page 23, line 29 through page 24, line 20: Adds language relating to furloughs to definition of evasion in the first and second degree.

*taken care of  
in 225*  
11. Page 24, line 22, through page 25, line 10: Adds (b) to existing law that prescribes maximum probationary periods at five years for felonies and two years for misdemeanors. Upon revocation, periods of probation may be extended up to these period maximums.

12. Page 25, line 20-28: AS 12.55.085 is changed to provide that persons with probation-only sentences are subject to formal and informal division of the supervisory period.

*Mo.*  
13. Page 26, line 8 through page 27, line 13: Adds presumptive sentences for first felony offenders and increases the current presumptive sentence in AS 12.55.125(c)(1) from six years to eight years.

14. Page 27, line 14, through page 28, line 24: Technical language change simplifying references to subsections.

Sec. 1 adds chapter 16 to AS 33.

Sec. 33.16.005. States purpose of chapter.

Sec. 33.16.010 Establishes a professional interim sentence review and parole commission in DHSS appointed by the Governor.

Sec. 33.16.020. Establishes quorum of commission and powers of subpoena.

Sec. 33.16.030. Establishes Executive Director.

Sec. 33.16.035 Responsibilities of Commission.

Sec. 33.16.040 Establishes parole eligibility for prisoners committing crimes prior to 7/1/81. Sets up schedules for determining parole release dates and assigns responsibilities between interim commission and clemency board and sets deadlines.

Sec. 33.16.050. Establishes parole eligibility, release computation, and furlough eligibility of persons who committed a crime after 6/30/81.

Sec. 33.16.060. Establishes hearings on parole release dates and sets out criteria: Directs Commission to prepare a pre-parole report. Establishes prisoner's rights to notice, response, representations, cross-examination, and written copy of the reasons for the decision.

Sec. 33.16.070. Establishes automatic adjustment of release date due to computations of good time deductions.

Sec. 33.16.080. (a) For prisoners serving sentences on or after 7/1/81;  $\frac{1}{2}$  of sentence = good time if he was presumptively sentenced under AS 12.55.125. or  $\frac{1}{3}$  of sentence for those not presumptively sentenced.

(b) Mandatory Minimum

good time will only be computed on portions of sentence that exceed the minimum prescribed imprisonment.

(b)(1)-(3) Defines "mandatory minimum term of imprisonment".

(c) Allows the computation formula for good time which prevailed at time of sentencing, if more time would have been credited.

(d) Vests 90 days of good time per year and sets maximum forfeitures.

Sec. 33.16.090. Assigns responsibility for parole supervision, defines supervision period, sets out parameters for conditions of release and revocation. (d) designates that the first half of supervision period for "formal" type of supervision and remainder under "open" type.

- Sec. 33.16.100. Sets 3 mandatory conditions of release.
- Sec. 33.16.110. Provides that prosecutor be notified before release and expiration of probation dates.
- Sec. 33.16.120. Provides prisoner receive calculation of release date from court at time of sentencing which assumes maximum amount of good time computation.
- Sec. 33.16.130. Defines Governor's powers of clemency.
- Sec. 33.16.140. Establishes Executive Clemency Advisory Board and provides for its caseload as those prisoners who committed crime before 7/1/81 for which he was sentenced in excess of 180 days. They are eligible for parole after serving 1/3 of the term (AS 33.16.040). Includes prisoners applying for clemency.
- Sec. 33.16.150. Defines effect of Governor's pardon as setting aside conviction and restoring civil rights.
- Sec. 33.16.155. Administrative Act (AS 44.62) does not apply.
- Sec. 33.16.160. Provides definitions for:  
1. "Board", 2. "Commission",  
3, "commissioner", 4, "formal probation supervision, 5, "open probation supervision".

SEC. 2 Repeals AS 33.30.010-090 and AS 33.30.250-320.

SEC. 3 Correctional Facilities & Programs

- Sec. 33.30.011. Sets out responsibility of commissioner regarding facilities, classification of prisoners and criteria, and prisoner's physical care.
- Sec. 33.30.021. Provides for regulations to be promulgated.
- Sec. 33.30.021. (a) Gives the commissioner the authority to determine availability of suitable facilities, enter into agreements with appropriate public or private agencies for the provision of facilities in Alaska or another state. Privately operated facilities may be used only to involve prisoners in programs and not primarily for confinement. Confinement facilities may be provided by the U.S., another state, or a political subdivision of this state.
- Sec. 33.30.041. Provides for the leasing of correctional facilities by political subdivisions of this state specifies conditions to be included in the agreement along with other conditions deemed necessary by the commissioner.

- Sec. 33.30.051. Establishes that convicted persons are committed to commissioner's custody for the term of imprisonment.
- Sec. 33.30.061. Determines the authority of the commissioner to designate location of facility, factors to consider in facility designation, and allows prisoners pending appeal to petition their location.
- Sec. 33.30.071. Designates Commissioner of Public Safety as responsible for prisoners pending transfer if they are in custody in a facility. Responsibility for medical care is designated as either the responsibility of DHSS or law enforcement agencies.
- Sec. 33.30.081. Assigns DPS responsibility for transporting persons committed to custody. DHSS is responsible for returning released persons to place of arrest. Assigns Commissioner of DHSS responsibility for promulgation of regulations.
- Sec. 33.30.091. Makes furloughs under 30.011(2) compulsory.  
(a) Delineates purposes for furloughs: 1) employment, 2) training, 3) treatment, 4) employment, 5) education, 6) release preparation, 7) group appearances, 8) rehabilitation.  
(b) delineates criteria for furlough for living under reduced supervision.
- Sec. 33.30.111. (a)-(d). Pre-release furloughs are established to facilitate reintegration of persons into society. Provides minimum guidelines for supervision and restriction levels which must be more extensive than those of "formal" probation. Establishes eligibility standards for pre-release furloughs and procedures for granting them.
- Sec. 33.30.121. Establishes short-duration furloughs of 12 hours or less for family or medical purposes which may be granted anytime.
- Sec. 33.30.131. Establishes furlough for work and procedures for the commissioner's management of prisoner's earnings.
- Sec. 33.30.141. Establishes authority for dealing with furlough violations.
- Sec. 33.30.161. Delineates authority of superintendent regarding oaths.
- Sec. 33.30.171. Establishes priorities, categories to be paid before prisoner's account may be credited with any revenue from state resource distribution entitlement and requires commissioner adopt regulations to implement this.
- Sec. 33.30.181. Defines those rights forfeited by (a) persons convicted of a felony involving moral turpitude; (b) convicted of any crime; (c) a public office holder convicted of the equivalent of a felony, a malfeasance of office, or if the Alaska Constitution or statute so provides. "Unconditional discharge" is defined as in AS 12.55.185.

Sec. 3 Repealed and Reenacted

Sec. 33.30.200. Defines: 1. "commissioner", 2. "correctional facility", "facility", or "state correctional facility", 3. "court", 4. "department", 5. "furlough", 6. "political subdivision", 7. "prisoner", 8. "temporary commitment".

Sec. 4 Repealed and Reenacted

Sec. 11.56.340. \*Defines "unlawful evasion" and classifies it as a Class A misdemeanor.

Sec. 5 Repealed and reenacted

Sec. 11.56.350. \*Defines "evasion in 2nd degree and classifies it as Class B misdemeanor.

(\* changes in statute include furloughs)

Sec. 6 Repealed and Reenacted

Sec. 12.55.080. Establishes authority to suspend sentences, or portions thereof and sets maximum limits for probationary periods. Changes the existing law to allow full discretion to change length or conditions upon the prosecutor's request.

Sec. 8 AS 12.55.100 (c) Amended by adding the court's rights to impose conditions of release on flat time sentences.

(d) probation only sentences require "formal" supervision for at least the first half of the period and "open" suspension the second half unless the prosecutor applies for an extension to the court.

Sec. 9 AS 12.55.110. Amended to include specified types of probation and puts the burden of revocation on the prosecutor. Changes the term "suspended sentence" to "probation".

Sec. 10 Changes proposed here would increase presumptive sentence from 6 to 8 years, and creates new class of 5 year presumptive sentences for 1st felony offenders.

Sec. 11. Changes<sup>section</sup> proposed in this section would establish 2 year presemptive sentences for first felony Class B convictions.

Sec. 12. This would establish presumptive sentences of 1 year for first felony- Class C offenses.

Sec. 13. Changes the reference to subsections.

Sec. 14. Also changes reference to subsections.

Sec. 15. " " " " "

Sec. 16. Repeals AS 33.15 and 33.20.

Sec. 17. Sunsets AS 33.16.010-035 as of 7/1/83.

Sec. 18. States that 10-15 of this act do not apply to offenses committed prior to 7/1/81.

\*

Sec. 19. Effective date 7/1/81.

A FOLLOW-UP REVIEW OF THE  
ALASKA STATE BOARD OF PAROLE  
(Originally Released May 9, 1979)

December 21, 1981

Audit Control Number  
06-022-0026-R

Commissioner, Department of  
Health and Social Services

Helen D. Beirne

Deputy Commissioners, Department of  
Health and Social Services:

Field Operations and Local,  
State and Federal Liaison

Frederick McGinnis

Program Management

Dean F. Tirador

Management Services

Allen Korhonen

Members of the  
Alaska State Board of Parole

Chairman  
Vice-Chairman  
Member  
Member  
Member

William Lyons  
F.P. Pettyjohn  
Al Widmark  
Conrad Miller  
M. Jo McDowell

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

December 29, 1981

0

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the  
Alaska Statutes, the attached report is submitted for your  
review.

A FOLLOW-UP REVIEW OF THE  
ALASKA STATE BOARD OF PAROLE  
(Originally Released May 9, 1979)

December 21, 1981



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Review. . . . .	1
Organization and Function. . . . .	20
Report Conclusion. . . . .	4
Prior Audit Recommendations. . . . .	5
Agency Responses:	
Department of Health and Social Services . . . . .	9
Alaska State Board of Parole . . . . .	12

PURPOSE OF THE REVIEW

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a follow-up review of the Board of Parole was conducted to determine whether the recommendations presented in our report entitled, A Performance Review of the Alaska State Board of Parole, May 9, 1979, have been implemented, and, if not, whether those recommendations are still pertinent.

## ORGANIZATION AND FUNCTION

Article III, Section 21, of the Alaska Constitution states that a parole system shall be established by law. AS 33.15, or the Parole Administration Act, is the law that establishes the Alaska State Board of Parole and its authority. The Board consists of five part-time members who meet quarterly to hear parole related matters. The members are appointed by the Governor, with confirmation by the Legislature, and serve without salary although travel costs and per diem are provided. The Board has an administrative staff which currently consists of an Executive Director, Parole Board Officer and two clerical personnel.

The Board basically conducts two types of hearings: release hearings and revocation hearings. By statute, an inmate may not be considered for parole release until a statutory minimum time in prison has been satisfied (AS 33.15.080 requires that at least one-third of the sentence be served in confinement before parole eligibility). Upon application, an eligible inmate will be considered for parole and will appear before the Board. The Board will consider the case in view of certain criteria (e.g., institutional behavior, release plans, past record, recommendations, etc.) A parole decision will either release an inmate on parole, continue the case for future consideration or deny parole. During 1980 and 1981 the Board averaged 217 release hearings per year of which an average of 60 per year were released on parole.

When it has been determined that a parolee has violated a law or condition of parole, the Board will hold a revocation hearing to decide upon the course of action to take in the case. The Board may choose to revoke the violator's parole and return the parolee to prison, whereby no credit is allowed against the sentence for time served on parole; parole may be revoked and the parolee reparaoled without time credited against the sentence for prior time on parole; or no action may be taken. The Board has the authority to establish terms and conditions of parole, and their enforcement, which is accomplished through revocation proceedings. During 1980 the Board conducted 31 revocation hearings.

AS 33.15.080 gives the Board the authority to release prisoners from confinement. Accompanying the Board's authority is the responsibility for public welfare. In each parole release case, the Board weighs the benefits of granting parole release against the inherent risks involved. The benefits of parole embrace opportunities for successful community life and reduced monetary and social costs which

follow successful parole release cases. The risks involve additional social and monetary costs that will result from parole violations.

The Board receives General Fund appropriations to support its operations. The Board's primary expenditures are for personal services relating to the administrative staff and travel associated with the various Board meetings and hearings.

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

### Report Conclusion

Article III, Section 21, of the Alaska Constitution requires the establishment of a parole system. The current system comprises a parole release program administered by the Alaska State Board of Parole. We found no viable alternative to the present system at this time; therefore, in our opinion, the Board should continue to administer the parole release program.

The parole decision process requires a great deal of dedication of time and effort on the part of each Board member. We commend the members for their service in what is oftentimes a complex and difficult job.

The Board is in the process of establishing a formal set of specific objectives and related measurement criteria so that its performance can be evaluated (Prior Audit Recommendation No. 1).

The Board has made progress in the implementation of our prior audit recommendations. Specifically, they now have an organized case file for each parolee, their filing system is very orderly, they have analyzed trends for past decisions and provided procedures and regulations which should aid in parole release or revocation decisions. However, the Board should continue to develop new data and continuously review the significance and effects of past decisions (Prior Audit Recommendation No. 2).

The Board has prepared and submitted reports as required by AS 37.07.070 and 33.15.130 for fiscal years 1981 and 1982 (Prior Audit Recommendation No. 3).

The Board is aware of the importance of public participation in parole related matters. However, the Board believes current time and budget constraints have precluded them from holding such meetings (Prior Audit Recommendation No. 4).

The Board has compiled and codified all of its regulation information into one manual (Prior Audit Recommendation No. 5).

## PRIOR AUDIT RECOMMENDATIONS

### Prior Audit Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's FY 1979 budget documents state that its objective is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Measurement of this objective alone, however, is not sufficient to determine the degree of effectiveness experienced by the Board in serving the public. The Board has not established any other specific program objectives through which its performance can be evaluated.

Specific objectives should describe what the Board intends to accomplish during the current period and should be consistent with long range goals. To be capable of measurement, objectives should be well-defined, including a description of methods of measurement. When specific objectives are not identified, both the Governor's office and the Legislature cannot adequately evaluate the Board's performance.

### Legislative Audit's Current Position

The Board is in the process of establishing a formal set of specific objectives and related measurement criteria so that its performance can be evaluated. A draft of a formal set of objectives has been prepared for the Board's approval.

### Prior Audit Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board keeps case files on parolees and some statistics on types of cases heard. However, the information has not been adequately summarized for purposes of analyzing the parole program.

The Board needs information for purposes of measuring performance and analyzing decisions. It is essential for any decision-making body to review the significance and effects of past decisions to adequately plan for future decisions.

Maintaining complete information will benefit the Board in several ways. Some uses of such information may entail:

1. Scheduling workloads.
2. Analyzing trends. Similar decisions when viewed over time may reveal positive or negative results and support policy changes. 0
3. Assisting planning efforts and research of other agencies.
4. Controlling risk in parole decisions. Valid statistics may support parole release or revocation decisions and show the degree of risk based upon historical evidence.

With sufficient information, any alternatives to the parole release system or parole procedures can be better analyzed. Procedures should be developed which address what and how information is to be maintained as well as reported.

#### Legislative Audit's Current Position

The Board has improved the procedures used to collect, analyze, and store information which is necessary for measuring performance and analyzing decisions. However, the Board should continue to develop new data and continuously review the significance and effects of past decisions.

#### Prior Audit Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board has not followed statutory reporting requirements, per AS 37.07.090 and AS 33.15.130. AS 37.07.090 requires each State agency to submit a performance report to the Division of Budget and Management no later than September 1, for the preceding fiscal year. AS 33.15.130 requires that annual reports containing various statistical data and a computation and analysis of dispositions in criminal matters by State courts be submitted to the Governor, the Commissioner of the Department of Health and Social Services and the Attorney General.

To contribute to governmental effectiveness, the Board should disseminate the results of its operations to appropriate parties. The report required by AS 33.15.130 is essential for planning and analyzing matters relating to parole. In the 1977 legislative session, the legislature, in conjunction with sunset legislation, amended the performance reporting statute (AS 37.07.090) to require agencies to

specifically address eight criteria. This report would provide a useful tool for evaluating the Board in relation to performance reviews and other matters.

#### Legislative Audit's Current Position

The Board has prepared and submitted the reports required per AS 37.07.090 and AS 33.15.130 for fiscal years 1981 and 1982.

#### Prior Audit Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

It is the Board's policy in the conduct of its meetings to allow the presence of only those individuals who are considered necessary under the circumstances. For parole hearings, this is required to secure the confidential nature of the hearings as well as protect the objectivity of hearing decisions. Administrative meetings, however, do not share the same characteristics as case hearings. Administrative meetings are held at irregular times during the year for the purpose of transacting general business of the Board.

We were informed by Board members that the public is sometimes confused about parole and may misconstrue the Board decisions. This has happened despite the Board's efforts to be in contact with various community groups and governmental organizations.

As another avenue in seeking public input, the Board should hold public administrative meetings. Public meetings will provide broad public representation in the development of parole regulations and be a means to formally record public input, which would assist the Board in determining how much "risk" the public is willing to bear regarding parole release.

Further, procedures should be developed to cover the agendas of public meetings and notification of the public as to time, place and nature of each meeting. A formal record should be kept of each meeting which delineates matters acted upon and any changes in Board policy or procedures.

#### Legislative Audit's Current Position

The Board is aware of the importance of public participation in parole related matters and is interested in holding public administrative meetings. However, the Board believes current time and budget constraints have precluded them from holding such meetings.

We recommend that the Board evaluate the current use of their time and budget to determine if such resources could be more efficiently used.

Prior Audit Recommendation No. 5

The Board should codify its regulations in a clear form readily available to the public, inmates and all others requiring information about the Board's operations.

AS 33.15.100 states: "The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees".

Rules governing the Board's operations should be a clear statement of its procedures and requirements in parole matters. However, the Board's rules are currently contained in two manuals, and an assortment of updating memos and various forms. This creates a situation in which the rules cannot be immediately or clearly identified and may be subject to arbitrary change.

Although the Board members and staff may personally know the rules, it is also important for the rules to be available for anyone requiring them; the present form does not adequately allow for this. A codification of the rules would not only make them readily available to others but also would facilitate making refinements and improvements in the Board's rules and procedures.

Legislative Audit's Current Position

The Board has compiled and codified all of its regulation information into one manual. This manual is readily available to any individual requiring information about the Board's operation.

**DEPT. OF HEALTH AND SOCIAL SERVICES**  
**OFFICE OF THE COMMISSIONER**

POUCH H 01  
JUNEAU, ALASKA 99811  
PHONE: 465-3030

February 2, 1982

RECEIVED  
FEB 02 1982

LEGISLATIVE  
AUDIT

Mr. Gerald Wilkerson, C.P.A.  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, AK 99811

Dear Mr. Wilkerson:

RE: Parole Board  
Preliminary Audit  
Report

There are a few comments that we would suggest be made in the "Organization and Function" section on pages 2-3 of the audit report to help clarify a few items.

The Board members are not salaried employees but they are paid \$100 compensation for each full day they are actually conducting parole hearings (AS 33.15.020). Due to a recent Alaska Court decision, the names of the new Board members are no longer sent to the Legislature for confirmation. The Board is also responsible for setting parole conditions and insuring the supervision of those prisoners released on parole supervision by the operation of law pursuant to AS 33.20.040 and the presumptive sentencing provisions of AS 33.15.180. These offenders comprise about 20% of the "parolees" being supervised at a given time and make up a significant percentate of the revocation hearings. The Board staff does the executive clemency investigations and prepares the clemency reports for the Governor's office (AS 33.20.080).

In reference to paragraphs two and three and the data contained therein; the Board conducted an average of 217 parole release hearings per year in 1980 and 1981. An average of 83 paroles were granted per year, with an average of 60 paroles being released in the calendar year in which parole was granted. The Board conducted an average of 31 parole revocation hearings and mandatory parole revocation hearings per year during 1980 and 1981.

Page Two  
Mr. Gerald Wilkerson, C.P.A.

Regarding Audit Recommendation No. 1, the draft of the Board's objectives mentioned in your report was approved by the Board members in December 1981 and was amended by them on January 21, 1982. A copy of the objectives is enclosed for your information (Attachment #1). The Board has complied with this recommendation.

Regarding Audit Recommendation No. 2, we agree with you that the Board has improved its collection of data and analysis of that information. We also agree this should continue and be expanded in the future to help everyone understand the significance and effect of past decisions.

We concur in your assessment regarding Audit Recommendation No. 3 that the Board has submitted the reports required by law.

Regarding Audit Recommendation No. 4, we believe the Board will give serious consideration to using the Legislature's teleconference network for the public hearings. It will be possible to conduct public hearings once a year, and more often, depending upon budget limitations.

We concur in your finding (Recommendation No. 5) the Board has adopted and organized its regulations in one manual that is readily available to any individual desiring information about the parole process. The Board has finalized and implemented the parole guidelines procedure that gives specific weights to relevant factors considered by the Board, which helps the members make consistent decisions in similar cases. I might add the Board staff has also compiled a handbook on executive clemency that gives prospective applicants and the public information they might wish about the clemency process.

Sincerely yours,



Helen D. Beirne  
Commissioner

Enclosures: See Attached List

Page Three  
Mr. Gerald Wilkerson, C.P.A.

LIST OF ATTACHMENTS

Parole Board Audit Report

Parole Board Goals & Objectives; 1982 - 1983  
Analysis of 1981 Revocations  
Analysis of 1980 Revocations  
Calendar of 1981 Parole Board Decisions  
Calendar of 1980 Parole Board Decisions  
Annual Report; FY-81  
Annual Report; FY-80  
Annual Report; FY-79  
Informational Booklet - Executive Clemency  
Parole Board Regulations, September 1980  
Parole Progress Report Instruction Booklet, December 1980  
Parole Guidelines Coding Manual, October 1980  
Parole Guidelines Handbook for Applicant, November 1980  
Parole Guidelines Coding Sheet, Revised February 1981  
Executive Clemency Application

Previously Hand Carried:

Parole Guidelines for Alaska; Time Served  
Component, September 1980

Parole Guidelines for Alaska, December 1979

# STATE OF ALASKA

JAY S. HAMMOND, Governor

## DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE  
POUCH H-01E  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3384

February 5, 1982

RECEIVED

FF3 09 1982

LEGISLATIVE  
AUDIT

Mr. Gerald Wilkerson, C.P.A.  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

RE: Parole Board  
Preliminary Audit  
Report

Dear Mr. Wilkerson:

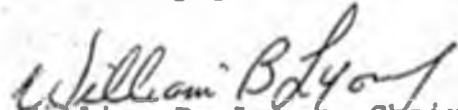
We concur with the recommendations for factual changes as outlined in Commissioner Beirne's letter regarding the Parole Board Audit, at paragraphs two and three. We believe this information will make the audit report more informative and meaningful to legislators.

We concur with the Department's responses to Recommendations one, two and three, noting that they have sent you a copy of our objectives. Regarding Recommendation four, the Board hopes and expects to hold public hearings as soon as funding becomes available. Because of the nature of Board hearings, the members have found it not possible to hold public hearings in conjunction with our regular hearings since we can not accurately predict when we will finish on a given day. Even with the supplemental funding provided during the last fiscal year, the Board only had \$13.70 left over, certainly not sufficient funds to cover even a part of a day's hearing. Although we were making plans for at least one public hearing this year, our financial situation looks worse than last year.

Page Two  
Mr. Gerald Wilkerson, C.P.A.  
February 5, 1982

In reviewing some of our data, you might note that only 5% of our parolees were returned to custody for a conviction of a new felony. We are proud of this figure understanding that most other jurisdictions have a new felony conviction rate of at least 12-14%. We believe this shows the Board is paying 0 careful attention to its responsibilities.

Sincerely yours,

  
William B. Lyons, Chairman  
Alaska Board of Parole

cc: Helen D. Beirne, Commissioner  
Department of Health & Social  
Services

SHT/clr

2/4/82

Wm Lyons

293 problems Ethel Powell Bel

700 comp

" 8

225-261 - OLC & A

everyone part 3 yrs 79,81,81

3<sup>12</sup> Roger Endell - Justice Center, USA

At Powell's meeting:

1000 objects print

1000 printers "

2000 people & supervision

pop. has doubled in decade!

(Rd) present & re-habil. rate  
jobs

i.e. score. item. for score. merit.

293 - NO!

5 yrs. parole supervision

3 .. is all nec.

Part. 5 new base districts, 7 not needed.

need much for parole release

Conv. of Budget - 30M

note: Prison industry Bill  
is in the Com. now.

John R. Kelly, VP of Bd

293 present! "System of Parole" etc D of L document.

totally flawed

275 - Bd supports

261 - not nec.

of not. Fr. don't fix

~~Ron Perry~~

~~Ham Miller~~

Leo LAND - Harris

for self

225 -

Bobby Stern Asst. AG

293 gov's Bill

re-structure system

presumptive <sup>maintaining</sup> system - New

at least 1/3 must be saved!

2/3 subject to Parole

400 Closed Tele conf.

400

Mick MAROULES :

Sec. ~~of~~ Dir. of Alc. Prod. Council :

293 -

all drug felonies → present. sent,

Sum.

3-5-82

Jo Mc Donnell - All People Bd.

Chr. Lyons in Ave - could not be here.

Com Peim H + S S

FAVORS BILL

Good Bill

stabilized the system

no bad impact!

fiscal note - Tuesday,

Roger lounge  
will move

Will Condo AG

FAVORS BILL

Swift + Arose

→ certainty of sentences

Presumptive sentence.

↓ jail pop.

Will Stark Aol

Further is Thrust of This Bill

Neil Morales S + H All God Council

fiscal note  
predictor

Dr. Peter Shorf - Prof at Univ.

R-12-82

MIKE

MR. CAMPBELL

IS EXTREMELY INTERESTED  
IN THIS ISSUE.

I BELIEVE IT WOULD  
BE VERY VALIABLE  
IF THERE WERE SOME  
WAY THE COMMITTEE  
COULD RETAIN HIM  
TO HELP ON THE  
JAIL ISSUE, WHICH  
JAIL ISSUE IS REAL HOT.

IF HE IS NO LONGER  
WITH THE DEPT., COULD  
WE POSSIBLY DO THAT?

HUGH