COMMITTEE REPORT

HOUSE

FURTHER:

(11)

4/25/85

Date: _____

The Committee on FINANCE has had HB 114
"An Act relating to correctional facilities, and the imprisonment and rehabilitation of offenders."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[/] replace with CS for HB 114 [X] same title [ ] new title

and recommends [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[illegible]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible]

[illegible]
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST:
Bill/Resolution No.: CS HB 114 (Jud)
Title: "An Act relating to correctional facilities and the imprisonment and rehabilitation of offenders."
Sponsor: Rules/Governor
Requestor: House Finance
Date of Request: April 29, 1985

FISCAL DETAIL:
Agency Affected: DEPARTMENT OF CORRECTIONS
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
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						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

This legislation will have no fiscal impact on the Department of Corrections.

Prepared By: William W. Ladwig
Phone: 465-3376
Division: Deputy Commissioner - Administration
Date: April 29, 1985

Approved by Commissioner: [signature]
Date: April 29, 1985
Agency: DEPARTMENT OF CORRECTIONS

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency (ies)

Offered: 4/25/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 114 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to correctional facilities, and the

7 imprisonment and rehabilitation of offenders."

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

9 * Section 1. AS 09.20.020 is amended to read:

10 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-

11 qualified from serving [TO ACT] as a juror if the person

12 (1) has served as a juror in the state within one year of

13 the time of examination for service; or

14 (2) has been convicted of a felony for which the person has

15 not been unconditionally discharged. Unconditional discharge has the

16 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE

17 PERSON HAVE NOT BEEN RESTORED].

18 * Sec. 2. AS 11.56.340 is repealed and reenacted to read:

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

20 person commits the crime of unlawful evasion in the first degree if,

21 while charged with or convicted of a felony,

22 (1) the person fails to return to official detention within

23 the time authorized following temporary leave granted for a specific

24 purpose or limited period; or

25 (2) while on furlough under AS 33.30.101 - 33.30.131 the

26 person fails to return to the place of confinement or residence within

27 the time authorized by those having direct supervision.

28 (b) Unlawful evasion in the first degree is a class A misdemean-

29 or.

1 * Sec. 3. AS 11.56.350 is repealed and reenacted to read:
2 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A
3 person commits the crime of unlawful evasion in the second degree if,
4 while charged with or convicted of a misdemeanor,
5 (1) the person fails to return to official detention within
6 the time authorized following temporary leave granted for a specific
7 purpose or limited period; or
8 (2) while on furlough under AS 33.30.101 - 33.30.131 the
9 person fails to return to the place of confinement or residence within
10 the time authorized by those having direct supervision.
11 (b) Unlawful evasion in the second degree is a class B misde-
12 meanor.
13 * Sec. 4. AS 12.47.050(d) is repealed and reenacted to read:
14 (d) Notwithstanding a contrary provision of law, a defendant
15 receiving treatment under (b) of this section may not be released
16 (1) on furlough under AS 33.30.101 - 33.30.131, except for
17 treatment in a secure setting; or
18 (2) on parole.
19 * Sec. 5. AS 33.30 is amended by adding new sections to read:
20 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.
21 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall
22 (1) establish, maintain, operate, and control correctional
23 facilities suitable for the custody, care, and discipline of persons
24 charged or convicted of offenses against the state or held under
25 authority of state law;
26 (2) classify prisoners;
27 (3) for persons committed to the custody of the commis-
28 sioner, establish programs, including furlough programs that are
29 reasonably calculated to

(A) protect the public;

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

(F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) provide necessary medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases; and

(5) provide necessary psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(A) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(B) the potential for harm to the prisoner by reason of delay or denial of care is substantial.

Sec. 33.30.021. REGULATIONS. The commissioner shall adopt regulations to implement this chapter.

Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS. (a) The commissioner shall determine the availability of state correctional facilities suitable for the detention and confinement of persons held under authority of state law. If the commissioner determines that suitable state correctional facilities are not available, the commissioner may enter into an agreement with a public or private agency to provide necessary facilities. Correctional facilities provided through agreement may be in this state or in another state.

1 The commissioner may not enter into an agreement with an agency unable
2 to provide a degree of custody, care, and discipline similar to that
3 required by the laws and regulations of this state.
4 (b) Unless the purpose is to involve prisoners in a program
5 established under AS 33.30.091 - 33.30.131 or to confine prisoners
6 convicted of a misdemeanor, the commissioner may not enter into an
7 agreement with a privately operated correctional facility under (a) of
8 this section.
9 (c) An agreement with a private agency to provide necessary
10 facilities under (a) of this section is subject to the provisions of
11 the Fiscal Procedures Act (AS 37.05).
12 (d) A person employed outside the facility while confined in a
13 privately operated correctional facility established under (a) of this
14 section is subject to the provisions of AS 33.30.131.
15 (e) The commissioner may enter into an agreement with the United
16 States, another state, a municipality of this state, or another state
17 agency, to provide a correctional facility for the custody, care, and
18 discipline of a person held under authority of the law of that juris-
19 diction.
20 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.
21 (a) If the commissioner determines that it would be in the best
22 interest of the state, the commissioner may enter into an agreement
23 with a municipality of the state for the lease of a state correctional
24 facility or for the use and operation of a state correctional facility
25 for the joint benefit of the municipality and the state.
26 (b) An agreement executed by the commissioner under (a) of this
27 section must provide that
28 (1) the state has the right to detain or confine a prisoner
29 held under authority of law in the correctional facility;

1 (2) the administrator of the correctional facility agrees
2 to implement an order, concerning a prisoner, issued by a court of the
3 state;
4 (3) the administrator of the correctional facility shall
5 comply with the law, and regulations adopted by the commissioner,
6 relating to the custody, care, and discipline of a prisoner detained
7 or confined in the correctional facility; and
8 (4) the commissioner may inspect the correctional facility
9 at any time to determine the conditions under which a prisoner is
10 detained or confined.
11 (c) The agreement executed by the commissioner under (a) of this
12 section may require the administrator of the correctional facility to
13 comply with requirements that the commissioner considers necessary for
14 the protection of the public or for the quality of care and programs
15 for prisoners required by this chapter and regulations adopted by the
16 commissioner.
17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.
18 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
19 of an offense against the state shall be committed to the custody of
20 the commissioner for the term of imprisonment that the court directs.
21 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The
22 commissioner shall designate the correctional facility to which a
23 prisoner is to be committed to serve a term of imprisonment or period
24 of temporary commitment. The commissioner may designate a facility
25 without regard to whether it is maintained by the state, is located
26 within the judicial district in which the prisoner was convicted, or
27 is located in the state.
28 (b) The commissioner may designate an out-of-state facility
29 under this section only if the commissioner determines that

1 rehabilitation or treatment of the prisoner will not be substantially
2 impaired.
3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.
4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
5 safety shall provide for the custody, care, and discipline of prison-
6 ers pending arraignment, commitment by a court to the custody of the
7 commissioner of corrections, or admission to a state correctional
8 facility. Except as provided in (c) of this section, the responsibil-
9 ity for providing necessary medical services for prisoners remains
10 with the commissioner of corrections under AS 33.30.011(4). The
11 commissioner of corrections and the commissioner of public safety are
12 not responsible for providing custody, care, and discipline for a
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person
14 is admitted into a state correctional facility.
15 (b) The responsibility of the commissioner of public safety
16 under (a) of this section does not begin until a prisoner is accepted
17 into the custody of the commissioner of public safety, or admitted
18 into a correctional facility or other facility designed for holding
19 prisoners, and the commissioner of public safety is notified of the
20 acceptance or admission.
21 (c) Medical services for a prisoner who is unconscious or in
22 immediate need of medical attention before admission to a correctional
23 facility or commitment by a court to the custody of the commissioner
24 of corrections shall be provided by the law enforcement agency having
25 custody of the prisoner. The law enforcement agency may require the
26 prisoner to compensate the agency for the cost of medical services
27 provided for a preexisting medical condition not arising out of the
28 prisoner's arrest.
29 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The

1 commissioner of public safety is responsible for transporting a pris-
2 oner to and from the court having jurisdiction over the prisoner and
3 for delivering a prisoner to a correctional facility upon temporary or
4 final commitment by a court or upon transfer of a prisoner from one
5 correctional facility to another either inside or outside the state.
6 (b) The commissioner of corrections shall make available return
7 transportation to the place of arrest for a prisoner who is released
8 from custody in a state correctional facility.
9 (c) The commissioner of public safety shall make available
10 return transportation to the place of arrest for a prisoner who is
11 released from custody before admission to a state correctional facili-
12 ty.
13 (d) The commissioner of corrections shall adopt regulations
14 governing the furnishing of transportation, discharge payments, and
15 clothing to prisoners upon release from a state correctional facility
16 at any stage of a criminal proceeding.
17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
18 AS 33.30.111, the commissioner may assign a prisoner committed to the
19 commissioner's custody to a program established under AS 33.30.011(3)
20 considering
21 (1) safeguards to the public;
22 (2) the prospects for the prisoner's rehabilitation;
23 (3) the availability of program and facility space;
24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;
26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;
28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

1 court;

2 (7) the record of convictions of the prisoner with particu-

3 lar emphasis on crimes specified in AS 11.41;

4 (8) the use of drugs or alcohol by the prisoner;

5 (9) the length of the prisoner's sentence; and

6 (10) other criteria considered appropriate by the commis-

7 sioner, including experimental evaluation of correctional programs

8 that are consistent with protection of the public and reformation of

9 the prisoner.

10 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt

11 regulations governing the granting of prerelease and short-duration

12 furloughs to prisoners to

13 (1) obtain counseling and treatment for alcohol or drug

14 abuse;

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

19 (6) secure a residence or make other preparation for re-

20 lease;

21 (7) appear before a group whose purpose is a better under-

22 standing of crime or corrections; or

23 (8) for any other rehabilitative purpose the commissioner

24 determines to be in the interests of the prisoner and the public.

25 (b) If the commissioner determines with reasonable probability

26 that a prisoner can live under reduced supervision without violating

27 the law or the conditions established for the conduct of the prisoner,

28 the commissioner may grant a furlough after considering

29 (1) the factors in AS 33.30.091;

1 (2) violations, if any, by the prisoner of a condition of a
2 prior furlough;
3 (3) the history, if any, of institutional misconduct by the
4 prisoner; and
5 (4) the best interests of the prisoner and the public.
6 Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs
7 established under AS 33.30.101 must include prerelease furloughs
8 designed to facilitate the reintegration of a prisoner into society.
9 (b) A facility that is specifically adapted to provide a resi-
10 dence outside prison, including a halfway house, group home, or other
11 placement that provides varying levels of restriction and supervision,
12 may be used for a prisoner on a prerelease furlough.
13 (c) The restrictions and supervision required for a prerelease
14 furlough shall provide safeguards that minimize risk to the public and
15 include, as a minimum,
16 (1) frequent contact with the prisoner by persons supervis-
17 ing the prisoner;
18 (2) knowledge by supervisory staff of the location of the
19 prisoner;
20 (3) periodic reports by supervisory staff to the commis-
21 sioner on the performance of the prisoner while on furlough; and
22 (4) a residential setting in which persons supervising a
23 prisoner are obliged to immediately report to the commissioner any
24 violation of a condition set for the prisoner's conduct.
25 (d) Notwithstanding AS 33.30.101(b), and other eligibility
26 criteria established by the commissioner, that relate to risks to the
27 public posed by the proposed furlough of a prisoner,
28 (1) a prisoner sentenced to a definite term of imprisonment
29 of more than one year but less than five years is not eligible for a

1 prerelease furlough until the prisoner has served at least one-third
2 of the sentence;
3 (2) a prisoner sentenced to a definite term of imprisonment
4 of five years or more is not eligible for a prerelease furlough until
5 the prisoner has served at least one-third of the sentence or is
6 within three years of the release date, whichever is later; and
7 (3) a prisoner who is denied discretionary parole under
8 AS 33.15.080 may not be granted a prerelease furlough for a period of
9 at least one year following the denial unless the board of parole
10 expressly waives this provision.
11 (e) A prisoner may request a prerelease furlough under proce-
12 dures adopted by the commissioner. If the commissioner denies a
13 request for a prerelease furlough, the commissioner shall provide the
14 prisoner with a written explanation of the reasons for the denial.
15 (f) Upon request of the victim, in the case of a prisoner con-
16 victed of a crime against a person, notice of the commissioner's
17 intent to consider the prisoner for a prerelease furlough shall be
18 sent to the victim. The victim may comment in writing on the intent
19 of the commissioner to release the prisoner on prerelease furlough
20 status. The commissioner shall consider the comments of the victim
21 before making a final decision to release a prisoner on a prerelease
22 furlough. If the victim requests notification, the commissioner shall
23 make every reasonable effort to notify the victim of an intent to
24 release the prisoner on a prerelease furlough. The notice must con-
25 tain the expected date of the prisoner's release, the geographic area
26 in which the prisoner will reside and other pertinent information
27 concerning the prisoner's release that may affect the victim.
28 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
29 furlough is an authorized leave of absence from a correctional

1 facility for a period not to exceed 12 hours at any one time, except
2 for
3 (1) family visitations, that may not exceed one week or
4 occur more frequently than once in each two-month period; or
5 (2) medical treatment, for which the furlough may not last
6 longer than necessary for the treatment.
7 (b) A short-duration furlough may be granted to a prisoner at
8 any time under regulations adopted by the commissioner.
9 Sec. 33.30.131. PRERELEASE OR SHORT-DURATION FURLOUGH INVOLVING
10 EMPLOYMENT. (a) The commissioner may grant a prerelease or short-
11 duration furlough to permit a prisoner to participate in suitable
12 employment under conditions and at wages that represent the prevailing
13 standard for the area. A prisoner may not participate in employment
14 where an organized labor dispute is in progress.
15 (b) Unless alternative arrangements are expressly approved by
16 the commissioner, when a prisoner is employed outside a correctional
17 facility as part of a prerelease or short-duration furlough program,
18 the earnings of the prisoner shall be delivered to the commissioner.
19 If an employer transmits the earnings to the commissioner, the em-
20 ployer has no liability to the prisoner for the earnings. The commis-
21 sioner shall disburse the earnings of the prisoner, in an order deter-
22 mined appropriate, under procedures adopted by the commissioner to
23 (1) pay for the room, board, and personal expenses of the
24 prisoner in an amount or at a rate determined by the commissioner;
25 (2) pay any restitution or fine ordered by the sentencing
26 court;
27 (3) reimburse the state for an award made for violent
28 crimes compensation under AS 18.67 arising out of the criminal conduct
29 of the prisoner;

1 (4) pay a civil judgment arising out of the criminal con-
2 duct of the prisoner; and
3 (5) support the dependents of the prisoner, and to provide
4 child support payments as required by AS 09.65.132.
5 (c) After making the disbursements authorized under (b) of this
6 section, the commissioner shall retain the balance remaining in the
7 account of the prisoner and give it to the prisoner upon release. The
8 commissioner may permit the prisoner to draw upon a portion of this
9 money for other purposes that the commissioner considers appropriate.
10 (d) Only the earnings retained by the commissioner under (c) of
11 this section are subject to lien, attachment, garnishment, execution,
12 or other proceedings to encumber money or property.
13 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR
14 FAILURE TO RETURN. (a) If, after a hearing, a prisoner on a furlough
15 is found to have violated the conditions established for the prison-
16 er's conduct, the commissioner may immediately require the return of
17 the prisoner to actual confinement for a period not to exceed the
18 balance of the term of imprisonment or initiate disciplinary proceed-
19 ings authorized by regulations adopted by the commissioner or both.
20 (b) The failure of a prisoner on a furlough to return to the
21 place of confinement or residence within the time specified by those
22 having direct supervision over the prisoner is an unlawful evasion
23 under AS 11.56.340 - 11.56.350.
24 ARTICLE 3. GENERAL PROVISIONS.
25 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the
26 policy of the state that prisoners be productively employed for as
27 many hours each day as feasible, not to exceed 40 hours a week unless
28 overtime has been specifically approved by the commissioner.
29 (b) The commissioner may enter into contracts or cooperative

1 agreements with any public agency for the performance of conservation
2 projects. The commissioner may enter into a contract with an indi-
3 vidual or agency for the employment of prisoners if the work to be
4 performed will have minimal negative impact on an existing private
5 industry or labor force in the state as determined by the Correctional
6 Industries Commission under AS 33.32.015.
7 (c) The commissioner may direct a prisoner to participate in a
8 type of productive employment listed in (d)(1), and (d)(4)-(6) of this
9 section while the prisoner is confined in a correctional facility. A
10 prisoner who refuses to participate in productive employment when
11 directed under this section is subject to disciplinary sanctions
12 imposed in accordance with regulations adopted by the commissioner.
13 (d) In this section "productively employed" includes the follow-
14 ing kinds of employment:
15 (1) routine maintenance and support services essential to
16 the operation of a correctional facility;
17 (2) education including both academic and vocational;
18 (3) industrial, agricultural, and service activities con-
19 ducted in accordance with AS 33.32;
20 (4) public conservation projects including but not limited
21 to forest fire prevention and control, forest and watershed enhance-
22 ment, recreational area development, construction and maintenance of
23 trails and campsites, fish and game enhancement, soil conservation,
24 and forest watershed revegetation;
25 (5) renovation, repair or alteration of existing correc-
26 tional facilities as permitted by AS 44.65.050(d); and
27 (6) other work performed inside or outside of a correction-
28 al facility if the work has minimal negative impact on an existing
29 private industry or labor force in the state as determined by the

1 Correctional Industries Commission under AS 33.32.015.

2 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is
3 productively employed, as defined in AS 33.30.151(d)(1) or 33.30.-
4 151(d)(3) - (6), may receive for that work compensation at a rate
5 determined by the commissioner under AS 33.32.050 if the money is
6 available from legislative appropriations. The provisions of AS 33.-
7 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-
8 tional industries program and to prisoners productively employed in
9 activities outside that program.

10 Sec. 33.30.161. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
11 is admitted to a correctional facility, a copy of the commitment shall
12 be delivered with the prisoner as evidence of the authority of the
13 correctional facility to hold the prisoner.

14 (b) When a person is sentenced to a term of imprisonment, copies
15 of the pre-sentence report, sentencing report prepared under AS 12.-
16 55.025, and any other information of the probation office or of the
17 court that may affect the person's rehabilitation shall be transmitted
18 to the superintendent of the correctional facility in which the pris-
19 oner will be confined.

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

23 Sec. 33.30.171. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
24 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-
25 tional facility or the superintendent's assistant may administer oaths
26 to and take acknowledgments from a prisoner, but may not request or
27 accept compensation from a prisoner for acts performed under this
28 section.

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

1 CORRECTIONAL INSTITUTIONS. (a) Except as provided in (b) of this
2 section, a prisoner shall have reasonable access to a telephone.
3 (b) A prisoner who is classified maximum custody, is placed in
4 segregation as punishment for a rule infraction, or is placed in
5 segregation because the prisoner poses a threat to others or to the
6 security of a correctional facility may not have access to a telephone
7 except to communicate with an attorney, to otherwise communicate as
8 provided in Rule 5(b) of the Alaska Rules of Criminal Procedure, or in
9 an emergency as determined appropriate by the commissioner.
10 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to
11 preserve the security and orderly administration of the institution
12 and to protect the public, the commissioner may authorize the use of
13 monitoring or recording equipment to listen to a telephone conversa-
14 tion of a prisoner who has been convicted of an offense if a warning
15 is posted by the telephone informing the prisoner that a call may be
16 monitored or recorded. A telephone call made by or to a prisoner who
17 has not been convicted or a telephone call between an attorney and a
18 prisoner may not be monitored or recorded except when authorized by a
19 court.
20 Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
21 RIGHTS. (a) A person who is convicted of a felony involving moral
22 turpitude as defined in AS 15.60.010 is disqualified from voting in a
23 state or municipal election until the person's unconditional dis-
24 charge.
25 (b) A person who is convicted of a felony is disqualified from
26 serving as a juror until the person's unconditional discharge.
27 (c) In this section "unconditional discharge" has the meaning
28 given in AS 12.55.185.
29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

1 Except as provided in (b) of this section, it is the obligation of
2 each person committed to the custody of the commissioner to provide
3 for the appropriate disposition of all of the person's property re-
4 maining at a correctional facility within 90 days of the date of the
5 person's release or transfer from the correction facility.
6 (b) The commissioner shall provide for the shipment to the
7 receiving facility of a reasonable amount of a prisoner's property, as
8 determined by the commissioner, when the prisoner is transferred from
9 one correctional facility to another.
10 (c) A prisoner's personal property that remains at a correction-
11 al facility after 90 days from the date of the prisoner's release or
12 transfer is considered abandoned, and shall be delivered to the De-
13 partment of Administration for disposal under AS 44.71.010.
14 (d) The state is not liable for any loss or damage to personal
15 property properly determined to be abandoned under (c) of this sec-
16 tion.
17 Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who
18 possesses money in an amount greater than that permitted by the com-
19 missioner is subject to disciplinary sanctions under regulations
20 adopted by the commissioner.
21 (b) Money in the possession of a prisoner in an amount greater
22 than that permitted by the commissioner is contraband. If, after a
23 hearing under regulations adopted by the commissioner, a prisoner is
24 found to have been in possession of contraband under this section, the
25 contraband shall be forfeited and deposited into the general fund.
26 Sec. 33.30.221. FORFEITURE OF PROPERTY. A conviction of a
27 person for a crime does not work a forfeiture of property, except in
28 cases where a forfeiture is expressly provided by law.
29 Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who

1 commits a crime against a sentenced prisoner is punishable as if the
2 prisoner was not sentenced and incarcerated.
3 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
4 text requires otherwise,
5 (1) "commissioner" means the commissioner of the Department
6 of Corrections;
7 (2) "correctional facility" or "facility" means a prison,
8 jail, camp, farm, half-way house, group home, or other placement
9 designated by the commissioner for the custody, care, and discipline
10 of prisoners; a "state correctional facility" means a 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 or magistrate court, or a justice or
14 judge of a court;
15 (4) "crime against a person" means a crime as set out in
16 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.
17 330; or a crime against a person in this or another jurisdiction
18 having elements substantially identical to those of a crime as set out
19 in AS 11.41, except custodial interference under AS 11.41.320 and
20 11.41.330;
21 (5) "department" means the Department of Corrections;
22 (6) "furlough" means an authorized leave of absence from
23 actual confinement for a designated purpose and period of time;
24 (7) "health care provider" means
25 (A) a physician's assistant or nurse practitioner
26 licensed to practice in the state and working under the direct
27 supervision of a licensed physician or psychiatrist, or
28 (B) a mental health professional as defined in AS 47
29 30.915;

1 (8) "municipality" means a borough or city in the state, or
2 a municipality unified under AS 29.68.240 - 29.68.440, authorized by
3 law to establish a correctional facility;
4 (9) "prisoner" means a person, other than a juvenile, held
5 under authority of state law in official detention as defined in
6 AS 11.81.900(b);
7 (10) "temporary commitment" means detention of a person for
8 any period under authority of state law, but does not include confine-
9 ment upon conviction and judgment of a court of this state;
10 (11) "victim" has the meaning given in AS 12.55 185.
11 * Sec. 6. AS 33.32.015(b) is amended to read:
12 (b) The commissioner of corrections may
13 (1) subject to the Fiscal Procedures Act (AS 37 05), use,
14 purchase, lease, equip, and maintain buildings, machinery, and other
15 equipment, and may purchase materials and enter into contracts, which
16 may be necessary for the correctional industries program,
17 (2) provide for prisoners to be employed in rendering
18 services and producing articles, materials, and supplies needed by a
19 state agency, a political subdivision of the state, an agency of the
20 federal government, other states or their political subdivisions, or
21 for use by nonprofit organizations,
22 (3) if the Correctional Industries Commission established
23 in AS 33 32 070 approves, employ prisoners to provide services or
24 products as needed by private industry if the services or products
25 have potential for contributing to the economy of the state and will
26 have minimal negative impact on an existing private industry or labor
27 force in the state,
28 (4) authorize a prisoner to engage in productive employment
29 within or outside a correctional facility or enter into a contract

1 under AS 33.30.151 for the employment of a prisoner if the Correction-
2 al Industries Commission determines that the employment will have
3 minimal negative impact on an existing private industry or labor force
4 in the state, and
5 (5) subject to the provisions of AS 37.05, enter into joint
6 cooperative ventures with private industry for the establishment and
7 operation of "Free Venture" industries under AS 33.32.017, if the
8 Correctional Industries Commission determines that the "Free Venture"
9 industry will have minimal negative impact on an existing private
10 industry or labor force in the state.
11 * Sec. 7. AS 33.32 is amended by adding a new section to read:
12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)
13 Upon recommendation of the Correctional Industries Commission estab-
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-
15 ture" correctional industries for the sale of goods or services to the
16 public or private sector. A "Free Venture" correctional industry is a
17 correctional industry that is operated and managed in total or in part
18 by a private industry or organization within a correctional facility
19 under an agreement entered into under AS 33.32.031(b)(5).
20 (b) The commissioner shall provide appropriate space, utilities,
21 security and inmate workers to the private industry or organization.
22 (c) The private industry or organization shall provide all
23 machinery, tools, supplies, materials, transportation, training,
24 supervisory personnel, management, marketing, and insurance necessary
25 for the operation of the "Free Venture" industry.
26 (d) In exchange for the space, utilities, and inmate workers
27 provided to it, the private industry or organization shall pay to the
28 commissioner a weekly payment in an amount not less than the sum of
29 the existing minimum hourly wage established under AS 23.10.061

1 multiplied by the total number of hours worked during that week by
2 inmates employed in the "Free Venture" correctional industry.
3 (e) The private industry or organization shall indemnify, save
4 harmless, and defend the state, its agents, officers, and employees
5 from liability of any kind resulting from injuries or damages sus-
6 tained by a person or property as a result of the use of the goods or
7 services of the "Free Venture" industry.
8 * Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:
9 (f) The provisions of this section do not apply to "Free Ven-
10 ture" industries established under AS 33.32.017.
11 * Sec. 9. AS 39.35.360(e) is amended to read:
12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.-
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.
21 * Sec. 10. AS 44.65.050 is amended by adding a new subsection to read:
22 (d) The Department of Corrections and the Department of Trans-
23 portation and Public Facilities may enter into agreements under this
24 chapter for the construction, renovation, repair or alteration of
25 state correctional facilities as defined in AS 33.30.301. An agree-
26 ment entered into under this subsection is limited to an estimated
27 cost of $100,000 for each project as determined by the terms of the
28 agreement.
29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080, 33.30.-
2 090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.150,
3 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225, 33.30.-
4 227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
5 33.30.900.

6 * Sec. 12. Regulations adopted under a statute amended or repealed by
7 this Act continue in effect until amended or repealed by the commissioner
8 of corrections, except to the extent that a regulation is inconsistent or
9 in conflict with a provision of this Act.

Rec'd 5/2/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 114 (Jud)
Title: "An Act relating to correctional facilities..."
Sponsor: Rules Committee
Requestor: House Finance
Date of Request: 4/29/85

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		200.0	210.0	220.5	231.5	243.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		200.0	210.0	220.5	231.5	243.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		200.0	210.0	220.5	231.5	243.1
FEDERAL FUNDS						
OTHER						
TOTAL		200.0	210.0	220.5	231.5	243.1

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie
Phone: 465-4349
Division: Administrative Services
Date: 4/29/85

Approved by Commissioner: Robert J. Sundberg
Date: 4/30/85
Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

COST ANALYSIS

CSHB 114 (Jud)

The Alaska State Troopers will be affected by the proposed Section 33.30.071(c). The law enforcement agency taking custody will be, by statute, responsible for all injuries or medical problems the subject may have incurred prior to our taking custody. This will have even greater impact on municipal police agencies than on this Department. Costs shown are for medical services. A 5% annual inflation factor is applied to FY 87 and beyond.

300 Contractual Services

Medical Costs	$200.0

COMMENTARY AND SECTIONAL ANALYSIS
FOR THE 1985 AMENDMENTS TO ALASKA'S LAWS ON
CORRECTIONAL FACILITIES AND THE IMPRISONMENT
AND REHABILITATION OF OFFENDERS
CS FOR HB 114 (JUDICIARY)

Introduction

This Act represents a comprehensive attempt to update Alaska's laws on correctional facilities and the imprisonment and rehabilitation of offenders. Many of these laws have not changed since Alaska became a state, while the legal and administrative problems confronted by Alaska's correctional system are dramatically different than they were 25 or even 10 years ago. This Act incorporates changes necessary to respond to both decisions by the courts and the practical necessities of administering the Alaska correctional system in the 1980's.

Section 1. AS 09.20.020, Disqualification of Jurors.

This section amends one of the two statutory bases for which a person is disqualified from serving as a juror. Under this section, a person convicted of a felony is disqualified from serving as a juror until the person is unconditionally discharged from any supervision. Under former AS 09.20.-020, a person was disqualified from serving as a juror if the person was convicted of a felony and had not had his or her civil rights restored. This is a technical amendment only.

This amendment to AS 09.20.020 is necessary to conform with new AS 33.30.191, which provides, as one of the effects of a felony conviction, disqualification from serving as a juror until the person's unconditional discharge.

Sections 2-3. AS 11.56.340 and AS 11.56.350, Unlawful Evasion in the First and Second Degrees.

These sections repeal and reenact criminal statutes relating to unlawful evasion from custody to provide specific references to AS 33.30.101--33.30.131 pertaining to furlough of prisoners. These sections make clear that failure of a prisoner on furlough to return to the place of confinement or residence within the time authorized by those having direct supervision over the prisoner constitutes the crime of unlawful evasion. The degree of the crime remains the same as provided for under existing law.

Section 4. AS 12.47.050(d), Disposition of Defendant Found Guilty But Mentally Ill.

Prior to amendment, AS 12.47.050(d) prohibited a prisoner found guilty but mentally ill who is receiving treatment from being released on furlough under AS 33.30.150, 33.-30.250, or 33.30.260, or on parole. This section makes technical changes to reflect the new statutes pertaining to furlough

of prisoners, AS 33.30.101--33.30.131. It also creates an exception to this general rule by permitting a guilty but mentally ill prisoner to be furloughed to a secure setting for purposes of treatment.

Under AS 33.30.101(a)(3) and AS 33.30.121(a)(2), a prisoner requiring medical or psychiatric treatment outside of a correctional facility may be furloughed for this purpose. Permitting a prisoner found guilty but mentally ill to be furloughed to a facility such as the Alaska Psychiatric Institute is consistent with the clear intent to protect the public and at the same time to provide necessary treatment through a furlough to a secure setting.

Section 5. AS 33.30.011--33.30.301, Correctional Facilities and Programs.

This section adds new sections to provide an updated statutory scheme pertaining to correctional facilities and management and control of Alaska's prisoners. A brief analysis of each section and its intent follows:

ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

Section 33.30.011. Duties of Commissioner.

This section sets out the duties of the commissioner of corrections. Subsection (1) combines the responsibilities set out in former AS 33.30.010 and 33.30.040 and makes clear that management and control of correctional facilities, as well as the responsibility for providing for the custody, care, and discipline of prisoners, rests with the commissioner.

Subsections (2) and (3) incorporate the responsibilities set out in former AS 33.30.020 (classifying prisoners and establishing programs for their rehabilitation). Subsection (3) expands those responsibilities by setting out specific goals which the programs are reasonably calculated to achieve. In addition, it requires the commissioner to establish furlough programs which are addressed in sections 33.30.101--33.30.131.

Subsection (4) requires the commissioner to provide necessary medical services for prisoners, a responsibility provided for in former AS 33.30.050. Necessary medical services includes treatment for dental, visual and audio problems.

Subsection (5) requires the commissioner to provide necessary psychological or psychiatric treatment for prisoners under the standard articulated by the Alaska Supreme Court in Rust v. State, 582 P.2d 134, opinion on reh. 584 P.2d 38 (Alaska 1978). This subsection requires a physician or other health care provider to exercise professional judgment under

the Rust standard in determining the need for psychological or psychiatric care. Health care provider is defined in the definition section, 33.30.901 so as to be consistent with professional standards of medical practice and Alaska's mental health statutes (AS 47.30.915).

Section 33.30.021. Regulations.

This section requires the commissioner to adopt regulations to implement this chapter and thus does not constitute a substantive change from former AS 33.30.030.

Section 33.30.031. Contract for Care and Confinement of Prisoners.

Subsections (a) and (b) authorize the commissioner to determine the availability of state correctional facilities for state prisoners, and to contract with public or private entities to provide necessary facilities when state facilities are not available. These subsections are based on former AS 33.30.060, but expand the commissioner's authority to contract with a private agency to confine prisoners convicted of a misdemeanor. Former AS 33.30.060 did not permit the commissioner to contract with private agencies for the confinement of prisoners. In essence, this will permit contracting with a privately operated jail for misdemeanants, but such a facility

must provide a similar degree of care and discipline as that required in state facilities.

Subsection (b) also clarifies the authority of the commissioner to house prisoners (both felons and misdemeanants) who are on furlough in a privately operated facility (e.g. halfway house). Although this authority existed under a reasonable interpretation of a number of prior statutes, it was not expressly set out.

Subsection (c) mandates that any agreement with a private agency to provide necessary facilities is subject to the competitive bidding requirements set out in the Fiscal Procedures Act (AS 37.05).

Subsection (d) makes clear that a prisoner on furlough, a probationer, or a parolee who is housed in a privately operated correctional facility and who is working will be required to pay for all or part of the prisoner's living expenses, as well as contribute to court ordered fines and restitution, awards made to victims which arose out of the prisoner's criminal conduct, and to support the prisoner's dependents. A judgment, court order, or order of the child support enforcement agency to make child support payments has priority over other financial obligations as set out in AS 09.65.132. These requirements are fully set out in AS 33.30.131.

Subsection (e) permits the commissioner to enter into an agreement with other jurisdictions or another state agency in this state (e.g., juveniles in the custody of the commissioner of health and social services) to provide a correctional facility for persons in custody. This subsection incorporates the provisions of former AS 33.30.070 and various interstate compacts located in AS 33.36.

Section 33.30.041. Lease of Correctional Facility to Municipality.

This section is essentially a reenactment of former AS 33.30.080 and permits the commissioner to lease a state correctional facility to a municipality or to jointly operate such a facility with a municipality if determined to be in the best interest of the state.

ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

Section 33.30.051. Commitment to Commissioner.

This section is essentially identical to former AS 33.30.090 and reflects that convicted prisoners are committed to the custody of the commissioner.

Section 33.30.061. Commissioner to Designate Facility.

This section is based primarily on former AS 33.30.-100 and 33.30.110 and makes clear that it is the commissioner who determines which facility a prisoner is to be sent to serve a term of imprisonment or period of temporary commitment. While it is not explicitly stated, the authority of the commissioner to designate a facility for a prisoner under subsection (a) is intended to include the authority to order a prisoner transferred from one facility to another (included in former AS 33.30.120).

Subsection (b) makes clear that before the commissioner may designate an out-of-state facility for a prisoner to serve a term of imprisonment, the commissioner must determine that the prisoner's access to rehabilitation or treatment programs will not be substantially impaired.

Section 33.30.071. Responsibility for Prisoners Pending Commitment.

This section is based primarily on former AS 33.30.-130 and describes who is responsible for a state prisoner pending initial court appearance and clarifies what agency is responsible for providing medical services for a prisoner.

Pending arraignment, commitment by a court to the custody of the commissioner of corrections, or admission to a

state correctional facility a state prisoner is the responsibility of the commissioner of public safety. However, medical care remains the responsibility of the commissioner of corrections unless a prisoner in police custody is in immediate need of medical care prior to admission into a correctional facility. Under these circumstances, the law enforcement agency having custody of the prisoner is responsible for providing necessary medical care. However, the law enforcement agency is not precluded from requiring the prisoner to compensate the agency for medical services provided for a medical condition which existed prior to and did not arise out of the arrest.

This section also clarifies what has been a gray area in the past. If an intoxicated person is taken into protective custody under AS 47.37.170, or taken into custody for an emergency mental evaluation under AS 47.30.705, the state is responsible for the cost of care only if the person is admitted into a state facility. If the person is admitted into a municipal facility, then the municipality must bear the cost. This is a just way to share the burden of a statewide problem.

Section 33.30.081. Transportation of Prisoners.

This section reenacts former AS 33.30.130(b) and AS 33.30.160 reflecting that the commissioner of public safety

is primarily responsible for transporting state prisoners. It is recognized that the commissioner of corrections has been assuming an increasingly greater role in the transportation of non-high risk prisoners through an agreement with the commissioner of public safety. This section in no way disapproves of this practice. If the respective agencies and the legislature become satisfied that corrections personnel have received sufficient training to transport high risk prisoners while adequately protecting the public, it may well become an efficient and cost effective measure to statutorily transfer this responsibility to the commissioner of corrections in the future.

This section also codifies present practice whereby a state prisoner released from a state correctional facility is provided the fare for return transportation to the point of arrest by the commissioner of corrections. When the release is from a facility other than a state correctional facility, the fare for return transportation is provided by the commissioner of public safety.

Section 13.30.091. Designation of Programs.

This section sets out the criteria the commissioner should consider in assigning a prisoner to any program established for the treatment and care of prisoners. It also makes

clear that assignment of a prisoner to a pre-release furlough program is governed by AS 33.30.111.

The Alaska Supreme Court has held that where a prisoner has a serious particular identifiable medically-related problem associated with the prisoner's criminal behavior (i.e., alcohol, psychological or drugs), then the prisoner must be provided access to some program reasonably related to addressing the causes of these problems. See, Good v. State, 595 P.2d 620 (Alaska 1979); Abraham v. State, 585 P.2d 526 (Alaska 1978); Rust v. State, supra.

However, the case law also strongly supports the proposition that the Commissioner of Corrections has the discretion to determine what particular programs will be made available to a prisoner, especially a prisoner who does not have a serious medically-related problem associated with his or her criminal behavior, and the appropriate time the programs will be made available.

As long as a decision as to what type of program and when that program is provided is neither arbitrary nor capricious, these decisions are left solely to the discretion of the commissioner. See Barbara v. State, 689 P.2d 547, 551 (Alaska 1984); Good v. State, supra; Brabham v. State, 585 P.2d 526

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Lastly, subsection (f) incorporates the portion of the victim's rights bill passed by the Thirteenth Alaska Legislature which requires that a victim of a crime against a person be permitted to comment on the proposed furlough and, upon request, be notified of the furlough if it is granted.

Section 33.30.121. Short-Duration Furloughs.

This section describes the second type of furlough which may be granted a prisoner, a short-duration furlough. A short duration furlough is one in which a prisoner may be released for a period not to exceed 12 hours at any one time, except for a family visitation (similar to former AS 33.30.150) or for medical treatment which may last only as long as the necessary treatment. A short-duration furlough may be granted to a prisoner at any time under regulations adopted by the commissioner. This is consistent with former law and recognizes the rehabilitative value of family visitations for low risk prisoners as well as the occasional practical necessity of furloughing a prisoner to a location outside a correctional facility for medical treatment.

Section 33.30.131. Prerelease or Short-Duration Furlough Involving Employment.

This section authorizes the commissioner to collect the earnings of a prisoner who is working outside a correctional facility while on a furlough to pay for the room and board of the prisoner as well as for court ordered fines and restitution, awards made to victims which arose out of the prisoner's conduct, and to support the prisoner's dependents. The priority for child support payments established in AS 09.-65.132 is recognized here.

The obligation of a prisoner on furlough to make payments for the purposes set out in this section is extended to probationers and parolees who are working and residing in a privately operated correctional facility under AS 33.30.031.

Section 33.30.141. Effect of Violation of Furlough Conditions or Failure to Return.

This section explains that the penalties for violating the conditions established for a prisoner's conduct while on furlough may range from criminal prosecution for unlawful evasion to immediate return to actual confinement in a correctional facility as well as disciplinary proceedings.

ARTICLE 3. GENERAL PROVISIONS

Section 33.30.151. Employment of Prison Inmates.

This section reenacts prior law relating to the employment of prisoners (former AS 33.30.225) and expands these provisions in a number of ways. It expands the kind of work a prisoner may do to include renovation, repair or alteration of existing correctional facilities as permitted by AS 44.65.-050(d), a provision located in section 10 of this bill. This will provide gainful employment to prisoners thus helping to alleviate the problem of prisoner idleness, and also provide a substantial cost savings to the state.

Former AS 33.30.225(b), which is reenacted in subsection (b) of this section, permitted the commissioner to enter into a contract with a public agency for the employment of prisoners in conservation projects. Subsection (b) however, expands the commissioner's authority, clarifying an area which has limited the department's ability to involve prisoners in productive employment. This subsection permits the commissioner to enter into a contract with any individual or agency for the employment of prisoners if the work to be performed will have minimal negative impact on an existing private industry or labor force in the state as determined by the Correctional Industries Commission under AS 33.32.015. This is not intended to result in the sole benefit of an individual who may see the opportunity for inexpensive labor. Rather, it is intended to expand the rehabilitative opportunities available to prisoners, increase their opportunity to have funds

available upon release from custody, and minimize the dangers inherent in inmate idleness.

As in former AS 33.30.225, this section permits the commissioner to discipline prisoners who refuse to work.

Section 33.30.156. Pay of Prison Inmates.

This section reenacts prior law regarding pay of prisoners who are working (former AS 33.30.227). In addition, this section makes clear that inmates who are paid by the department for working are not covered by workers' compensation. This is simply a clarification of policy previously established by the legislature when it enacted the correctional industries program (AS 33.32) in 1982.

Section 33.30.161. Transmission of Documents.

This section is substantially the same as former AS 33.30.185 and explains what documents must be delivered to the correctional facility where the prisoner will be confined. As in former AS 33.30.185, it requires the commissioner to adopt regulations providing for the security and confidentiality of delivered documents.

Section 33.30.171. Superintendent of Correctional Facility May Administer Oaths and Acknowledgments.

This section reenacts former AS 33.30.190 by authorizing a correctional superintendent or assistant superintendent to notarize a prisoner's legal papers at no charge to the prisoner.

Section 33.30.181. Telephone Access and Monitoring Inside Correctional Institutions.

This is a new section which addresses access to telephones for prisoners and monitoring of prisoner telephone calls. Under subsection (a), prisoners must be given reasonable access to a telephone. Reasonable access will be determined by the commissioner.

Subsection (b) provides a limitation on access to a telephone for prisoners who present a security threat or who are in punitive segregation for rule violations. Access for these prisoners is limited to calls to attorneys or in an emergency as determined appropriate by the commissioner.

Subsection (c) permits the commissioner to authorize the monitoring or recording of telephone calls of prisoners who have been convicted of an offense in order to preserve the

security and orderly administration of a correctional facility and to protect the public. The prisoner must be informed of the monitoring capability. Telephone calls made by or to a prisoner who has not been convicted or between a prisoner and an attorney may not be monitored except when authorized by a court.

Section 33.30.191. Effect of Judgment of Conviction on Civil Rights.

This section clarifies a gray area that has existed for several years under former AS 33.30.310 and 33.30.320. AS 33.30.310 provided that the civil rights of a person who received a sentence of imprisonment for a term less than for life were suspended during the term of the sentence. AS 33.-30.320 provided that a person who received a life sentence was thereafter considered civilly dead.

Former AS 33.30.310 and 33.30.320 are representative of the type of statute adopted at one time by nearly all states, but which have since been repealed or modified by legislative action or court decision in the great majority of jurisdictions due in large part to the recognition of their adverse impact on the rehabilitation of prisoners and the evolving standards of treatment due prisoners. By 1973, only 13 states retained civil death statutes. See, Johnson v.

Rockefeller, 58 F.R.D. 42, 48-50, 49 n.10 (S.D.N.Y. 1973). The number is considerably less today. A major problem with these statutes has been the almost universal failure to delineate what rights are civil rights. Even when courts have indicated that a right is a civil right, they have held that not all civil rights are suspended because of other superceding rights which derive from state or federal constitutions. See, e.g., Bush v. Reid, 516 P.2d 1215 (Alaska 1973), where the Alaska Supreme Court held that although a parolee fell within the proscriptions of AS 33.33.310, he nonetheless had the right to file a civil action in court, notwithstanding this clearly being a civil right. See, also, Salisbury v. List, 501 F. Supp. 105 (D. Nevada 1980) and Hudson v. Rhodes, 579 F.2d 46 (5th Cir. 1978), where these two courts disagreed on the right of an inmate to marry.

In recognition of the need to clarify which specific civil rights are affected by a criminal conviction, this section thus clearly delineates two specific rights which are suspended as a result of conviction for a crime until the prisoner's unconditional discharge. They are the right to vote for a person who is convicted of a felony involving moral turpitude (consistent with AS 15.05.030), and the right to serve on a jury for a person convicted of a felony who has not been unconditionally discharged. In section 1 of this bill, AS 09.20.020

is amended to conform with the suspension of the right to serve on a jury provided for in this section.

The right to commence a civil action in a court (i.e., access to the courts) is a civil right which some courts have ruled is suspended as a result of conviction for a crime. See, e.g., Tabor v. Hardwick, 224 F.2d 526 (5th Cir. 1955). However, suspending this right raises substantial constitutional questions as reflected in the Alaska Supreme Court's decision in Bush v. Reid, supra, and Johnson v. Rockefeller, supra at 48. Under this section, access to the courts is no longer limited.

Making clear that a prisoner has the same right to commence a legal action as a normal citizen does not mean that the prisoner has the same right to personally appear in court, particularly in a court action which is unrelated to the prisoner's confinement. While the right of a prisoner to personally appear in court is ultimately up to the judge before whom the matter is pending, it is important to note that courts and legislatures have recognized the legitimate security interests of corrections and law enforcement officials in not having to transport prisoners to court, particularly in matters unrelated to their confinement. See, e.g., Hubbard v. Montgomery, 372 So.2d 315, 317 (Ala. 1979); Johnson v. Rockefeller, supra at 48. See, also, New York Civil Rights Law §§ 79 and 79-a. This

is a recognition that, "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system." Price v. Johnston, 334 U.S. 266, 285 (1948). Appearance through an attorney or by deposition will adequately safeguard a prisoner's interest in most cases. See, e.g., Alaska R. Civ. Pro. 27, 30.

Section 33.30.201. Disposal of Abandoned Personal Property.

This is a new section which addresses the practical problems of lack of space to store abandoned prisoner property and lack of a mechanism to dispose of the property.

Under this section, a prisoner's property remaining at a correctional facility which is not disposed of by the prisoner within 90 days of release or transfer is deemed abandoned, and will be delivered to the Department of Administration for disposal as if it were surplus state property. When a prisoner is transferred from one correctional facility to another, the commissioner is responsible for shipping a reasonable amount of the prisoner's personal property. The abandonment provisions only apply to property remaining after the shipment.

Section 33.30.211. Confiscation of Contraband.

This is a new section which authorizes the commissioner to impose disciplinary sanctions upon a prisoner who is found in possession of money in an amount greater than that permitted by the commissioner. If after a hearing, which satisfies minimum due process requirements, a prisoner is found to have possessed money in an amount greater than that permitted, the excess money is declared contraband and must be forfeited and deposited into the general fund.

The purpose of this section is to respond to the problem of prisoners who possess excess amounts of money which creates risks both to the personal safety of the prisoner in possession of the money as well as to the security of the institution. Similar statutes have been upheld as reasonable efforts to provide for the safety of prisoners and the security of correctional facilities. See, e.g., Harris v. Forsyth, 735 F.2d 1235 (11th Cir. 1984).

Prior to the adoption of this section, no statute existed authorizing the confiscation and forfeiture of excess money. Upon discovery it was placed in the prisoner's account.

This section will deter such illegal activities as gambling and the sale of drugs, which although often cannot be proven, are believed to frequently be the reason that prisoners are discovered in possession of large amounts of money.

Section 33.30.221. Forfeiture of Property.

This section reenacts the portion of former AS 33.-30.290 which makes clear that unless a statute expressly provides for a forfeiture of property as a result of a conviction of a criminal offense, there may be no forfeiture of a prisoner's property.

Section 33.30.231. Crime Against Sentenced Prisoner.

This section is substantially similar to former AS 33.30.300, and makes clear that a crime committed against a sentenced prisoner is to be treated the same as a crime against any person.

Section 33.30.301. Definitions.

This section defines the terms used in AS 33.30.

Sections 4-7. AS 33.33.015(b), AS 33.33.017, "Free Venture" Correctional Industries.

Section 4 amends AS 33.33.015 dealing with prisoner employment and correctional industries. AS 33.33.015(b)(1) permits the commissioner to authorize a prisoner to engage in productive employment within or outside a correctional facility;

or to enter into a contract with a private agency or individual for the employment of a prisoner if the employment will have minimal negative impact on an existing private industry or labor force in the state, as determined by the Correctional Industries Commission.

AS 33.32.015(b)(5) permits the commissioner to enter into a joint cooperative venture with private industry for the employment of prisoners in correctional industries. But a joint venture is subject to competitive bidding laws, thus providing an equal opportunity for all interested parties in the private sector. A further safeguard is provided by permitting such a joint cooperative venture only if the Correctional Industries Commission determines that it will have a minimal negative impact on an existing private industry or labor force.

Section 4 is a new section which permits the commissioner, upon the recommendation of the Correctional Industries Commission, to establish a "free venture" correctional industries. A "free venture" correctional industry is the form of joint venture referred to at 33.32.015(b)(5) in which a private industry operates and manages an industry or part of a correctional industry within a correctional facility, and pays wages to participating inmate employees, taking ownership of a product or service for which the commissioner guarantees private markets free of the displacement of paid or unpaid wage

The department, of course, pays the prisoners for their labor under AS 33.32.050. The private industry must indemnify and hold the state harmless in the event of any liability arising from injury or damage related to the goods or services produced by the "free venture" industry.

"Free Venture" industries have been successfully implemented in a large number of states. The primary reason for adopting this version is the recognition of the high costs involved in getting the traditional industries programs operating effectively. This program increases the productivity and long term cost savings to the state both by reducing recidivism in the industries program as well as a larger and more pool of productive citizens who are able to contribute to the state through taxes and more disposable income.

Section 4. AS 33.32.010(b), Maintenance and Improvement Trust Fund Revenue Sources

The bill adds a new subsection (b) to AS 33.32.010 to establish "Prison Industry" revenue from the disposition of state property that prisoners produce and provide from mandatory deductions from prisoner wages. The revenue from mandatory deductions is to be deposited into the Prison Industry Revenue Account. The revenue from the sale of state property produced by prisoners is to be deposited into the Prison Industry Revenue Account. The revenue from mandatory deductions from prisoner wages is to be used to pay for the victim's restitution, the prisoner's room and board, and to provide for the victim's compensation fund.

[illegible]

[illegible]

[illegible]

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[illegible]

1 (A) protect the public;
2 (B) maintain health;
3 (C) create or improve occupational skills;
4 (D) enhance educational qualifications;
5 (E) support court-ordered restitution; and
6 (F) otherwise provide for the rehabilitation and
7 reformation of prisoners, facilitating their reintegration into
8 society;
9 (4) provide necessary medical services for prisoners in
10 correctional facilities or who are committed by a court to the custody
11 of the commissioner, including examinations for communicable and
12 infectious diseases; and
13 (5) provide necessary psychological or psychiatric treat-
14 ment if a physician or other health care provider, exercising ordinary
15 skill and care at the time of observation, concludes that
16 (A) a prisoner exhibits symptoms of a serious disease
17 or injury that is curable or may be substantially alleviated; and
18 (B) the potential for harm to the prisoner by reason
19 of delay or denial of care is substantial.
20 Sec. 33.30.021. REGULATIONS. The commissioner shall adopt
21 regulations to implement this chapter.
22 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.
23 (a) The commissioner shall determine the availability of state cor-
24 rectional facilities suitable for the detention and confinement of
25 persons held under authority of state law. If the commissioner deter-
26 mines that suitable state correctional facilities are not available,
27 the commissioner may enter into an agreement with a public or private
28 agency to provide necessary facilities. Correctional facilities
29 provided through agreement may be in this state or in another state.

1 The commissioner may not enter into an agreement with an agency unable
2 to provide a degree of custody, care, and discipline similar to that
3 required by the laws and regulations of this state.
4 (b) Unless the purpose is to involve prisoners in a program
5 established under AS 33.30.091 - 33.30.131 or to confine prisoners
6 convicted of a misdemeanor, the commissioner may not enter into an
7 agreement with a privately operated correctional facility under (a) of
8 this section.
9 (c) An agreement with a private agency to provide necessary
10 facilities under (a) of this section is subject to the provisions of
11 the Fiscal Procedures Act (AS 37.05).
12 (d) A person employed outside the facility while confined in a
13 privately operated correctional facility established under (a) of this
14 section is subject to the provisions of AS 33.30.131.
15 (e) The commissioner may enter into an agreement with the United
16 States, another state, a municipality of this state, or another state
17 agency, to provide a correctional facility for the custody, care, and
18 discipline of a person held under authority of the law of that juris-
19 diction.
20 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.
21 (a) If the commissioner determines that it would be in the best
22 interest of the state, the commissioner may enter into an agreement
23 with a municipality of the state for the lease of a state correctional
24 facility or for the use and operation of a state correctional facility
25 for the joint benefit of the municipality and the state.
26 (b) An agreement executed by the commissioner under (a) of this
27 section must provide that
28 (1) the state has the right to detain or confine a prisoner
29 held under authority of law in the correctional facility;

1 (2) the administrator of the correctional facility agrees
2 to implement an order, concerning a prisoner, issued by a court of the
3 state;
4 (3) the administrator of the correctional facility shall
5 comply with the law, and regulations adopted by the commissioner,
6 relating to the custody, care, and discipline of a prisoner detained
7 or confined in the correctional facility; and
8 (4) the commissioner may inspect the correctional facility
9 at any time to determine the conditions under which a prisoner is
10 detained or confined.
11 (c) The agreement executed by the commissioner under (a) of this
12 section may require the administrator of the correctional facility to
13 comply with requirements that the commissioner considers necessary for
14 the protection of the public or for the quality of care and programs
15 for prisoners required by this chapter and regulations adopted by the
16 commissioner.
17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.
18 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
19 of an offense against the state shall be committed to the custody of
20 the commissioner for the term of imprisonment that the court directs.
21 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The
22 commissioner shall designate the correctional facility to which a
23 prisoner is to be committed to serve a term of imprisonment or period
24 of temporary commitment. The commissioner may designate a facility
25 without regard to whether it is maintained by the state, is located
26 within the judicial district in which the prisoner was convicted, or
27 is located in the state.
28 (b) The commissioner may designate an out-of-state facility
29 under this section only if the commissioner determines that

1 rehabilitation or treatment of the prisoner will not be substantially
2 impaired.
3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.
4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
5 safety shall provide for the custody, care, and discipline of prison-
6 ers pending arraignment, commitment by a court to the custody of the
7 commissioner of corrections, or admission to a state correctional
8 facility. Except as provided in (c) of this section, the responsibil-
9 ity for providing necessary medical services for prisoners remains
10 with the commissioner of corrections under AS 33.30.011(4). The
11 commissioner of corrections and the commissioner of public safety are
12 not responsible for providing custody, care, and discipline for a
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person
14 is admitted into a state correctional facility.
15 (b) The responsibility of the commissioner of public safety
16 under (a) of this section does not begin until a prisoner is accepted
17 into the custody of the commissioner of public safety, or admitted
18 into a correctional facility or other facility designed for holding
19 prisoners, and the commissioner of public safety is notified of the
20 acceptance or admission.
21 (c) Medical services for a prisoner who is unconscious or in
22 immediate need of medical attention before admission to a correctional
23 facility or commitment by a court to the custody of the commissioner
24 of corrections shall be provided by the law enforcement agency having
25 custody of the prisoner. The law enforcement agency may require the
26 prisoner to compensate the agency for the cost of medical services
27 provided for a preexisting medical condition not arising out of the
28 prisoner's arrest.
29 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The

1 commissioner of public safety is responsible for transporting a pris-
2 oner to and from the court having jurisdiction over the prisoner and
3 for delivering a prisoner to a correctional facility upon temporary or
4 final commitment by a court or upon transfer of a prisoner from one
5 correctional facility to another either inside or outside the state.
6 (b) The commissioner of corrections shall make available return
7 transportation to the place of arrest for a prisoner who is released
8 from custody in a state correctional facility.
9 (c) The commissioner of public safety shall make available
10 return transportation to the place of arrest for a prisoner who is
11 released from custody before admission to a state correctional facili-
12 ty.
13 (d) The commissioner of corrections shall adopt regulations
14 governing the furnishing of transportation, discharge payments, and
15 clothing to prisoners upon release from a state correctional facility
16 at any stage of a criminal proceeding.
17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
18 AS 33.30.111, the commissioner may assign a prisoner committed to the
19 commissioner's custody to a program established under AS 33.30.011(3)
20 considering
21 (1) safeguards to the public;
22 (2) the prospects for the prisoner's rehabilitation;
23 (3) the availability of program and facility space;
24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;
26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;
28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

1 court;

2 (7) the record of convictions of the prisoner with particu-

3 lar emphasis on crimes specified in AS 11.41;

4 (8) the use of drugs or alcohol by the prisoner;

5 (9) the length of the prisoner's sentence; and

6 (10) other criteria considered appropriate by the commis-

7 sioner, including experimental evaluation of correctional programs

8 that are consistent with protection of the public and reformation of

9 the prisoner.

10 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt

11 regulations governing the granting of prerelease and short-duration

12 furloughs to prisoners to

13 (1) obtain counseling and treatment for alcohol or drug

14 abuse;

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

19 (6) secure a residence or make other preparation for re-

20 lease;

21 (7) appear before a group whose purpose is a better under-

22 standing of crime or corrections; or

23 (8) for any other rehabilitative purpose the commissioner

24 determines to be in the interests of the prisoner and the public.

25 (b) If the commissioner determines with reasonable probability

26 that a prisoner can live under reduced supervision without violating

27 the law or the conditions established for the conduct of the prisoner,

28 the commissioner may grant a furlough after considering

29 (1) the factors in AS 33.30.091;

1 (2) violations, if any, by the prisoner of a condition of a
2 prior furlough;
3 (3) the history, if any, of institutional misconduct by the
4 prisoner; and
5 (4) the best interests of the prisoner and the public.
6 Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs
7 established under AS 33.30.101 must include prerelease furloughs
8 designed to facilitate the reintegration of a prisoner into society.
9 (b) A facility that is specifically adapted to provide a resi-
10 dence outside prison, including a halfway house, group home, or other
11 placement that provides varying levels of restriction and supervision,
12 may be used for a prisoner on a prerelease furlough.
13 (c) The restrictions and supervision required for a prerelease
14 furlough shall provide safeguards that minimize risk to the public and
15 include, as a minimum,
16 (1) frequent contact with the prisoner by persons supervis-
17 ing the prisoner;
18 (2) knowledge by supervisory staff of the location of the
19 prisoner;
20 (3) periodic reports by supervisory staff to the commis-
21 sioner on the performance of the prisoner while on furlough; and
22 (4) a residential setting in which persons supervising a
23 prisoner are obliged to immediately report to the commissioner any
24 violation of a condition set for the prisoner's conduct.
25 (d) Notwithstanding AS 33.30.101(b), and other eligibility
26 criteria established by the commissioner, that relate to risks to the
27 public posed by the proposed furlough of a prisoner,
28 (1) a prisoner sentenced to a definite term of imprisonment
29 of more than one year but less than five years is not eligible for a

1 prerelease furlough until the prisoner has served at least one-third
2 of the sentence;
3 (2) a prisoner sentenced to a definite term of imprisonment
4 of five years or more is not eligible for a prerelease furlough until
5 the prisoner has served at least one-third of the sentence or is
6 within three years of the release date, whichever is later; and
7 (3) a prisoner who is denied discretionary parole under
8 AS 33.15.080 may not be granted a prerelease furlough for a period of
9 at least one year following the denial unless the board of parole
10 expressly waives this provision.
11 (e) A prisoner may request a prerelease furlough under proce-
12 dures adopted by the commissioner. If the commissioner denies a
13 request for a prerelease furlough, the commissioner shall provide the
14 prisoner with a written explanation of the reasons for the denial.
15 (f) Upon request of the victim, in the case of a prisoner con-
16 victed of a crime against a person, notice of the commissioner's
17 intent to consider the prisoner for a prerelease furlough shall be
18 sent to the victim. The victim may comment in writing on the intent
19 of the commissioner to release the prisoner on prerelease furlough
20 status. The commissioner shall consider the comments of the victim
21 before making a final decision to release a prisoner on a prerelease
22 furlough. If the victim requests notification, the commissioner shall
23 make every reasonable effort to notify the victim of an intent to
24 release the prisoner on a prerelease furlough. The notice must con-
25 tain the expected date of the prisoner's release, the geographic area
26 in which the prisoner will reside and other pertinent information
27 concerning the prisoner's release that may affect the victim.
28 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
29 furlough is an authorized leave of absence from a correctional

1 facility for a period not to exceed 12 hours at any one time, except
2 for
3 (1) family visitations, that may not exceed one week or
4 occur more frequently than once in each two-month period; or
5 (2) medical treatment, for which the furlough may not last
6 longer than necessary for the treatment.
7 (b) A short-duration furlough may be granted to a prisoner at
8 any time under regulations adopted by the commissioner.
9 Sec. 33.30.131. PRERELEASE OR SHORT-DURATION FURLOUGH INVOLVING
10 EMPLOYMENT. (a) The commissioner may grant a prerelease or short-
11 duration furlough to permit a prisoner to participate in suitable
12 employment under conditions and at wages that represent the prevailing
13 standard for the area. A prisoner may not participate in employment
14 where an organized labor dispute is in progress.
15 (b) Unless alternative arrangements are expressly approved by
16 the commissioner, when a prisoner is employed outside a correctional
17 facility as part of a prerelease or short-duration furlough program,
18 the earnings of the prisoner shall be delivered to the commissioner.
19 If an employer transmits the earnings to the commissioner, the em-
20 ployer has no liability to the prisoner for the earnings. The commis-
21 sioner shall disburse the earnings of the prisoner, in an order deter-
22 mined appropriate, under procedures adopted by the commissioner to
23 (1) pay for the room, board, and personal expenses of the
24 prisoner in an amount or at a rate determined by the commissioner;
25 (2) pay any restitution or fine ordered by the sentencing
26 court;
27 (3) reimburse the state for an award made for violent
28 crimes compensation under AS 18.67 arising out of the criminal conduct
29 of the prisoner;

1 (4) pay a civil judgment arising out of the criminal con-
2 duct of the prisoner; and
3 (5) support the dependents of the prisoner, and to provide
4 child support payments as required by AS 09.65.132.
5 (c) After making the disbursements authorized under (b) of this
6 section, the commissioner shall retain the balance remaining in the
7 account of the prisoner and give it to the prisoner upon release. The
8 commissioner may permit the prisoner to draw upon a portion of this
9 money for other purposes that the commissioner considers appropriate.
10 (d) Only the earnings retained by the commissioner under (c) of
11 this section are subject to lien, attachment, garnishment, execution,
12 or other proceedings to encumber money or property.
13 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR
14 FAILURE TO RETURN. (a) If, after a hearing, a prisoner on a furlough
15 is found to have violated the conditions established for the prison-
16 er's conduct, the commissioner may immediately require the return of
17 the prisoner to actual confinement for a period not to exceed the
18 balance of the term of imprisonment or initiate disciplinary proceed-
19 ings authorized by regulations adopted by the commissioner or both.
20 (b) The failure of a prisoner on a furlough to return to the
21 place of confinement or residence within the time specified by those
22 having direct supervision over the prisoner is an unlawful evasion
23 under AS 11.56.340 - 11.56.350.
24 ARTICLE 3. GENERAL PROVISIONS.
25 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the
26 policy of the state that prisoners be productively employed for as
27 many hours each day as feasible, not to exceed 40 hours a week unless
28 overtime has been specifically approved by the commissioner.
29 (b) The commissioner may enter into contracts or cooperative

1 agreements with any public agency for the performance of conservation
2 projects. The commissioner may enter into a contract with an indi-
3 vidual or agency for the employment of prisoners if the work to be
4 performed will have minimal negative impact on an existing private
5 industry or labor force in the state as determined by the Correctional
6 Industries Commission under AS 33.32.015.
7 (c) The commissioner may direct a prisoner to participate in a
8 type of productive employment listed in (d)(1), and (d)(4)-(6) of this
9 section while the prisoner is confined in a correctional facility. A
10 prisoner who refuses to participate in productive employment when
11 directed under this section is subject to disciplinary sanctions
12 imposed in accordance with regulations adopted by the commissioner.
13 (d) In this section "productively employed" includes the follow-
14 ing kinds of employment:
15 (1) routine maintenance and support services essential to
16 the operation of a correctional facility;
17 (2) education including both academic and vocational;
18 (3) industrial, agricultural, and service activities con-
19 ducted in accordance with AS 33.32;
20 (4) public conservation projects including but not limited
21 to forest fire prevention and control, forest and watershed enhance-
22 ment, recreational area development, construction and maintenance of
23 trails and campsites, fish and game enhancement, soil conservation,
24 and forest watershed revegetation;
25 (5) renovation, repair or alteration of existing correc-
26 tional facilities as permitted by AS 44.65.050(d); and
27 (6) other work performed inside or outside of a correction-
28 al facility if the work has minimal negative impact on an existing
29 private industry or labor force in the state as determined by the

1 Correctional Industries Commission under AS 33.32.015.

2 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is
3 productively employed, as defined in AS 33.30.151(d)(1) or 33.30.-
4 151(d)(3) - (6), may receive for that work compensation at a rate
5 determined by the commissioner under AS 33.32.050 if the money is
6 available from legislative appropriations. The provisions of AS 33.-
7 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-
8 tional industries program and to prisoners productively employed in
9 activities outside that program.

10 Sec. 33.30.161. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
11 is admitted to a correctional facility, a copy of the commitment shall
12 be delivered with the prisoner as evidence of the authority of the
13 correctional facility to hold the prisoner.

14 (b) When a person is sentenced to a term of imprisonment, copies
15 of the pre-sentence report, sentencing report prepared under AS 12.-
16 55.025, and any other information of the probation office or of the
17 court that may affect the person's rehabilitation shall be transmitted
18 to the superintendent of the correctional facility in which the pris-
19 oner will be confined.

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

23 Sec. 33.30.171. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
24 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-
25 tional facility or the superintendent's assistant may administer oaths
26 to and take acknowledgments from a prisoner, but may not request or
27 accept compensation from a prisoner for acts performed under this
28 section.

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

1 CORRECTIONAL INSTITUTIONS. (a) Except as provided in (b) of this
2 section, a prisoner shall have reasonable access to a telephone.
3 (b) A prisoner who is classified maximum custody, is placed in
4 segregation as punishment for a rule infraction, or is placed in
5 segregation because the prisoner poses a threat to others or to the
6 security of a correctional facility may not have access to a telephone
7 except to communicate with an attorney, to otherwise communicate as
8 provided in Rule 5(b) of the Alaska Rules of Criminal Procedure, or in
9 an emergency as determined appropriate by the commissioner.
10 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to
11 preserve the security and orderly administration of the institution
12 and to protect the public, the commissioner may authorize the use of
13 monitoring or recording equipment to listen to a telephone conversa-
14 tion of a prisoner who has been convicted of an offense if a warning
15 is posted by the telephone informing the prisoner that a call may be
16 monitored or recorded. A telephone call made by or to a prisoner who
17 has not been convicted or a telephone call between an attorney and a
18 prisoner may not be monitored or recorded except when authorized by a
19 court.
20 Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
21 RIGHTS. (a) A person who is convicted of a felony involving moral
22 turpitude as defined in AS 15.60.010 is disqualified from voting in a
23 state or municipal election until the person's unconditional dis-
24 charge.
25 (b) A person who is convicted of a felony is disqualified from
26 serving as a juror until the person's unconditional discharge.
27 (c) In this section "unconditional discharge" has the meaning
28 given in AS 12.55.185.
29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

1 Except as provided in (b) of this section, it is the obligation of
2 each person committed to the custody of the commissioner to provide
3 for the appropriate disposition of all of the person's property re-
4 maining at a correctional facility within 90 days of the date of the
5 person's release or transfer from the correction facility.
6 (b) The commissioner shall provide for the shipment to the
7 receiving facility of a reasonable amount of a prisoner's property, as
8 determined by the commissioner, when the prisoner is transferred from
9 one correctional facility to another.
10 (c) A prisoner's personal property that remains at a correction-
11 al facility after 90 days from the date of the prisoner's release or
12 transfer is considered abandoned, and shall be delivered to the De-
13 partment of Administration for disposal under AS 44.71.010.
14 (d) The state is not liable for any loss or damage to personal
15 property properly determined to be abandoned under (c) of this sec-
16 tion.
17 Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who
18 possesses money in an amount greater than that permitted by the com-
19 missioner is subject to disciplinary sanctions under regulations
20 adopted by the commissioner.
21 (b) Money in the possession of a prisoner in an amount greater
22 than that permitted by the commissioner is contraband. If, after a
23 hearing under regulations adopted by the commissioner, a prisoner is
24 found to have been in possession of contraband under this section, the
25 contraband shall be forfeited and deposited into the general fund.
26 Sec. 33.30.221. FORFEITURE OF PROPERTY. A conviction of a
27 person for a crime does not work a forfeiture of property, except in
28 cases where a forfeiture is expressly provided by law.
29 Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who

1 commits a crime against a sentenced prisoner is punishable as if the
2 prisoner was not sentenced and incarcerated.
3 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
4 text requires otherwise,
5 (1) "commissioner" means the commissioner of the Department
6 of Corrections;
7 (2) "correctional facility" or "facility" means a prison,
8 jail, camp, farm, half-way house, group home, or other placement
9 designated by the commissioner for the custody, care, and discipline
10 of prisoners; a "state correctional facility" means a 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 or magistrate court, or a justice or
14 judge of a court;
15 (4) "crime against a person" means a crime as set out in
16 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-
17 330; or a crime against a person in this or another jurisdiction
18 having elements substantially identical to those of a crime as set out
19 in AS 11.41, except custodial interference under AS 11.41.320 and
20 11.41.330;
21 (5) "department" means the Department of Corrections;
22 (6) "furlough" means an authorized leave of absence from
23 actual confinement for a designated purpose and period of time;
24 (7) "health care provider" means
25 (A) a physician's assistant or nurse practitioner
26 licensed to practice in the state and working under the direct
27 supervision of a licensed physician or psychiatrist; or
28 (B) a mental health professional as defined in AS 47.-
29 30.915;

1 (8) "municipality" means a borough or city in the state, or
2 a municipality unified under AS 29.68.240 - 29.68.440, authorized by
3 law to establish a correctional facility;
4 (9) "prisoner" means a person, other than a juvenile, held
5 under authority of state law in official detention as defined in
6 AS 11.81.900(b);
7 (10) "temporary commitment" means detention of a person for
8 any period under authority of state law, but does not include confine-
9 ment upon conviction and judgment of a court of this state;
10 (11) "victim" has the meaning given in AS 12.55.185.
11 * Sec. 6. AS 33.32.015(b) is amended to read:
12 (b) The commissioner of corrections may
13 (1) subject to the Fiscal Procedures Act (AS 37.05), use,
14 purchase, lease, equip, and maintain buildings, machinery, and other
15 equipment, and may purchase materials and enter into contracts, which
16 may be necessary for the correctional industries program;
17 (2) provide for prisoners to be employed in rendering
18 services and producing articles, materials, and supplies needed by a
19 state agency, a political subdivision of the state, an agency of the
20 federal government, other states or their political subdivisions, or
21 for use by nonprofit organizations;
22 (3) if the Correctional Industries Commission established
23 in AS 33.32.070 approves, employ prisoners to provide services or
24 products as needed by private industry if the services or products
25 have potential for contributing to the economy of the state and will
26 have minimal negative impact on an existing private industry or labor
27 force in the state;
28 (4) authorize a prisoner to engage in productive employment
29 within or outside a correctional facility or enter into a contract

1 under AS 33.30.151 for the employment of a prisoner if the Correction-
2 al Industries Commission determines that the employment will have
3 minimal negative impact on an existing private industry or labor force
4 in the state; and
5 (5) subject to the provisions of AS 37.05, enter into joint
6 cooperative ventures with private industry for the establishment and
7 operation of "Free Venture" industries under AS 33.32.017, if the
8 Correctional Industries Commission determines that the "Free Venture"
9 industry will have minimal negative impact on an existing private
10 industry or labor force in the state.
11 * Sec 7. AS 33.32 is amended by adding a new section to read:
12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)
13 Upon recommendation of the Correctional Industries Commission estab-
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-
15 ture" correctional industries for the sale of goods or services to the
16 public or private sector. A "Free Venture" correctional industry is a
17 correctional industry that is operated and managed in total or in part
18 by a private industry or organization within a correctional facility
19 under an agreement entered into under AS 33.32.015(b)(5).
20 (b) The commissioner shall provide appropriate space, utilities,
21 security and inmate workers to the private industry or organization.
22 (c) The private industry or organization shall provide all
23 machinery, tools, supplies, materials, transportation, training,
24 supervisory personnel, management marketing, and insurance necessary
25 for the operation of the "Free Venture" industry.
26 (d) In exchange for the space, utilities, and inmate workers
27 provided to it, the private industry or organization shall pay to the
28 commissioner a weekly payment in an amount not less than the sum of
29 the existing minimum hourly wage, established under AS 23.10.065,

1 multiplied by the total number of hours worked during that week by
2 inmates employed in the "Free Venture" correctional industry.
3 (e) The private industry or organization shall indemnify, save
4 harmless, and defend the state, its agents, officers, and employees
5 from liability of any kind resulting from injuries or damages sus-
6 tained by a person or property as a result of the use of the goods or
7 services of the "Free Venture" industry.
8 * Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:
9 (f) The provisions of this section do not apply to "Free Ven-
10 ture" industries established under AS 33.32.017.
11 * Sec. 9. AS 39.35.360(e) is amended to read:
12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.-
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.
21 * Sec. 10. AS 44.65.050 is amended by adding a new subsection to read:
22 (d) The Department of Corrections and the Department of Trans-
23 portation and Public Facilities may enter into agreements under this
24 chapter for the construction, renovation, repair or alteration of
25 state correctional facilities as defined in AS 33.30.301. An agree-
26 ment entered into under this subsection is limited to an estimated
27 cost of $100,000 for each project as determined by the terms of the
28 agreement.
29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080, 33.30.-
2 090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.150,
3 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225, 33.30.-
4 227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
5 33.30.900.
6 * Sec. 12. Regulations adopted under a statute amended or repealed by
7 this Act continue in effect until amended or repealed by the commissioner
8 of corrections, except to the extent that a regulation is inconsistent or
9 in conflict with a provision of this Act.

Offered: 3/25/85
Referred: Judiciary and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 114 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to correctional facilities, and the

7 imprisonment and rehabilitation of offenders."

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

9 * Section 1. AS 09.10.140 is amended to read:

10 Sec. 09.10.140. DISABILITIES OF MINORITY AND [,] INCOMPETENCY

11 [AND IMPRISONMENT]. If a person entitled to bring an action mentioned

12 in this chapter is at the time the cause of action accrues either (1)

13 under the age of majority[,] or (2) incompetent by reason of mental

14 illness[, OR (3) IMPRISONED ON A CRIMINAL CHARGE, OR IN EXECUTION

15 UNDER SENTENCE OF A COURT FOR A TERM LESS THAN THE PERSON'S NATURAL

16 LIFE], the time of the disability is not a part of the time limited

17 for the commencement of the action. The [BUT THE] period within which

18 the action may be brought is not extended in any case longer than two

19 years after the disability ceases.

20 * Sec. 2. AS 09.20.020 is amended to read:

21 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-

22 qualified from serving [TO ACT] as a juror if the person

23 (1) has served as a juror in the state within one year of

24 the time of examination for service; or

25 (2) has been convicted of a crime for which the person has

26 not been unconditionally discharged. Unconditional discharge has the

27 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE

28 PERSON HAVE NOT BEEN RESTORED].

29 * Sec. 3. AS 11.56.340 is repealed and reenacted to read:

1 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A
2 person commits the crime of unlawful evasion in the first degree if,
3 while charged with or convicted of a felony,
4 (1) the person fails to return to official detention within
5 the time authorized following temporary leave granted for a specific
6 purpose or limited period; or
7 (2) while on furlough under AS 33.30.101 - 33.30.131 the
8 person fails to return to the place of confinement or residence within
9 the time authorized by those having direct supervision.
10 (b) Unlawful evasion in the first degree is a class A misdemean-
11 or.
12 * Sec. 4. AS 11.56.350 is repealed and reenacted to read:
13 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A
14 person commits the crime of unlawful evasion in the second degree if,
15 while charged with or convicted of a misdemeanor,
16 (1) the person fails to return to official detention within
17 the time authorized following temporary leave granted for a specific
18 purpose or limited period; or
19 (2) while on furlough under AS 33.30.101 - 33.30.131 the
20 person fails to return to the place of confinement or residence within
21 the time authorized by those having direct supervision.
22 (b) Unlawful evasion in the second degree is a class B misde-
23 meanor.
24 * Sec. 5. AS 12.47.050(d) is repealed and reenacted to read:
25 (d) Notwithstanding a contrary provision of law, a defendant
26 receiving treatment under (b) of this section may not be released
27 (1) on furlough under AS 33.30.101 - 33.30.131, except for
28 treatment in a secure setting; or
29 (2) on parole.

1 * Sec. 6. AS 33.30 is amended by adding new sections to read:
2 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.
3 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall
4 (1) establish, maintain, operate, and control correctional
5 facilities suitable for the custody, care, and discipline of persons
6 charged or convicted of offenses against the state or held under
7 authority of state law;
8 (2) classify prisoners and, for persons committed to the
9 custody of the commissioner, establish programs, including furlough
10 programs that are reasonably calculated to
11 (A) protect the public;
12 (B) maintain health;
13 (C) create or improve occupational skills;
14 (D) enhance educational qualifications;
15 (E) support court-ordered restitution; and
16 (F) otherwise provide for the rehabilitation and
17 reformation of prisoners, facilitating their reintegration into
18 society;
19 (3) provide necessary medical services for prisoners in
20 correctional facilities or who are committed by a court to the custody
21 of the commissioner, including examinations for communicable and
22 infectious diseases; and
23 (4) provide necessary psychological or psychiatric treat-
24 ment if a physician or other health care provider, exercising ordinary
25 skill and care at the time of observation, concludes with reasonable
26 medical certainty that
27 (A) a prisoner exhibits symptoms of a serious disease
28 or injury that is curable or may be substantially alleviated; and
29 (B) the potential for harm to the prisoner by reason

1 of delay or denial of care is substantial.

2 Sec. 33.30.021. REGULATIONS. The commissioner shall adopt
3 regulations to implement this chapter.

4 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.
5 (a) The commissioner shall determine the availability of state cor-
6 rectional facilities suitable for the detention and confinement of
7 persons held under authority of state law. If the commissioner deter-
8 mines that suitable state correctional facilities are not available,
9 the commissioner may enter into an agreement with a public or private
10 agency to provide necessary facilities. Correctional facilities
11 provided through agreement may be in this state or in another state.
12 The commissioner may not enter into an agreement with an agency unable
13 to provide a degree of custody, care, and discipline similar to that
14 required by the laws of this state.

15 (b) Unless the purpose is to involve prisoners in a program
16 established under AS 33.30.091 - 33.30.131 or to confine prisoners
17 convicted of a misdemeanor, the commissioner may not enter into an
18 agreement with a privately operated correctional facility under (a) of
19 this section.

20 (c) Earnings of a person employed while confined in a privately
21 operated correctional facility established under (a) of this section
22 are subject to the provisions of AS 33.30.131.

23 (d) The commissioner may enter into an agreement with the United
24 States, another state, a municipality of this state, or another state
25 agency, to provide a correctional facility for the custody, care, and
26 discipline of a person held under authority of the law of that juris-
27 diction.

28 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.
29 (a) If the commissioner determines that it would be in the best

1 interest of the state, the commissioner may enter into an agreement
2 with a municipality of the state for the lease of a state correctional
3 facility or for the use and operation of a state correctional facility
4 for the joint benefit of the municipality and the state.
5 (b) An agreement executed by the commissioner under (a) of this
6 section must provide that
7 (1) the state has the right to detain or confine a prisoner
8 held under authority of law in the correctional facility;
9 (2) the administrator of the correctional facility agrees
10 to implement an order, concerning a prisoner, issued by a court of the
11 state;
12 (3) the administrator of the correctional facility shall
13 comply with the law, and regulations adopted by the commissioner,
14 relating to the custody, care, and discipline of a prisoner detained
15 or confined in the correctional facility; and
16 (4) the commissioner may inspect the correctional facility
17 at reasonable times to determine the conditions under which a prisoner
18 is detained or confined.
19 (c) The agreement executed by the commissioner under (a) of this
20 section may require the administrator of the correctional facility to
21 comply with requirements that the commissioner considers necessary for
22 the protection of the public or for the quality of care and programs
23 for prisoners required by this chapter and regulations adopted by the
24 commissioner.
25 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.
26 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
27 of an offense against the state shall be committed to the custody of
28 the commissioner for the term of imprisonment that the court directs.
29 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The

1 commissioner shall designate the correctional facility to which a
2 prisoner is to be committed to serve a term of imprisonment or period
3 of temporary commitment. The commissioner may designate a facility
4 without regard to whether it is maintained by the state, is located
5 within the judicial district in which the prisoner was convicted, or
6 is located in the state.
7 (b) The decision of the commissioner to designate a facility for
8 the commitment of a prisoner pending appeal is not subject to review
9 absent a clear and convincing showing by the prisoner that the prison-
10 er would be denied the right to effective assistance of counsel. The
11 decision of the commissioner to designate a facility may not, under
12 any other circumstance, be enjoined unless the prisoner makes a clear
13 and convincing showing of an abuse of discretion.
14 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.
15 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
16 safety shall provide for the custody, care, and discipline of prison-
17 ers pending arraignment, commitment by a court to the custody of the
18 commissioner of corrections, or admission to a state correctional
19 facility. Except as provided in (c) of this section, the
20 responsibility for providing necessary medical services for prisoners
21 remains with the commissioner of corrections under AS 33.30.011(3).
22 The commissioner of corrections and the commissioner of public safety
23 are not responsible for providing custody, care, and discipline for a
24 person detained under AS 47.30.705 or AS 47.37.170, unless the person
25 is admitted into a state correctional facility.
26 (b) The responsibility of the commissioner of public safety
27 under (a) of this section does not begin until a prisoner is accepted
28 into the custody of the commissioner of public safety, or admitted
29 into a correctional facility or other facility designed for holding

1 prisoners, and the commissioner of public safety is notified of the
2 acceptance or admission.
3 (c) Medical services for a prisoner who is unconscious or in
4 immediate need of medical attention before admission to a correctional
5 facility or commitment by a court to the custody of the commissioner
6 of corrections shall be provided by the law enforcement agency having
7 custody of the prisoner. The law enforcement agency may require the
8 prisoner to compensate the agency for the cost of medical services
9 provided for a preexisting medical condition not arising out of the
10 prisoner's arrest.
11 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-
12 sioner of public safety is responsible for transporting a prisoner to
13 and from the court having jurisdiction over the prisoner and for
14 delivering a prisoner to a correctional facility upon temporary or
15 final commitment by a court or upon transfer of a prisoner from one
16 correctional facility to another either inside or outside the state.
17 (b) The commissioner of corrections is responsible for furnish-
18 ing return transportation to the place of arrest for a prisoner who is
19 released from custody in a state correctional facility.
20 (c) The commissioner of public safety is responsible for fur-
21 nishing return transportation to the place of arrest for a prisoner
22 who is released from custody before admission to a state correctional
23 facility.
24 (d) The commissioner of corrections shall adopt regulations
25 governing the furnishing of transportation, discharge payments, and
26 clothing to prisoners upon release from a state correctional facility
27 at any stage of a criminal proceeding.
28 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
29 AS 33.30.111, the commissioner may assign a prisoner committed to the

1 commissioner's custody to a program established under AS 33.30.011(2)
2 considering
3 (1) safeguards to the public;
4 (2) the prospects for the prisoner's rehabilitation;
5 (3) the availability of program and facility space;
6 (4) the prospect of future judicial proceedings requiring
7 the presence of the prisoner;
8 (5) the nature and circumstances of the offense for which
9 the prisoner was sentenced;
10 (6) the needs of the prisoner as determined by a classi-
11 fication committee and any recommendations made by the sentencing
12 court;
13 (7) the record of convictions of the prisoner with particu-
14 lar emphasis on crimes specified in AS 11.41;
15 (8) the use of drugs or alcohol by the prisoner;
16 (9) the length of the prisoner's sentence; and
17 (10) other criteria considered appropriate by the commis-
18 sioner, including experimental evaluation of correctional programs
19 that are consistent with protection of the public.
20 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt
21 regulations governing the granting of furloughs to prisoners to
22 (1) obtain counseling and treatment for alcohol or drug
23 abuse;
24 (2) secure or attend vocational training;
25 (3) obtain medical or psychiatric treatment;
26 (4) secure or engage in employment;
27 (5) attend educational institutions;
28 (6) secure a residence or make other preparation for re-
29 lease;

1 (7) appear before a group whose purpose is a better under-
2 standing of crime or corrections; or
3 (8) for any other rehabilitative purpose the commissioner
4 determines to be in the interests of the prisoner and the public.
5 (b) If the commissioner determines that a prisoner can live
6 under reduced supervision without violating the law or the conditions
7 established for the conduct of the prisoner, the commissioner may
8 grant a furlough after considering
9 (1) the factors in AS 33.30.091;
10 (2) violations, if any, by the prisoner of a condition of a
11 prior furlough;
12 (3) the history, if any, of institutional misconduct by the
13 prisoner; and
14 (4) the best interests of the prisoner and the public.
15 Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs
16 established under AS 33.30.101 must include prerelease furloughs
17 designed to facilitate the reintegration of a prisoner into society.
18 (b) A facility that is specifically adapted to provide a resi-
19 dence outside prison, including a halfway house, group home, or other
20 placement that provides varying levels of restriction and supervision,
21 may be used for a prisoner on a prerelease furlough.
22 (c) The restrictions and supervision required for a prerelease
23 furlough shall provide safeguards that minimize risk to the public and
24 include, as a minimum,
25 (1) frequent contact with the prisoner by persons supervis-
26 ing the prisoner;
27 (2) knowledge by supervisory staff of the location of the
28 prisoner;
29 (3) periodic reports by supervisory staff to the

1 commissioner on the performance of the prisoner while on furlough; and
2 (4) a residential setting in which persons supervising a
3 prisoner are obliged to immediately report to the commissioner any
4 violation of a condition set for the prisoner's conduct.
5 (d) Notwithstanding AS 33.30.101(b), and other eligibility
6 criteria established by the commissioner, that relate to risks to the
7 public posed by the proposed furlough of a prisoner,
8 (1) a prisoner sentenced to a definite term of imprisonment
9 of more than one year but less than five years is not eligible for a
10 prerelease furlough until the prisoner has served at least one-third
11 of the sentence;
12 (2) a prisoner sentenced to a definite term of imprisonment
13 of five years or more is not eligible for a prerelease furlough until
14 the prisoner has served at least one-third of the sentence or is
15 within three years of the release date, whichever is later.
16 (e) A prisoner may request a prerelease furlough under proce-
17 dures adopted by the commissioner. If the commissioner denies a
18 request for a prerelease furlough, the commissioner shall provide the
19 prisoner with a written explanation of the reasons for the denial.
20 (f) Upon request of the victim, in the case of a prisoner con-
21 victed of a crime against a person, notice of the commissioner's
22 intent to consider the prisoner for a prerelease furlough shall be
23 sent to the victim. The victim may comment in writing on the intent
24 of the commissioner to release the prisoner on prerelease furlough
25 status. The commissioner shall consider the comments of the victim
26 before making a final decision to release a prisoner on a prerelease
27 furlough. The victim shall keep the commissioner apprised of the
28 victim's current mailing address. If the victim requests notifica-
29 tion, the commissioner shall make every reasonable effort to notify

1 the victim of an intent to release the prisoner on a prerelease
2 furlough. The notice must contain the expected date of the prisoner's
3 release, the geographic area in which the prisoner will reside and
4 other pertinent information concerning the prisoner's release that may
5 affect the victim.
6 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
7 furlough is an authorized leave of absence from a correctional facili-
8 ty for a period not to exceed 12 hours at any one time, except for
9 (1) family visitations, that may not exceed one week or
10 occur more frequently than once in each six month period; or
11 (2) medical treatment, for which the furlough may not last
12 longer than necessary for the treatment.
13 (b) A short-duration furlough may be granted to a prisoner at
14 any time under regulations adopted by the commissioner.
15 Sec. 33.30.131. PRERELEASE FURLOUGH INVOLVING EMPLOYMENT. (a)
16 Unless alternative arrangements are expressly approved by the commis-
17 sioner, when a prisoner is employed outside a correctional facility as
18 part of a furlough program, the earnings of the prisoner shall be
19 delivered by the employer to the commissioner. If an employer
20 transmits the earnings to the commissioner, the employer has no
21 liability to the prisoner for the earnings. The commissioner shall
22 disburse the earnings of the prisoner, in an order determined
23 appropriate, under procedures adopted by the commissioner to
24 (1) pay for the room, board, and personal expenses of the
25 prisoner in an amount or at a rate determined by the commissioner;
26 (2) pay any restitution or fine ordered by the sentencing
27 court;
28 (3) reimburse the state for an award made for violent
29 crimes compensation under AS 18.67 arising out of the criminal conduct

1 of the prisoner;

2 (4) pay a civil judgment arising out of the criminal con-

3 duct of the prisoner; and

4 (5) support the dependents of the prisoner, and to provide

5 child support payments as required by AS 09.65.132.

6 (b) After making the disbursements authorized under (a) of this

7 section, the commissioner shall retain the balance remaining in the

8 account of the prisoner and give it to the prisoner upon release. The

9 commissioner may permit the prisoner to draw upon a portion of this

10 money for other purposes that the commissioner considers appropriate.

11 (c) Only the earnings retained by the commissioner under (b) of

12 this section are subject to lien, attachment, garnishment, execution,

13 or other proceedings to encumber money or property.

14 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR

15 FAILURE TO RETURN. (a) If a prisoner on a furlough violates the

16 conditions established for the prisoner's conduct, the commissioner

17 may immediately require the return of the prisoner to actual confine-

18 ment for a period not to exceed the balance of the term of imprison-

19 ment and may initiate disciplinary proceedings authorized by regu-

20 lations adopted by the commissioner.

21 (b) The failure of a prisoner on a furlough to return to the

22 place of confinement or residence within the time specified by those

23 having direct supervision over the prisoner is an unlawful evasion

24 under AS 11.56.340 - 11.56.350.

25 ARTICLE 3. GENERAL PROVISIONS.

26 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the

27 policy of the state that prisoners be productively employed for as

28 many hours each day as feasible, not to exceed 40 hours a week unless

29 overtime has been specifically approved by the commissioner.

1 (b) The commissioner may enter into contracts or cooperative
2 agreements with any public agency for the performance of conservation
3 projects. The commissioner may enter into a contract with an indi-
4 vidual or agency for the employment of prisoners if the work to be
5 performed will have minimal negative impact on an existing private
6 industry or labor force in the state as determined by the commission-
7 er.
8 (c) The commissioner may direct a prisoner to participate in a
9 type of productive employment listed in (d)(1), and (d)(4)-(6) of this
10 section while the prisoner is confined in a correctional facility. A
11 prisoner who refuses to participate in productive employment when
12 directed under this section is subject to disciplinary sanctions
13 imposed in accordance with regulations adopted by the commissioner.
14 (d) In this section "productively employed" includes the
15 following kinds of employment:
16 (1) routine maintenance and support services essential to
17 the operation of a correctional facility;
18 (2) education including both academic and vocational;
19 (3) industrial, agricultural, and service activities con-
20 ducted in accordance with AS 33.32;
21 (4) public conservation projects including but not limited
22 to forest fire prevention and control, forest and watershed enhance-
23 ment, recreational area development, construction and maintenance of
24 trails and campsites, fish and game enhancement, soil conservation,
25 and forest watershed revegetation;
26 (5) renovation, repair or alteration of existing correc-
27 tional facilities as permitted by AS 44.65.050(d); and
28 (6) other work performed inside or outside of a correction-
29 al facility if the work has minimal negative impact on an existing

1 private industry or labor force in the state as determined by the
2 commissioner.
3 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is
4 productively employed, as defined in AS 33.30.151(d)(1) or 33.30.-
5 151(d)(3) - (6), may receive for that work compensation at a rate
6 determined by the commissioner under AS 33.32.050 if the money is
7 available from legislative appropriations. The provisions of
8 AS 33.32.050 and AS 33.32.040(b) apply to prisoners employed in the
9 correctional industries program and to prisoners productively employed
10 in activities outside that program.
11 Sec. 33.30.161. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
12 is admitted to a correctional facility, a copy of the commitment shall
13 be delivered with the prisoner as evidence of the authority of the
14 correctional facility to hold the prisoner.
15 (b) When a person is sentenced to a term of imprisonment, copies
16 of the pre-sentence report, sentencing report prepared under AS 12.-
17 55.025, and any other information of the probation office or of the
18 court that may affect the person's rehabilitation shall be transmitted
19 to the superintendent of the correctional facility in which the pris-
20 oner will be confined.
21 (c) The commissioner shall adopt regulations providing for the
22 security, confidentiality, and use of documents transmitted under (b)
23 of this section.
24 Sec. 33.30.171. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
25 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-
26 tional facility or the superintendent's assistant may administer oaths
27 to and take acknowledgments from a prisoner, but may not request or
28 accept compensation from a prisoner for acts performed under this
29 section.

1 Sec. 33.30.181. TELEPHONE MONITORING INSIDE CORRECTIONAL INSTI-
2 TUTIONS. Notwithstanding AS 42.30.300 and 42.30.310, the commissioner
3 may authorize the use of monitoring or recording equipment to listen
4 to a telephone conversation of a prisoner in order to preserve the
5 security and orderly administration of the institution and to protect
6 the public, if a warning is posted by the telephone informing the
7 prisoner that a call may be monitored or recorded. Prisoner telephone
8 calls to attorneys may not be monitored or recorded except when
9 authorized by a court.
10 Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
11 RIGHTS. (a) A person who is convicted of a felony involving moral
12 turpitude as defined in AS 15.60.010 is disqualified from voting in a
13 state or municipal election until the person's unconditional dis-
14 charge.
15 (b) A person who is convicted of a crime is disqualified from
16 serving as a juror until the person's unconditional discharge.
17 (c) In this section "unconditional discharge" has the meaning
18 given in AS 12.55.185.
19 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)
20 Except as provided in (b) of this section, it is the obligation of
21 each person committed to the custody of the commissioner to provide
22 for the appropriate disposition of all of the person's property re-
23 maining at a correctional facility within 90 days of the date of the
24 person's release or transfer from the correction facility.
25 (b) The commissioner shall provide for the shipment to the
26 receiving facility of a reasonable amount of a prisoner's property, as
27 determined by the commissioner, when the prisoner is transferred from
28 one correctional facility to another.
29 (c) A prisoner's personal property that remains at a

1 correctional facility after 90 days from the date of the prisoner's
2 release or transfer is considered abandoned, and shall be delivered to
3 the Department of Administration for disposal under AS 44.71.010.
4 (d) The state is not liable for any loss or damage to personal
5 property determined to be abandoned under (c) of this section.
6 Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who
7 possesses money in an amount greater than that permitted by the com-
8 missioner is subject to disciplinary sanctions under regulations
9 adopted by the commissioner.
10 (b) Money in the possession of a prisoner in an amount greater
11 than that permitted by the commissioner is contraband. If, after a
12 hearing under regulations adopted by the commissioner, a prisoner is
13 found to have been in possession of contraband under this section, the
14 contraband shall be forfeited and deposited into the general fund.
15 Sec. 33.30.301. DEFINITIONS. In this chapter, unless the con-
16 text requires otherwise,
17 (1) "commissioner" means the commissioner of the Department
18 of Corrections;
19 (2) "correctional facility" or "facility" means a prison,
20 jail, camp, farm, half-way house, group home, or other placement
21 designated by the commissioner for the custody, care, and discipline
22 of prisoners; a "state correctional facility" means a correctional
23 facility owned or run by the state;
24 (3) "court" means the supreme court, the court of appeals,
25 the superior court, the district or magistrate court, or a justice or
26 judge of a court;
27 (4) "crime against a person" means a crime as set out in
28 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-
29 330; or a crime against a person in this or another jurisdiction

1 having elements substantially identical to those of a crime as set out
2 in AS 11.41, except custodial interference under AS 11.41.320 and
3 11.41.330;
4 (5) "department" means the Department of Corrections;
5 (6) "furlough" means an authorized leave of absence from
6 actual confinement for a designated purpose and period of time;
7 (7) "health care provider" means
8 (A) a physician's assistant or nurse practitioner
9 licensed to practice in the state and working under the direct
10 supervision of a licensed physician or psychiatrist; or
11 (B) a mental health professional as defined in AS 47.-
12 30.915;
13 (8) "municipality" means a borough or city in the state, or
14 a municipality unified under AS 29.68.240 - 29.68.440, authorized by
15 law to establish a correctional facility;
16 (9) "prisoner" means a person, other than a juvenile, held
17 under authority of state law in official detention as defined in
18 AS 11.81.900(b);
19 (10) "temporary commitment" means detention of a person for
20 any period under authority of state law, but does not include confine-
21 ment upon conviction and judgment of a court of this state;
22 (11) "victim" has the meaning given in AS 12.55.185.
23 * Sec. 7. AS 33.32.015(b) is amended to read:
24 (b) The commissioner of corrections may
25 (1) subject to the Fiscal Procedures Act (AS 37.05), use,
26 purchase, lease, equip, and maintain buildings, machinery, and other
27 equipment, and may purchase materials and enter into contracts, which
28 may be necessary for the correctional industries program;
29 (2) provide for prisoners to be employed in rendering

1 services and producing articles, materials, and supplies needed by a
2 state agency, a political subdivision of the state, an agency of the
3 federal government, other states or their political subdivisions, or
4 for use by nonprofit organizations;
5 (3) if the Correctional Industries Commission established
6 in AS 33.32.070 approves, employ prisoners to provide services or
7 products as needed by private industry if the services or products
8 have potential for contributing to the economy of the state and will
9 have minimal negative impact on an existing private industry or labor
10 force in the state;
11 (4) subject to the provisions of AS 37.05, enter into joint
12 cooperative ventures with private industry for the establishment and
13 operation of "Free Venture" industries under AS 33.32.017, or as
14 otherwise necessary to fulfill the purpose of this chapter.
15 * Sec 8. AS 33.32 is amended by adding a new section to read:
16 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)
17 Upon recommendation of the Correctional Industries Commission estab-
18 lished under AS 33.32.070, the commissioner may establish "Free Ven-
19 ture" correctional industries for the sale of goods or services to the
20 public or private sector. A "Free Venture" correctional industry is a
21 correctional industry that is operated and managed in total or in part
22 by a private industry or organization within a correctional facility
23 under an agreement entered into under AS 33.32.015(b)(4).
24 (b) The commissioner shall provide appropriate space, utilities,
25 security and inmate workers to the private industry or organization.
26 (c) The private industry or organization shall provide all
27 machinery, tools, supplies, materials, transportation, training,
28 supervisory personnel, management marketing, and insurance necessary
29 for the operation of the "Free Venture" industry.

1 (d) In exchange for the space, utilities, and inmate workers
2 provided to it, the private industry or organization shall pay to the
3 commissioner a weekly payment in an amount not less than the sum of
4 the existing minimum hourly wage, established under AS 23.10.065,
5 multiplied by the total number of hours worked during that week by
6 inmates employed in the "Free Venture" correctional industry.
7 (e) The private industry or organization shall indemnify, save
8 harmless, and defend the state, its agents, officers, and employees
9 from liability of any kind resulting from injuries or damages sus-
10 tained by a person or property as a result of the use of the goods or
11 services of the "Free Venture" industry.
12 * Sec. 9. AS 33.32.030 is amended by adding a new subsection to read:
13 (f) The provisions of this section do not apply to "Free Ven-
14 ture" industries established under AS 33.32.017.
15 * Sec. 10. AS 39.35.360(e) is amended to read:
16 (e) An employee of a detention facility provided by a local
17 government unit to the territorial or state government under AS 33.-
18 30.031 or former AS 33.30.060, who continues in state employment upon
19 transfer of the facility to the state, is entitled to credited service
20 for prior service with the facility if the employee remains in contin-
21 uous employment with the state until July 1, 1976. To obtain credited
22 service the employee is required to make retroactive contributions for
23 the period of service between January 1, 1961, and the effective date
24 of the transfer of the facility to the state.
25 * Sec. 11. AS 44.65.050 is amended by adding a new subsection to read:
26 (d) The Department of Corrections and the Department of Trans-
27 portation and Public Facilities may enter into agreements under this
28 chapter for the construction, renovation, repair or alteration of
29 state correctional facilities as defined in AS 33.30.301. An

1 agreement entered into under this subsection is limited to an
2 estimated cost of $100,000 project as determined by the terms of the
3 agreement.
4 * Sec. 12. The following laws are repealed: AS 33.30.010, 33.30.020,
5 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080,
6 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,
7 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190,
8 33.30.225, 33.30.227, 33.30.250, 33.30.260, 33.30.290, 33.30.300,
9 33.30.310, 33.30.320, and 33.30.900.
10 * Sec. 13. Regulations adopted under a statute amended or repealed by
11 this Act continue in effect until amended or repealed by the commissioner
12 of corrections, except to the extent that a regulation is inconsistent or
13 in conflict with a provision of this Act.
14

Introduced: 1/25/85
Referred: Health,Education &
Social Services,Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to correctional facilities, and the
7 imprisonment and rehabilitation of offenders."

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

9 * Section 1. AS 11.56.340 is repealed and reenacted to read:

10 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A
11 person commits the crime of unlawful evasion in the first degree if,
12 while charged with or convicted of a felony,

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

16 (2) while on furlough under AS 33.30.101 -- 33.30.131 the
17 person fails to return to the place of confinement or residence within
18 the time authorized by those having direct supervision.

19 (b) Unlawful evasion in the first degree is a class A misdemean-
20 or.

21 * Sec. 2. AS 11.56.350 is repealed and reenacted to read:

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

25 (1) the person fails to return to official detention within
26 the time authorized following temporary leave granted for a specific
27 purpose or limited period; or

28 (2) while on furlough under AS 33.30.101 -- 33.30.131 the
29 person fails to return to the place of confinement or residence within

1 the time authorized by those having direct supervision.

2 (b) Unlawful evasion in the second degree is a class B misde-

3 meanor.

4 * Sec. 3. AS 12.47.050(d) is repealed and reenacted to read:

5 (d) Notwithstanding any contrary provision of law, a defendant

6 receiving treatment under (b) of this section may not be released on

7 either furlough under AS 33.30.101 -- 33.30.131, except for treatment

8 in a secure setting, or parole.

9 * Sec. 4. AS 33.30.010 -- 33.30.900 are repealed.

10 * Sec. 5. AS 33.30 is amended by adding new sections to read:

11 CHAPTER 30. CORRECTIONAL [PRISON] FACILITIES AND

12 PROGRAMS [PRISONERS].

13 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

14 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

15 (1) establish, maintain, operate, and control correctional

16 facilities suitable for the custody, care, and discipline of persons

17 charged or convicted of offenses against the state or held under

18 authority of state law;

19 (2) classify prisoners and, for persons committed to the

20 custody of the commissioner, establish programs, including furlough

21 programs that are reasonably calculated to

22 (A) protect the public;

23 (B) maintain health;

24 (C) create or improve occupational skills;

25 (D) enhance educational qualifications;

26 (E) support court-ordered restitution; and

27 (F) otherwise provide for the rehabilitation and

28 reformation of prisoners, facilitating their reintegration into

29 society;

1 (3) provide necessary medical services for prisoners in
2 correctional facilities or who are committed by a court to the custody
3 of the commissioner, including examinations for communicable and
4 infectious diseases; and
5 (4) provide necessary psychological or psychiatric treat-
6 ment if a physician or other health care provider, exercising ordinary
7 skill and care at the time of observation, concludes with reasonable
8 medical certainty that
9 (A) a prisoner exhibits symptoms of a serious disease
10 or injury that is curable or may be substantially alleviated; and
11 (B) the potential for harm to the prisoner by reason
12 of delay or denial of care would be substantial.
13 Sec. 33.30.021. REGULATIONS. The commissioner shall adopt
14 regulations to implement this chapter.
15 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.
16 (a) The commissioner shall determine the availability of state cor-
17 rectional facilities suitable for the detention and confinement of
18 persons held under authority of state law. If the commissioner deter-
19 mines that suitable state correctional facilities are not available,
20 the commissioner may enter into an agreement with a public or private
21 agency to provide necessary facilities. Correctional facilities
22 provided through agreement may be in this state or in another state.
23 The commissioner may not enter into an agreement with an agency unable
24 to provide a degree of custody, care, and discipline similar to that
25 required by the laws of this state.
26 (b) The commissioner may not enter into an agreement with a
27 privately operated correctional facility under (a) of this section
28 unless the purpose is to involve prisoners in a program established
29 under AS 33.30.091 -- 33.30.131 or to confine prisoners convicted of a

1 misdemeanor.

2 (c) Earnings of a person employed while confined in a privately
3 operated correctional facility established under (a) of this section
4 are subject to the provisions of AS 33.30.131.

5 (d) The commissioner may enter into an agreement with the United
6 States, another state, a municipality of this state, or another state
7 agency, to provide a correctional facility for the custody, care, and
8 discipline of a person held under authority of the law of that juris-
9 diction.

10 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.
11 (a) The commissioner may enter into an agreement with a municipality
12 of the state for the lease of a state correctional facility or for the
13 use and operation of a state correctional facility for the joint
14 benefit of the municipality and the state, if the commissioner deter-
15 mines that it would be in the best interest of the state.

16 (b) An agreement executed by the commissioner under (a) of this
17 section must provide that

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

20 (2) the administrator of the correctional facility agrees
21 to implement an order, concerning a prisoner, issued by a court of the
22 state;

23 (3) the administrator of the correctional facility shall
24 comply with the law, and regulations adopted by the commissioner,
25 relating to the custody, care, and discipline of persons detained or
26 confined in the correctional facility; and

27 (4) the commissioner may inspect the correctional facility
28 at reasonable times to determine the conditions under which a prisoner
29 is detained or confined.

1 (c) The agreement executed by the commissioner under (a) of this
2 section may require the administrator of the correctional facility to
3 comply with requirements that the commissioner considers necessary for
4 the protection of the public or for the quality of care and programs
5 for prisoners required by this chapter and regulations adopted by the
6 commissioner.

7 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

8 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
9 of an offense against the state must be committed to the custody of
10 the commissioner for the term of imprisonment which the court directs.

11 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The
12 commissioner shall designate the correctional facility to which a
13 prisoner is to be committed to serve a term of imprisonment or period
14 of temporary commitment. The commissioner may designate a facility
15 without regard to whether it is maintained by the state, is located
16 within the judicial district in which the prisoner was convicted, or
17 is located in the state.

18 (b) The decision of the commissioner to designate a facility for
19 the commitment of a prisoner pending appeal is not subject to review
20 absent a clear and convincing showing by the prisoner that the prison-
21 er would be denied the right to counsel. The decision of the commis-
22 sioner to designate a facility is not, under any other circumstance,
23 subject to review unless the prisoner makes a clear and convincing
24 showing of an abuse of discretion.

25 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.
26 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
27 safety shall provide for the custody, care, and discipline of prison-
28 ers pending arraignment or commitment by a court to the custody of the
29 commissioner of corrections. Except as provided in (c) of this

1 section, the responsibility for providing necessary medical services
2 for prisoners remains with the commissioner of corrections under
3 AS 33.30.011(3). The commissioner of corrections and the commissioner
4 of public safety are not responsible for providing custody, care, and
5 discipline for a person detained under AS 47.37.170, unless the person
6 is admitted into a state correctional facility.
7 (b) The responsibility of the commissioner of public safety
8 under (a) of this section does not begin until a prisoner is accepted
9 into the custody of the commissioner of public safety, or admitted
10 into a correctional facility or other facility designed for holding
11 prisoners, and the commissioner of public safety is notified of the
12 acceptance or admission.
13 (c) Medical services for a prisoner who is unconscious or in
14 immediate need of medical attention before admission to a correctional
15 facility or commitment by a court to the custody of the commissioner
16 of corrections must be provided by the law enforcement agency having
17 custody of the prisoner. The law enforcement agency may require the
18 prisoner to compensate the agency for the cost of medical services
19 provided for a pre-existing medical condition not arising out of the
20 prisoner's arrest.
21 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-
22 sioner of public safety is responsible for transporting a prisoner to
23 and from the court having jurisdiction over the prisoner and for
24 delivering a prisoner to a correctional facility upon temporary or
25 final commitment by a court or upon transfer of a prisoner from one
26 correctional facility to another either inside or outside the state.
27 (b) The commissioner of corrections is responsible for furnish-
28 ing return transportation to the place of arrest for a prisoner held
29 in a state correctional facility, upon release from custody.

1 (c) The commissioner of public safety is responsible for fur-
2 nishing return transportation to the place of arrest for a prisoner
3 who is released from custody before admission to a state correctional
4 facility.
5 (d) The commissioner of corrections shall adopt regulations
6 governing the furnishing of transportation, discharge payments, and
7 clothing to prisoners upon release from a state correctional institu-
8 tion at any stage of a criminal proceeding.
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 the
11 commissioner's custody to any program established under AS 33.30.-
12 011(2) considering
13 (1) safeguards to the public;
14 (2) the prospects for the prisoner's rehabilitation;
15 (3) the availability of program and facility space;
16 (4) the prospect of future judicial proceedings requiring
17 the presence of the prisoner;
18 (5) the nature and circumstances of the offense for which
19 the prisoner was sentenced;
20 (6) the needs of the prisoner as determined by a classi-
21 fication committee and any recommendations made by the sentencing
22 court;
23 (7) the record of convictions of the prisoner with particu-
24 lar emphasis on crimes specified in AS 11.41;
25 (8) the use of drugs or alcohol by the prisoner;
26 (9) the length of the prisoner's sentence; and
27 (10) other criteria considered appropriate by the commis-
28 sioner, including experimental evaluation of correctional programs
29 that are consistent with protection of the public.

1 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt
2 regulations governing the granting of furloughs to prisoners to
3 (1) obtain counseling and treatment for alcohol or drug
4 abuse;
5 (2) secure or attend vocational training;
6 (3) obtain medical or psychiatric treatment;
7 (4) secure or engage in employment;
8 (5) attend educational institutions;
9 (6) secure a residence or make other preparation for re-
10 lease;
11 (7) appear before a group whose purpose is a better under-
12 standing of crime or corrections; or
13 (8) for any other rehabilitative purpose the commissioner
14 determines to be in the interests of the prisoner and the public.
15 (b) If the commissioner determines that a prisoner can live
16 under reduced supervision without violating the law or the conditions
17 established for the conduct of the prisoner, the commissioner may
18 grant a furlough after considering
19 (1) the factors in AS 33.30.091;
20 (2) violations, if any, by the prisoner of a condition of a
21 prior furlough;
22 (3) the history, if any, of institutional misconduct by the
23 prisoner; and
24 (4) the best interests of the prisoner and the public.
25 Sec. 33.30.111. PRE-RELEASE FURLOUGHS. (a) Furlough programs
26 established under AS 33.30.101 must include pre-release furloughs
27 designed to facilitate the reintegration of a prisoner into society.
28 (b) A facility that is specifically adapted to provide a resi-
29 dence outside prison, including a halfway house, group home, or other

1 placement which provides varying levels of restriction and super-
2 vision, may be used for a prisoner on a pre-release furlough.
3 (c) The restrictions and supervision required for a pre-release
4 furlough must provide safeguards that minimize risk to the public and
5 include, as a minimum,
6 (1) frequent contact with the prisoner by persons supervis-
7 ing the prisoner;
8 (2) knowledge by supervisory staff of the location of the
9 prisoner;
10 (3) periodic reports by supervisory staff to the commis-
11 sioner on the performance of the prisoner while on furlough; and
12 (4) a residential setting in which persons supervising a
13 prisoner are obliged to immediately report to the commissioner any
14 violation of a condition set for the prisoner's conduct.
15 (d) Notwithstanding AS 33.30.101(b) and other eligibility crite-
16 ria established by the commissioner,
17 (1) a prisoner sentenced to a definite term of imprisonment
18 of more than one year but less than five years is not eligible for a
19 pre-release furlough until the prisoner has served at least one-third
20 of the sentence;
21 (2) a prisoner sentenced to a definite term of imprisonment
22 of five years or more is not eligible for a pre-release furlough until
23 the prisoner has served at least one-third of the sentence or is
24 within three years of the release date, whichever is later.
25 (e) A prisoner may request a pre-release furlough under proce-
26 dures adopted by the commissioner. If the commissioner denies a
27 request for a pre-release furlough, the commissioner shall provide the
28 prisoner with a written explanation of the reasons for the denial.
29 (f) Upon request of the victim, in the case of a prisoner

1 convicted of a crime against a person, notice of the commissioner's
2 intent to consider the prisoner for a pre-release furlough must be
3 sent to the victim. The victim may comment in writing on the intent
4 of the commissioner to release the prisoner on pre-release furlough
5 status. The commissioner shall consider the comments of the victim
6 before making a final decision to release a prisoner on a pre-release
7 furlough. The victim shall keep the commissioner apprised of the
8 victim's current mailing address. If the victim requests notifica-
9 tion, the commissioner shall make every reasonable effort to notify
10 the victim of an intent to release the prisoner on a pre-release
11 furlough. The notice must contain the expected date of the prisoner's
12 release, the geographic area in which the prisoner will reside and
13 other pertinent information concerning the prisoner's release that may
14 affect the victim.
15 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
16 furlough is an authorized leave of absence from a correctional facili-
17 ty for a period not to exceed 12 hours at any one time, except for
18 (1) family visitations, which may not exceed one week nor
19 occur more frequently than once in each six month period; or
20 (2) medical treatment, for which the furlough may not last
21 longer than necessary for the treatment.
22 (b) A short-duration furlough may be granted to a prisoner at
23 any time under regulations adopted by the commissioner.
24 Sec. 33.30.131. PRE-RELEASE FURLOUGH INVOLVING EMPLOYMENT. (a)
25 Unless alternative arrangements are expressly approved by the commis-
26 sioner, when a prisoner is employed outside a correctional facility as
27 part of a furlough program, the earnings of the prisoner must be sent
28 by the employer to the commissioner. If an employer transmits the
29 earnings to the commissioner, the employer has no liability to the

1 prisoner for the earnings. The commissioner shall disburse the earn-
2 ings of the prisoner under procedures adopted by the commissioner to
3 (1) pay for the room, board, and personal expenses of the
4 prisoner in an amount or at a rate determined by the commissioner;
5 (2) pay any restitution or fine ordered by the sentencing
6 court;
7 (3) reimburse the state for an award made for violent
8 crimes compensation under AS 18.67 arising out of the criminal conduct
9 of the prisoner;
10 (4) pay a civil judgment arising out of the criminal con-
11 duct of the prisoner; and
12 (5) support the dependents of the prisoner.
13 (b) After making the disbursements authorized under (a) of this
14 section, the commissioner shall retain the balance remaining in the
15 account of the prisoner and give it to the prisoner upon release. The
16 commissioner may permit the prisoner to draw upon a portion of this
17 money for other purposes that the commissioner considers appropriate.
18 (c) Only the earnings retained by the commissioner under (b) of
19 this section are subject to lien, attachment, garnishment, execution,
20 or other proceedings to encumber money or property.
21 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR
22 FAILURE TO RETURN. (a) If a prisoner on a furlough violates the
23 conditions established for the prisoner's conduct, the commissioner
24 may immediately require the return of the prisoner to actual confine-
25 ment for a period not to exceed the balance of the term of imprison-
26 ment and may initiate disciplinary proceedings authorized by regu-
27 lations adopted by the commissioner.
28 (b) The failure of a prisoner on a furlough to return to the
29 place of confinement or residence within the time specified by those

1 having direct supervision over the prisoner is an unlawful evasion
2 under AS 11.56.340 -- 11.56.350.
3 ARTICLE 3. GENERAL PROVISIONS.
4 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the
5 policy of the state that prisoners be productively employed for as
6 many hours each day as feasible, not to exceed 40 hours per week
7 unless overtime has been specifically approved by the commissioner.
8 The term "productively employed" includes the following kinds of
9 employment:
10 (1) routine maintenance and support services essential to
11 the operation of a correctional facility;
12 (2) education including both academic and vocational;
13 (3) industrial, agricultural, and service activities con-
14 ducted in accordance with AS 33.32;
15 (4) public conservation projects including but not limited
16 to forest fire prevention and control, forest and watershed enhance-
17 ment, recreational area development, construction and maintenance of
18 trails and campsites, fish and game enhancement, soil conservation,
19 and forest watershed revegetation;
20 (5) renovation, repair or alteration of existing correc-
21 tional facilities as permitted by AS 44.65.050(d); and
22 (6) other work performed inside or outside of a correction-
23 al facility if the work has minimal negative impact on an existing
24 private industry or labor force in the state as determined by the
25 commissioner.
26 (b) The commissioner may enter into contracts or cooperative
27 agreements with any public agency for the performance of conservation
28 projects. The commissioner may enter into a contract with an indi-
29 vidual or agency for the employment of prisoners if the work to be

1 performed will have minimal negative impact on an existing private
2 industry or labor force in the state as determined by the commission-
3 er.
4 (c) The commissioner may direct a prisoner to participate in a
5 type of productive employment listed in (a)(1), and (4)-(6) of this
6 section while the prisoner is confined in a correctional facility. A
7 prisoner who refuses to participate in productive employment when
8 directed under this section is subject to disciplinary sanctions
9 imposed in accordance with regulations adopted by the commissioner.
10 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is
11 productively employed, as defined in AS 33.30.151(a)(1) or (3) - (6),
12 may receive for that work compensation at a rate determined by the
13 commissioner under AS 33.32.050 if the money is available from legis-
14 lative appropriations. The provisions of AS 33.32.050 and AS 33.32.-
15 040(b) apply to prisoners employed in the correctional industries
16 program and to prisoners productively employed in activities outside
17 that program.
18 Sec. 33.30.161. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
19 is admitted to a correctional facility, a copy of the commitment must
20 be delivered with the prisoner as evidence of the authority of the
21 correctional facility to hold the prisoner.
22 (b) When a person is sentenced to a term of imprisonment, copies
23 of the pre-sentence report, sentencing report prepared under AS 12.55-
24 .025, and any other information of the probation office or of the
25 court that may affect the person's rehabilitation must be transmitted
26 to the superintendent of the correctional facility in which the pris-
27 oner will be confined.
28 (c) The commissioner shall adopt regulations providing for the
29 security, confidentiality, and use of documents transmitted under (b)

of this section.

Sec. 33.30.171. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correctional facility or the superintendent's assistant may administer oaths to and take acknowledgments from a prisoner, but may not request nor accept compensation from a prisoner for acts performed under this section.

Sec. 33.30.181. TELEPHONE MONITORING INSIDE CORRECTIONAL INSTITUTIONS. Notwithstanding AS 42.30.300 and 42.30.310, the commissioner may authorize the use of monitoring or recording equipment to listen to a telephone conversation of a prisoner in order to preserve the security and orderly administration of the institution and to protect the public, if a warning is posted by the telephone informing the prisoner that a call may be monitored or recorded. Prisoner telephone calls to attorneys may not be monitored nor recorded except when authorized by a court.

Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL RIGHTS. (a) A person who is convicted of a felony involving moral turpitude as defined in AS 15.60.010 is disqualified from voting in a state or municipal election until the person's unconditional discharge.

(b) A person who is convicted of a crime is disqualified from serving as a juror until the person's unconditional discharge.

(c) A person who is convicted of a criminal charge or is serving a term of imprisonment for a criminal offense may not bring a civil action against the state, a state agency, or an employee of the state unless it is an action for violation of the person's constitutional rights during the time of imprisonment. The time within which the action may be brought is limited as set out in AS 09.10.140.

1 (d) In this section, "unconditional discharge" has the meaning
2 given in AS 12.55.185.
3 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)
4 It is the obligation of each person committed to the custody of the
5 commissioner to provide for the appropriate disposition of all person-
6 al property within 90 days of the date of the person's release or
7 transfer from a correctional facility.
8 (b) Any personal property remaining at a correctional facility
9 after 90 days from the date of release or transfer is deemed aban-
10 doned, and will be delivered to the Department of Administration for
11 disposal pursuant to AS 44.71.010.
12 (c) The state shall not be liable for any loss or damage to
13 personal property deemed abandoned under (b) of this section.
14 Sec. 33.30.301. DEFINITIONS. In this chapter, unless the con-
15 text requires otherwise,
16 (1) "crime against a person" means a crime as set out in
17 AS 11.41, except custodial interference under AS 11.41.320 and 11.41-
18 .330; or a crime against a person in this or another jurisdiction
19 having elements substantially identical to those of a crime as set out
20 in AS 11.41, except custodial interference under AS 11.41.320 and
21 11.41.330;
22 (2) "commissioner" means the commissioner of the Department
23 of Corrections or the commissioner's designee;
24 (3) "correctional facility" or "facility" means a prison,
25 jail, camp, farm, half-way house, group home, or other placement
26 designated by the commissioner for the custody, care, and discipline
27 of prisoners; a "state correctional facility" means any correctional
28 facility owned or run by the state;
29 (4) "court" means the supreme court, the court of appeals,

1 the superior court, the district or magistrate court, or a justice or
2 judge of a court;
3 (5) "department" means the Department of Corrections;
4 (6) "furlough" means an authorized leave of absence from
5 actual confinement for a designated purpose and period of time;
6 (7) "municipality" means a borough or city in the state, or
7 a municipality unified under AS 29.68.240 -- 29.68.440, authorized by
8 law to establish a correctional facility;
9 (8) "prisoner" means a person, other than a juvenile, held
10 under authority of state law in official detention as defined in
11 AS 11.81.900(b);
12 (9) "temporary commitment" means detention of a person for
13 any period under authority of state law, but does not include confine-
14 ment upon conviction and judgment of a court of this state;
15 (10) "victim" has the meaning given in AS 12.55.185.
16 * Sec. 6. AS 33.32.015(b) is amended to read:
17 (b) The commissioner of corrections may
18 (1) subject to the Fiscal Procedures Act (AS 37.05), use,
19 purchase, lease, equip, and maintain buildings, machinery, and other
20 equipment, and may purchase materials and enter into contracts, which
21 may be necessary for the correctional industries program;
22 (2) provide for prisoners to be employed in rendering
23 services and producing articles, materials, and supplies needed by a
24 state agency, a political subdivision of the state, an agency of the
25 federal government, other states or their political subdivisions, or
26 for use by nonprofit organizations;
27 (3) if the Correctional Industries Commission established
28 in AS 33.32.070 approves, employ prisoners to provide services or
29 products as needed by private industry if the services or products

have potential for contributing to the economy of the state and will have minimal negative impact on an existing private industry or labor force in the state;

(4) subject to the provisions of AS 37.05, enter into joint cooperative ventures with private industry for the establishment and operation of "Free Venture" industries pursuant to AS 33.32.017, or as otherwise necessary to fulfill the purpose of this chapter.

* Sec 7. AS 33.32 is amended by adding a new section to read:

Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a) Upon recommendation of the Correctional Industries Commission established under AS 33.32.070, the commissioner may establish "Free Venture" correctional industries for the sale of goods or services to the public or private sector. A "Free Venture" correctional industry is a correctional industry which is operated and managed in total or in part by a private industry or organization within a correctional facility pursuant to an agreement entered into under AS 33.32.-015(b)(4).

(b) The commissioner shall provide appropriate space, utilities, security and inmate workers to the private industry or organization.

(c) The private industry or organization shall provide all machinery, tools, supplies, materials, transportation, training, supervisory personnel, management marketing, and insurance necessary for the operation of the "Free Venture" industry.

(d) In exchange for the space, utilities, and inmate workers provided to it, the private industry or organization shall pay to the commissioner a weekly payment in an amount not less than the sum of the existing minimum hourly wage, established under AS 23.10.065, multiplied by the total number of hours worked during that week by inmates employed in the "Free Venture" correctional industry.

1 * Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:
2 (f) The provisions of this section do not apply to "Free Ven-
3 ture" industries established under AS 33.32.017.
4 * Sec. 9. AS 39.35.360(e) is amended to read:
5 (e) An employee of a detention facility provided by a local
6 government unit to the territorial or state government under AS 33.-
7 30.031 [AS 33.30.060], who continues in state employment upon transfer
8 of the facility to the state, is entitled to credi-ed service for
9 prior service with the facility if the employee remains in continuous
10 employment with the state until July 1, 1976. To obtain credited
11 service the employee is required to make retroactive contributions for
12 the period of service between January 1, 1961, and the effective date
13 of the transfer of the facility to the state.
14 * Sec. 10. AS 44.65.050 is amended by adding a new subsection to read:
15 (d) The Department of Corrections and the Department of Trans-
16 portation and Public Facilities may enter into agreements under this
17 chapter for the construction, renovation, repair or alteration of
18 state correctional facilities as defined in AS 33.30.301. An agree-
19 ment entered into under this subsection is limited to an estimated
20 cost of $100,000 per project as determined by the terms of the agree-
21 ment.
22 * Sec. 11. Regulations adopted under a statute amended or repealed by
23 this Act continue in effect until amended or repealed by the commissioner
24 of corrections.
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