

COMMITTEE REPORT
HOUSE

(1120

FURTHER:

3/23/83

Date: 4-18-83

Mr. Speaker:

The Committee on FINANCE has had SSHB 58

an Act requiring certain prisoners to serve a full sentence.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SSHB 58 (Fin) same title
 new title
- and recommends NO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

Original sponsors: Lindauer, Barnes,
Abood, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to participation in counseling or
7 treatment required by a court or the division of
8 corrections."

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

10 * Section 1. AS 12.55.080 is amended to read:

11 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. Upon
12 entering a judgment of conviction of a crime, or at any time within 60
13 days from the date of entry of that judgment of conviction, a court,
14 when satisfied that the ends of justice and the best interest of the
15 public as well as the defendant will be served thereby, may suspend
16 the imposition or execution or balance of the sentence or a portion
17 thereof, and place the defendant on probation for a period and upon
18 the terms and conditions as the court considers best. The court may
19 require available alcohol, drug, sex offender or other mental health
20 treatment as a condition of probation, if the circumstances of the
21 crime indicate that it is needed.

22 * Sec. 2. AS 12.55.085(b) is amended to read:

23 (b) At any time during the probationary term of the person
24 released on probation, a probation officer may, without warrant or
25 other process, rearrest the person so placed in the probation offi-
26 cer's [HIS] care and bring the person [HIM] before the court, or the
27 court may, in its discretion, issue a warrant for the rearrest of the
28 person and may revoke and terminate the probation, if the interests of
29 justice require, and if the court, in its judgment, has reason to

1 believe that the person placed upon probation is violating the con-
2 ditions of [EIS] probation, or engaging in criminal practices, or has
3 become abandoned to improper associates, [OR] a vicious life, or who
4 refuses to participate in treatment required by the sentencing judge.

5 * Sec. 3. AS 12.55.100(a) is amended by adding a new paragraph to read:

6 (5) to participate in available alcohol, drug, sex offender
7 or other mental health treatment.

8 * Sec. 4. AS 12.55.110 is amended to read:

9 Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.
10 When sentence has been suspended, it shall not be revoked except for
11 good cause shown. Good cause includes a refusal by a defendant to
12 participate in available alcohol, drug, sex offender or other mental
13 health treatment, if it is required by the court as a condition of
14 probation. In all proceedings for the revocation of a suspended
15 sentence, the defendant is entitled to reasonable notice and the right
16 to be represented by counsel.

17 * Sec. 5. AS 33.15.080 is amended to read:

18 Sec. 33.15.080. GRANTING OF PAROLE. If it appears to the board
19 from a review that a prisoner eligible for parole will, in reasonable
20 probability, live and remain at liberty without violating the laws, or
21 without violating the conditions imposed by the board, and if the
22 board determines that the prisoner's release on parole is not incom-
23 patible with the welfare of society, and the prisoner has not refused
24 alcohol, drug, sex offender or other mental health treatment recom-
25 ended by the sentencing court and made available by the division of
26 corrections, or determined appropriate and made available by the
27 division of corrections, the board may authorize the release of the
28 prisoner on parole. However, no prisoner may be released on parole
29 who has not served at least one-third of the period of confinement to

1 which the prisoner has been sentenced.

2 * Sec. 6. AS 33.30.250(g) is amended by adding a new paragraph to read:

3 (B) who refuses to participate in available alcohol, drug,
4 sex offender or other mental health treatment required by the division
5 of corrections.
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STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS for SS for HB 58
Title: ".prisoner..refusing..treatment"
Sponsor: House Judiciary
Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
Division: Adult Corrections Date: April 13, 1983
Approved by Commissioner: *Robert Landon Smith M.D.* Date: 4/14/83
Department Health & Social Services

Distribution:

Original to Legislative Finance
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3/8/83

FISCAL NOTE

CS for SS for House Bill No. 58 (Judiciary)

Page 2

IV. ANALYSIS

The earlier fiscal note prepared on House Bill No. 58 assumed a loss of good time by inmates refusing to participate in counseling or treatment. Subsequent testimony at the House Judiciary Committee indicated that it was not the intent of the legislation to take away good time. This is also the opinion of the Office of the Attorney General. Therefore, enactment of this bill would have no fiscal impact on the Division of Adult Corrections.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSSHB 58 (Judiciary)
 Title: "Probation revoked"
 Sponsor: Repr. Lindauer
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director
 Division: Administrative Services Division

Phone: 465-3672

Date: April 12, 1983

Approved by Commissioner: Richard I. Pegues/for/
Norman C. Gorsuch, Attorney General
 Department: Department of Law

Date: April 12, 1983

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- Copy to Department (for Governor introduced bills)
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CSSSHB 58 (Judiciary)
Fiscal Note
Analysis

Violation of conditions for release on probation is already grounds for revocation of probation. Likewise, prisoners released on parole are not considered for parole until they have completed those rehabilitative and counseling programs deemed appropriate and made available by Corrections. Prisoners on work release furloughs also must participate in such rehabilitative programs, when appropriate, as a condition of work release. Consequently, this bill will not have a fiscal impact on the Department of Law.

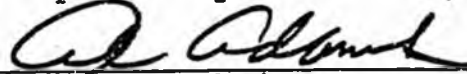
HOUSE JOURNAL

LETTER OF INTENT
FOR
CS FOR SSHB 58 (Finance)

The House Finance Committee has considered CSSSHB 58 which was referred from the House Judiciary Committee.

The intent of this bill is not in any way to affect good time allowances as provided for in A.S. 33.20.010. Rather, the intent is that an offender who refuses to participate in available treatment would be ineligible for parole, furlough, or continued probation.

Respectfully Submitted,



AL ADAMS, Chairman
House Finance Committee

The following individuals are expected to testify on
CS SS HB 58 (Judiciary):

Representative John Lindauer, prime sponsor

Michael Stark, Office of the Chief Prosecutor,
Department of Law

Roger Lang, Division of Corrections, DHSS may testify

POSITION PAPER
Sponsor Substitute for House Bill No. 58

"An Act requiring certain prisoners to serve a full sentence."

House Bill No. 58 adds a new section to AS 30.30 which states that a prisoner who refuses to participate in counseling or other programs required or recommended by the sentencing judge may not be released, paroled, or furloughed until the prisoner's sentence is fully served.

State Statute 33.30.100 authorizes the Commissioner of Health and Social Services to designate the facility where a sentence is to be served. AS 33.30.120 authorizes the Commissioner to transfer prisoners from one facility to another. This provides Adult Corrections the flexibility to effectively manage prison population and to give consideration to prisoner needs.

It is the goal of Adult Corrections to provide a complete rehabilitative process for every prisoner; however, this is not always possible due to availability of certain types of programs, maintaining the integrity of programs, overcrowding, prisoner motivation, length of sentence, etc. At the time of sentencing, all of those factors are not known. It is the duty of the classification committee to identify and evaluate whatever factors may be relevant in each case; including the recommendations of the court. The placement of a prisoner reflects both the prisoner's needs and the needs/capabilities of the system. It should be recognized that factors of individual and system needs may conflict and that it is the responsibility of adult corrections to determine the most appropriate placement and programming.

Prisoners are classified within 30 days of admission to an institution and within 30 days following sentencing. The purpose of this classification is to work with each prisoner to develop a plan of incarceration to meet the prisoner's needs within the constraints of the correctional system. The classification committee addresses institutional placement, custody level, housing, work, program (including counseling) and furlough. Each prisoner's classification is reviewed a minimum of once every six months during the sentence.

The classification committee considers the availability of beds in correctional facilities in relationship to the type of security required for each prisoner; i.e. maximum, medium, minimum. The committee also considers the prisoner's program/counseling needs in relationship to the custody level. In some cases, prisoners cannot be placed in correctional facilities where specific program/counseling is available due to their custody level; i.e. a maximum custody prisoner would not be placed in a minimum/medium custody setting because of the risk to staff, prison population, and the public presented by the maximum security prisoner.

Alaska's prison system does not have the same programs/counseling available at every institution; therefore, we are required to consider security needs before program/counseling needs.

There are two portions of Sponsor Substitute for House Bill No. 58 which are unclear 1) Sec. 33:30.330(a) does not define "sentence is fully served." There is a question of whether good time would be granted to those who are ordered to serve a sentence in full. The attached fiscal note is based on the assumption that good time would not be awarded. 2) The bill does not provide a mechanism to return a prisoner who refuses to participate in counseling or programs to court.

The enactment of House Bill No. 58 would increase the length of time to be served for the certain group of prisoners. Alaska's already overburdened correctional facilities would have to provide additional and very costly new beds to house the prisoners required to serve their full sentences.

Although the intent of this legislative proposal is both positive and admirable, it is not clear that coercion will cause a cure. In fact, it appears that the cure may cost considerably more than the problem and may be constitutionally questionable mechanism to alleviate a relatively minor problem in terms of the small number of uncooperative prisoners. We believe that the correctional division already possesses sufficient resources to deal with this problem through better and more sound prisoner classification and management.

Because of the reasons stated, the Department of Health and Social Services does not support passage of House Bill No. 58.

Recommended by: *Roger C. Lange*
for Roger V. Endell, Director
Division of Adult Corrections

Date: March 21, 1983

Approved by: *Robert London Smith*
Robert London Smith, Ph.D.
Commissioner

Date: 3/22/83

STATE OF ALASKA
FISCAL NOTE

Revision Date Mar. 21, 1983

I. REQUEST

Bill/Resolution No.: SS for HB No. 58
 Title: "An Act req. prisoners serve full sentence"
 Sponsor: Lindauer
 Requestor: Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Admin. of Just.
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						55.5
200 TRAVEL						
300 CONTRACTUAL						6.8
400 COMMODITIES						11.1
500 EQUIPMENT						
600 LAND & STRUCTURES			438.0			
700 GRANTS, CLAIMS, ETC						.4
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	73.8
CAPITAL	-0-	-0-	438.0	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	438.0	-0-	-0-	73.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	1
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: March 21, 1983
 Approved by Commissioner: Roger C. Lange *Roger C. Lange* Date: 3/22/83
 Department: Health & Social Services

Distribution:

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3/8/83

IV. ANALYSIS

A. Assumptions

Statistical data is not available regarding the number of inmates currently refusing to participate in to participate in counseling or other programs required or recommended by sentencing judges. It is, therefore, assumed that two (2) inmates per year with an average sentence length of six (6) years would refuse to participate in rehabilitation programs required or recommended by the sentencing judge. A prisoner who must fully serve his/her sentence loses all good time. The amount of good time earned during a six (6) year sentence is one and one-half ($\frac{1}{2}$) years.

The fiscal impact in the State's correctional system would be three (3) additional beds (2 inmates per year for an additional $1\frac{1}{2}$ years). It is assumed these individuals would require a medium security setting. It is assumed that the 3 beds will not be needed for $4\frac{1}{2}$ years as that would be the normal release date for the first offenders affected by this legislation.

B. Program Summary

1. Positions

One Correctional Officer II will be needed based on one staff positions for every $2\frac{1}{2}$ beds in the correctional system. It is estimated the cost for this position, including overtime and shift differential, for FY 1988 will be \$55,500.

2. Other Expenditures - FY 1988

- a. Contractual Services - \$6,800 is estimated to pay for medical services based on FY 1984 estimates of \$1,800 per inmate per year.
- b. Commodities - \$11,100 will be needed for food, clothing, bedding supplies, paper products, etc. This is based on the FY 1984 estimate of \$8.00 per inmate day with 6% annual inflation.
- c. Grants - \$400 is requested to pay gratuities for inmates working on kitchen or janitorial crews.
- d. Capital Expenditures - FY 1985
It is estimated 3 beds will be needed. It is assumed that the capital cost will be \$146,000 per bed.
Capital needs = 3 x \$146,000
= \$438,000

C. Impact - There is no economic or local government impact anticipated if this legislation is enacted.

CATEGORY	Admin. of Justice
COVER PROGRAM	
AGENCY	Health & Social Services
DIVISION	Adult Corrections
BUDGET REQUEST UNIT	Adult Confinement
BUDGET COMPONENT	

REVISED PROGRAM
REQUEST FOR NEW POSITION

FY 1988

POSITION TITLE Correctional Officer II		JUSTIFICATION: To provide security and supervision of inmates in a correctional center. It is estimated that one position is needed for every 2 1/2 inmates. The proposed legislation will result in the need for an estimated 3 additional beds within the corrections system. Therefore, one additional correctional officer will be needed in FY 1988.
LOCATION Not determined		
TYPE (FULL OR PART-TIME) <u> PFT </u>		
NUMBER REQUESTED <u> 1 </u>		
RANGE 13	BARGAINING UNIT GGU	
MONTHLY SALARY 2899	12 MONTHS (CY) 12	
DETAIL OF RELATED EXPENSES		
01 PERSONAL SERVICES	55,500	Salary 34,788 + Shift Diff. 652 + Overtime 5,408 + Variable Ben. 8,206 +
02 TRAVEL		SBS 2,504 + Peace Officer 3,942
03 CONTRACTUAL		
04 COMMODITIES		
05 EQUIPMENT		
06 OTHER		
TOTAL	55,500	
1002 FEDERAL		
1003 G/F MATCH		
1004 GENERAL FUND	55,500	
1005 I/A RECEIPTS		
1006 PROGRAM RECEIPTS		

Amid

POSITION PAPER

CS for SS for House Bill No. 58 (Judiciary)

"An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court."

Section I

AS 12.55.015 Authorized sentences sets forth the conditions a judge may impose, either singly or in combination, on a defendant at the time of sentencing. Section I of CSSHB 58 adds an additional condition "(9) provide for a sentence to be served in full by a defendant who refuses to participate in available alcohol, drug, sex offender or other mental health treatment required by the sentencing judge."

Section II

Sec. 12.55.080 Suspension of sentence and probation is amended by giving the court the authority to require available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section III

AS 12.55.085 Suspending imposition of sentence (b) is amended by giving probation officers and the court the authority to re-arrest a person on probation status in instances of where the probationer refuses to participate in treatment required by the sentencing judge.

Section IV

AS 12.55.100 Conditions of probation (a) is amended by adding "(5) to participate in available alcohol, drug, sex offender or other mental health treatment" as a condition of probation which may be required.

Section V

AS 12.55.110 Notice and grounds for revocation suspension is amended to include refusal by a defendant to participate in available alcohol, drug, sex offender or other mental health treatment required by the court as a condition of probation as good cause for revocation of a suspended sentence.

Section VI

AS 33.15.080 Granting of parole is amended by including the provision that parole may not be granted to a prisoner who has refused available alcohol, drug, sex offender or other mental health treatment recommended by the sentencing judge.

Section VII

AS 33.30.250 Work Furlough (g) as amended would prohibit prisoners who refuse to participate in available alcohol, drug, sex offender or other mental health treatment required by the Division of Adult Corrections from being granted work furlough.

Summary

It is understood that the intent of this legislation is to help assure that offenders participate in treatment programs as determined by the court and professional correctional staff. It is noted that the purpose of section 1 of CS for SS for HB 58 is set out elsewhere in the bill and that the language contained in section 1 is unclear. Because the purpose of section 1 is carried throughout the other sections and is not necessary to ensure the intent of the bill is understood, it is recommended that section 1 be deleted.

Recommended by: *Roger C. Lunge*
for Roger V. Endell, Director
Division of Adult Corrections

Date: April 13, 1983

Approved by: *Robert London Smith*
Robert London Smith, Ph.D.
Commissioner

Date: 4/14/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST
Bill/Resolution No.: CS for SS for HB 58
Title: ".prisoner..refusing..treatment
Sponsor: House Judiciary
Requestor: House Finance

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: April 13, 1983
 Approved By Commissioner: Robert London *Robert London* Date: 4/14/83
 Department Health & Social Services

Distribution:

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3/8/83

FISCAL NOTE

CS for SS for House Bill No. 58 (Judiciary)

Page 2

IV. ANALYSIS

The earlier fiscal note prepared on House Bill No. 58 assumed a loss of good time by inmates refusing to participate in counseling or treatment. Subsequent testimony at the House Judiciary Committee indicated that it was not the intent of the legislation to take away good time. This is also the opinion of the Office of the Attorney General. Therefore, enactment of this bill would have no fiscal impact on the Division of Adult Corrections.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Sponsor Substitute

Bill No: House Bill No. 58 Page 1 of 2 Date on Bill: January 18, 1983

Title: "An Act requiring certain prisoners to serve a full sentence."

Sponsor: Reps. Lindauer, Barnes, Abood, Pestinger, and Liska

Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital			438.0			
Operating			-0-			73.8
Total	-0-	-0-	438.0	-0-	-0-	73.8

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
	-0-	-0-	-0-	-0-	-0-	-0-

2. Source of funds to offset fiscal impact of bill:

The funding source to offset the fiscal impact of this bill was not identified by the sponsors.

3. Assumptions:

Statistical data is not available regarding the number of inmates currently refusing to participate in counseling or other programs required or recommended by sentencing judges. It is, therefore, assumed that two (2) inmates per year with an average sentence length of six (6) years would refuse to participate in rehabilitation programs required or recommended by the sentencing judge. A prisoner who must fully serve his/her sentence loses all good time. The amount of good time earned during a six (6) year sentence is one and one-half (1½) years.

The fiscal impact in the State's correctional system would be three (3) additional beds (2 inmates per year for an additional 1½ years). It is assumed these individuals would require a medium security setting. The cost for the beds, which would be needed in

Prepared By: Roger C. Lange
Division: Adult Corrections

Roger C. Lange

Phone: 465-3376
Date: Feb. 28, 1983

Approved by Commissioner: _____
Department: AVSS

Robert London Smith

Date: 3/1/83

5. Distribution:

- Original to Legislative Finance
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- Copy to Requestor

2/8/83

3. Assumptions: (continued)

approximately four years, is calculated to be:

$$3 \times \$146,000 = \$ 438,000.$$

Based on an estimate of one staff position for every 2.5 inmates, one additional position would be necessary, beginning in FY 1988. Other costs include primarily food, clothing, and medical care, also beginning in FY 1988

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT



Bill No: SSHB 58 Date on Bill: 1/26/83
 Title: "An Act requiring certain prisoners to serve a full sentence."
 Sponsor: Representative Lindauer
 Requestor: House Judiciary Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		-0-	-0-	-0-
Total		-0-	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

No information provided.

3. Assumptions:

This bill requires that a prisoner who refuses to participate in court ordered counseling while incarcerated may not be released until he has served his full sentence. The bill is not expected to have an appreciable impact on prosecution functions, as the prisoner will have already been convicted and sentenced by the time the question of his release arises. The bill may require the commitment of additional corrections resources, however.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Daniel W. Hickey, Chief Prosecutor Phone: 465-3428
 Division: Criminal Division Date: 1/28/83

Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 3/2/83
 Department: Department of Law

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
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2/15/83

POSITION PAPER
House Bill No. 58

"An Act requiring certain prisoners to serve a full sentence."

House Bill No. 58 adds a new section to AS 30.30 which states that a prisoner who refuses to participate in counseling or other programs required or recommended by the sentencing judge may not be released, paroled, or furloughed until the prisoner's sentence is fully served.

State Statute 33.30.100 authorizes the Commissioner of Health and Social Services to designate the facility where a sentence is to be served. AS 33.30.120 authorizes the Commissioner to transfer prisoners from one facility to another. This provides Adult Corrections the flexibility to effectively manage prison population and to give consideration to prisoner needs.

- It is the goal of Adult Corrections to provide a complete rehabilitative process for every prisoner; however, this is not always possible due to availability of certain types of programs, maintaining the integrity of programs, overcrowding, prisoner motivation, length of sentence, etc. At the time of sentencing, all of those factors are not known. It is the duty of the classification committee to identify and evaluate whatever factors may be relevant in each case; including the recommendations of the court. The placement of a prisoner reflects both the prisoner's needs and the needs/capabilities of the system. It should be recognized that factors of individual and system needs may conflict and that it is the responsibility of adult corrections to determine the most appropriate placement and programming.

Prisoners are classified within 30 days of admission to an institution and within 30 days following sentencing. The purpose of this classification is to work with each prisoner to develop a plan of incarceration to meet the prisoner's needs within the constraints of the correctional system. The classification committee addresses insitutional placement, custody level, housing, work, program (including counseling) and furlough. Each prisoner's classification is reviewed a minimum of once every six months during the sentence.

The classification committee considers the availability of beds in correctional facilities in relationship to the type of security required for each prisoner; i.e. maximum, medium, minimum. The committee also considers the prisoner's program/counseling needs in relationship to the custody level. In some cases, prisoners cannot be placed in correctional facilities where specific program/counseling is available due to their custody level; i.e. a maximum custody prisoner would not be placed in a minimum/medium custody setting because of the risk to staff, prison population, and the public presented by the maximum security prisoner.

Alaska's prison system does not have the same programs/counseling available at every institution; therefore, we are required to consider security needs before program/counseling needs.

The enactment of House Bill No. 58 would increase the length of time to be served for the certain group of prisoners. Alaska's already overburdened correctional facilities would have to provide additional and very costly new beds to house the prisoners required to serve their full sentences.

Although the intent of this legislative proposal is both positive and admirable, it is not clear that coercion will cause a cure. In fact, it appears that the cure may cost considerably more than the problem and may be constitutionally questionable mechanism to alleviate a relatively minor problem in terms of the small number of uncooperative prisoners. We believe that the correctional division already possesses sufficient resources to deal with this problem through better and more sound prisoner classification and management.

Because of the reasons stated, the Department of Health and Social Services does not support passage of House Bill No. 58.

Recommended by: for Roger C. Lewis
Roger V. Endell, Director
Division of Adult Corrections

Date: FEB. 28, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 3/1/83

POSITION PAPER

CS for SS for House Bill No. 58 (Judiciary)

"An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court."

Section I

AS 12.55.015 Authorized sentences sets forth the conditions a judge may impose, either singly or in combination, on a defendant at the time of sentencing. Section I of CSSHB 58 adds an additional condition "(9) provide for a sentence to be served in full by a defendant who refuses to participate in available alcohol, drug, sex offender or other mental health treatment required by the sentencing judge."

Section II

Sec. 12.55.080 Suspension of sentence and probation is amended by giving the court the authority to require available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section III

AS 12.55.085 Suspending imposition of sentence (b) is amended by giving probation officers and the court the authority to re-arrest a person on probation status in instances of where the probationer refuses to participate in treatment required by the sentencing judge.

Section IV

AS 12.55.100 Conditions of probation (a) is amended by adding "(5) to participate in available alcohol, drug, sex offender or other mental health treatment" as a condition of probation which may be required.

Section V

AS 12.55.110 Notice and grounds for revocation suspension is amended to include refusal by a defendant to participate in available alcohol, drug, sex offender or other mental health treatment required by the court as a condition of probation as good cause for revocation of a suspended sentence.

Section VI

AS 33.15.080 Granting of parole is amended by including the provision that parole may not be granted to a prisoner who has refused available alcohol, drug, sex offender or other mental health treatment recommended by the sentencing judge.

Section VII

AS 33.30.250 Work Furlough (g) as amended would prohibit prisoners who refuse to participate in available alcohol, drug, sex offender or other mental health treatment required by the Division of Adult Corrections from being granted work furlough.

Summary

It is understood that the intent of this legislation is to help assure that offenders participate in treatment programs as determined by the court and professional correctional staff. It is noted that the purpose of section 1 of CS for SS for HB 58 is set out elsewhere in the bill and that the language contained in section 1 is unclear. Because the purpose of section 1 is carried throughout the other sections and is not necessary to ensure the intent of the bill is understood, it is recommended that section 1 be deleted.

Recommended by: Roger C. Lunge
for Roger V. Endell, Director
Division of Adult Corrections

Date: April 13, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/14/83

SS-4B SE

The Anchorage Times

City / State

- The Blotter
- Obituaries
- Tell it to Bud

Nov. 1988

Judges' sentences may be ignored

by Jeff Bertiner
Times Staff Writer

Sentencing orders handed down by state judges may be ignored when a convict refuses to take part in rehabilitation programs in jail, according to Commissioner of Health and Social Services Helen Beirne.

Sentencing orders also may be ignored when the length of a sentence is too short to offer much promise for rehabilitation," Beirne wrote in a letter to assistant municipal prosecutor Mike Marsh, who questioned why the Division of Corrections — which is in Beirne's department — is able to ignore judges' recommendations.

Marsh focused his criticism on the case of Amos Singletary, convicted of rape crimes for enticing or seducing a girl into his car. Singletary has a prior rape conviction and a sentence which ordered that he be enrolled in a sex offender program in jail.

Singletary was never enrolled in such a program following his Feb. 19 sentencing, and District Court

Judge John Mason released him after he had served 6½ months of a one-year sentence. Singletary was placed on probation and ordered to get professional counseling outside since he wasn't getting it in jail.

Two weeks after his release, Singletary was picked up for violating his probation by returning to a home where two of his earlier victims lived. Mason sentenced Singletary to another year in jail on Oct. 13, and again ordered that Singletary be placed in a prison sex offender treatment program.

Beirne said she had a staff member contact Singletary in jail, and that "Mr. Singletary continued to take the position that he is not guilty and that he does not wish to participate in sex offender treatment."

Singletary did not deny his guilt in court. And Marsh said prosecutors dropped night court sentencing charges in exchange for Singletary's accepting the evidence against him.

Mason had sentenced Singletary to a year in jail in February. In her letter, Beirne repeated Singletary's projected release date of July 6.

Because the sex offender program "is of a long-term nature," Beirne said there was no point in enrolling Singletary.

But according to Marsh, Singletary had 5½ months left to serve as of July 6.

"It would not be realistic to treat an individual over a period of less than a year," Beirne wrote Marsh, attributing that judgment to a staff psychiatrist.

Mason last month sentenced Singletary to another year in jail, and for the second time ordered that he be enrolled in the sex offender rehabilitation program.

Although the second one-year sentence came on Oct. 13, Beirne said Singletary's release date has been set for April 30.

Beirne, quoting another psychiatrist, wrote Marsh that "chronic offenders such as Mr. Singletary are not very amenable to treatment, and that an absolute minimum of nine months in treatment would be necessary to offer the faintest hope of having an effect on his behavior."

Dei sent

Convicted perjurer sentenced to serve four years in the bribery of George Hohmann's estate.

State superior court handed down the sentence on the conclusion of the sentence seek drug counseling.

The 35-year old DeV... of seven counts of per... Carlson sentenced each count. But the... which means DeVian... years in jail.

Canadian salesman used DeVian as a vouch... into securing state funds... aircraft from Canada.



INTO WILD BLUE GANDER

Waterfowl birds were sent a-flying as a low-flying helicopter... from their perch near the roof in the background.

This photo was taken in Wrangell before the gulls headed south for the winter.

Alaskan to be reval

by Jeff Bertiner
Times Staff Writer

The state plans to overhaul its court system to simplify civil litigation and to cut the time it takes to get a civil case to trial after it's filed.

Alaska will be the first state in the country to undertake a project of this magnitude. The doors of the court system will be opened to experts from the National Center for State Courts in January.

State Supreme Court Chief Justice Edmund Burke will appoint a task force to work with the center's consultants.

The 10 project will take a year to complete, but court system administrator Art Snowden said it will reduce costs for litigants and make Alaska's courts among the most efficient in the country.

It now take 16 months for a civil suit to go to trial.

"Although our time frame is one of the best in the country, it can be improved," Snowden said.

The state has undertaken an examination of its litigation processes on the scale here proposed, according to a proposal from the court center's western regional office in Sacramento, Calif.

"The results should benefit litigants in Alaska and serve as a provocative example to other states."

The project will cover three areas.

Honored Army officer dies

by Jeff Bertiner
Times Staff Writer

James Martin... founder of the... died Sunday in Wrangell.

General Staff College and later, the Army War College.

He served in the staff of Headquarters, 1st Army, Southern... in the early 1940s, and was... in the... branch in the...



Budget issue tops ag

by Beth Barrett
Times Staff Writer

The state will have a second... Tuesday... Mayor Tony Knowles... increased 3-4... pending order and has... said.

The Knowles... the fee schedule for... sanitary system... increased from \$30 to \$... the permit structure...

Division ignores judge's order

by Jeff Lemmer

An assistant municipal prosecutor may ask a judge to haul Division of Corrections officials into court to explain why they are ignoring a judge's sentence of a convicted sex offender.

Anchorage District Court Judge John Mason echoed the concern expressed by prosecutor Mike Marsh over corrections officials' failure to place Amos Singletary in a sex offender treatment program.

And a prison official acknowledged that Singletary is not an isolated case — that others sentenced to jail have not been placed in the counseling programs selected by judges as part of their sentences.

"We can't force people to participate in a program," said Hiland Mountain prison superintendent Frank Sausser.

Sausser said that ignoring a judge's sentencing recommendation is not uncommon.

"It occurs not just with this (sex offender program), but with all kinds of treatment," he said.

Sausser said conditions of sentences handed down by judges are ignored when it involves a treatment program in which an inmate refuses to participate.

Mason and Marsh expressed dismay that the court does not have the power to order the Division of Corrections to carry out the sentence Mason imposed on Singletary almost

three weeks ago.

This is the second time Mason has sent Singletary to jail and asked that he be enrolled in a sex offender treatment program. The first time the request was ignored, Mason released Singletary so he could get counseling out of jail that was not provided in prison.

One day after the second sentencing, on Oct. 14, Marsh wrote Commissioner of Health and Social Services Helen Beirne asking her to intervene, because corrections responsibilities fall under her department. Copies of the letter also went to Division of Corrections director Robert Hatrack, Sausser, Mason, Gov. Jay Hammond and Attorney General Wilson Condon.

Marsh has not received a response to his letter. A spokesman for Beirne, Judy Shuler, said Beirne would "probably" respond this week. She didn't say what her response would be.

Short of hauling corrections officials into court, Mason said he may first try to get through to them by telephone and in writing.

Mason first sentenced Singletary to jail — recommending his placement in the sex offender program at Hiland Mountain — in February after Singletary pleaded no contest to nine crimes and had eight other charges dropped in exchange for his plea.

Singletary was sentenced to three years in jail — with two years suspended — on seven counts of trying to entice young girls into his

car and two counts of assault and battery for trying to force them into his car. Singletary also has a prior rape conviction.

When Mason learned that Singletary was not getting any psychological treatment, he ordered his release on supervised probation so he could get professional counseling.

But two weeks after his release, Singletary was picked up outside a foster children's home where two of his former victims lived. A condition of his probation had been that he have no contact with young girls.

In sentencing him to jail again, this time for another year, Mason again stressed that he wanted Singletary enrolled in the sex offender treatment program. Mason threatened to release Singletary again so he could get professional counseling if the state failed to give him the treatment in jail.

Marsh said Singletary is a danger to society and "the number one goal should be protection of society." He has urged Singletary be sent to jail for the full 4½-year maximum term.

Singletary has been in the Third Avenue jail for three-and-a-half weeks since his sentencing and the Division of Corrections has one more week under the law to classify him and respond to Mason's sentence.

"They may resist that," said Mason, "but there's nothing I can do. That's a corrections problem and corrections has a lot of problems now. We can't have the authority to order them to do it, only to recommend."

Troop

by Cary Virtue

Alaska is one of the few states which does not have a full-time state police. But Alaska Trooper commander Tom Anderson will ask Gov. Hammond to set aside \$5 million in his proposed 1984-85 budget to build a fully equipped state police force. However, Anderson said up to the new governor to submit it to the legislature.

"In this day-and-age of scientific progress, it's more and more difficult to investigate a case without strong support from a state police force," Anderson said. "We can't operate without it."

State law enforcers here now send most of

Court

Washington — The Supreme Court ruled on

Simple Eskimos today, to reopen their legal battle with the federal government: damages to their homes.

The court let its comment a U.S. Court decision that denied or to Inupiat Eskimos.

Subsidy

spark

by A.J. McClanahan

Newspaper ads in Alaska, which depict dog heads, are an "intentional reservation" of the contents of the ballot measure.

"The actual photographs waste," said a spokeswoman for the group, which is pushing the repeal of the law for Sustainable Fish management.

The photograph is old, she said, and heads for an entire year before they were displayed.

But a spokesman said, Alaskans for Side and Hunting Rights ad

The repeal effort is a "subsidy" of Alaska rights," said Sam Outspoken supporting rights and a leave drive.

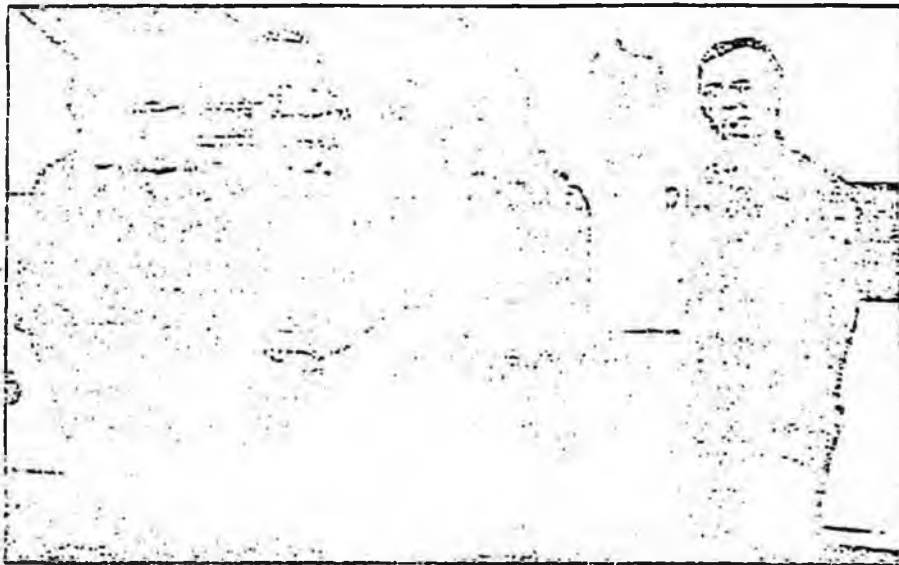
The taking of ms would not be direct. The repeal of state law are managed and Marine Mammals. Anyk charged that the law mammals is man current state law.

"That's erroneous who put it in knew

Collision high speed

RESCUE TEAM

Eight veteran Anchorage firefighters recently completed 40 hours of intensive underwater rescue training for white water, lakes and rivers. Each member of the class already has five years experience in water rescue and recovery. From left, they are: firefighters Kent Bohac and Mike House; engineers Paul Burns, Claude Adams, Dean Fortain and Larry Tish; battalion chief and team leader Kent Anderson; and firefighter John Hickey.



State extends funding for quake research

Fairbanks — State officials say they will continue to fund 30 early quake monitoring stations which were scheduled to close in December because of federal funding cuts.

The seismic stations are one of six University of Alaska projects which will receive state funding under the Legislature's plan to appropriate state funds to shore up programs affected by the tight federal budget.

The stations are located in the southern and central areas, monitoring the most active earthquake zone in the state.

Dr. Robert L. Anderson, director of the University of Alaska Geophysical Institute, said the stations would be maintained by shutting down other programs.

The state will continue to fund 10 stations for the next year. Anderson will underwrite the cost of the stations, less local contributions.

not been found," he said. "If we don't get new money by the first of July, we are right back where we were two weeks ago."

Other state grants for university projects include:

• \$150,000 to the School of Mineral

Industry for minerals research.

• \$50,000 to the Division of Life Sciences for continued research on the virus vaccine for controlling disease prevalent among reindeer.

• \$25,000 to the Institute of

Water Resources for studies of organic contamination of groundwater and streams near placer mining operations.

• \$25,000 for the Rural Education Health Careers Program.

Anchorage police promote 2 officers



Two Anchorage police corporals — Mark Marsh and Gary Russell — have been promoted to sergeant, according to Police Chief Brian S. Porter.

Marsh, who will be supervisor of the Crisis Intervention Response Team, joined the department in 1977 as a reserve officer.

After becoming a full-time officer in 1978, he worked in the warrants section, the computer center on traffic patrol and trained new recruits. He is now enrolled at Anchorage Community College where he is studying for a degree in police administration.



Alaska Court System
State of Alaska

KARLA L. FORSYTHE
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, AK 99501

M E M O R A N D U M

March 2, 1983

To: Representative Charlie Bussell
Chairman, House Judiciary Committee

Representative John Liska
Vice-Chairman, House Judiciary Committee

Representative Joe Hayes
Representative Ramona Barnes
Representative Hugh Malone
Representative Don Clocksin
Representative Ron Wendte

From: Karla L. Forsythe *Karla L. Forsythe*
General Counsel
Alaska Court System

Subject: SSHB 58

Thank you for this opportunity to comment on SSHB 58.

This bill amends existing law to preclude the release, parole or furlough of any prisoner who refuses to participate in programs recommended or required by the court, unless the prisoner at a court hearing shows good cause for failure to participate. The prisoner is entitled to be represented by counsel.

Since the length of prisoners' sentences will be at stake, and since prisoners can be expected to raise the issue of lack of available programs, the bill will result in increased contested hearings. Any new hearings add to the already considerable workload of the courts. Although this bill taken by itself does not require additional manpower, continued caseload increases will require additional judicial resources.

In Anchorage alone, the police force has increased 169% since 1976, from 174 officers covering 31 square miles to 294 officers covering 110 square miles in 1983. DWI arrests have increased by 276% from 1977, from 651 to 1797. Small claims in Anchorage are

up 172% from 1977. Search warrant requests have also increased, up 538% from 1975 (99 search warrants in 1975; 532 in 1982). In-court deputies for the Anchorage district court accrued a total of 787 hours of overtime last year. Alcohol screening statistics point to a 34% increase in new cases since 1977. These cases are a continuing responsibility for the court, because non-compliance affidavits are filed in about 25% of the cases, requiring court hearings and bench warrants.

In general, as legislative action continues to increase penalties, attorneys litigate longer and harder to protect their clients' interest.

The effectiveness of legislation which involves the justice system is directly related to the ability of the courts to process cases efficiently. As with other bills which provide for additional court hearings, the benefits of SSHB 58 should be analyzed in this context.

KLF:smh

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

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Anchorage, Alaska 99501
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Official Business

April 14, 1983

MEMORANDUM

TO: House Finance Committee Members

FROM: Al Adams, Chair *AAA*

SUBJ: CS SS HB 58 (Judiciary), An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court.

Section 1. Provides that a court may impose a full sentence if the defendant refuses to participate in alcohol, drug, sex offender or other mental health treatment required by the sentencing judge.

Section 2. If the court suspends a person's sentence, it may require alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section 3. Provides that parole can be revoked if the parolee refuses to participate in treatment required by the sentencing judge.

Section 4. Provides that treatment may be a requirement of probation.

Section 5. Allows for revocation of a suspended sentence if treatment is refused.

Section 6. Provides that parole will not be granted if a judge requires treatment that a prisoner refuses.

Section 7. Provides that a work furlough will not be granted if a prisoner refuses treatment required by a judge.

Since there is no effective date clause, the Act would go into effect 90 days after passage.

SUMMARY OF COMMITTEE SUBSTITUTE FOR SSB 56

Denial of Parole or Furlough

Section 7 - The Parole Board may not parole a prisoner who refuses to participate in alcohol, drug, sex offender or other mental health treatment.

Section 8 - The Division of Corrections may not furlough a prisoner who refuses to participate in treatment.

Revocation of Suspension of Sentence

Sections 2, 3 and 5 - A judge may impose available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section 6 - A sentence will be revoked if the defendant refuses to participate in treatment that is required by the judge.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



Mail in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

April 12, 1983

TO: House Finance Committee

FROM: Representative John Lindauer *John*

RE: House Bill #58: "An Act requiring certain prisoners to serve full sentence."

The purpose of this Act is to motivate convicts to accept counseling or other rehabilitation programs required or recommended by the sentencing judge.

Presently, convicts may refuse to accept counseling or rehabilitation and then may be released early by the Commissioner on the premise that the convict will not be rehabilitated if he or she stays in jail.

Introduced: 1/26/83
Referred: Judiciary and Finance

1 IN THE HOUSE

BY LINDAUER, BARNES, ABOOD,
PESTINGER, LISKA AND UEHLING

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring certain prisoners to serve a full

7

sentence."

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

9

* Section 1. AS 33.30 is amended by adding a new section to read:

10

Sec. 33.30.330. SERVICE OF FULL SENTENCE. (a) Notwithstanding

11

any other provision of this title, a prisoner who refuses to par-

12

ticipate in counseling or other programs required or recommended by

13

the sentencing judge may not be released, paroled, or furloughed until

14

the prisoner's sentence is fully served.

15

(b) If the court orders a sentence to be served in full, good

16

cause shall be shown in all proceedings under this section. The

17

prisoner is entitled to be represented by counsel and may not be

18

released, paroled, or furloughed pending any proceeding.