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COMMITTEE REPORT
HOUSE

(7)

FURTHER: JUDICIARY

2/28/85

Date: March 6 1985

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 141

"An Act relating to the parole of offenders; and providing for an effective date."

under consideration and recommends:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[] replace with CS for HB 141 [] same title [] new title

and recommends do pass

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

[] reports it back without recommendation [] Zero Fiscal Note Attached

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

(Vice Chair) Adm. Taylor No Rec
Agge Hanley No Rec

[Signature]
CHAIRMAN
[Signature]
Co Chair

HB 139

lack of responsiveness of grantees to expeditiously accomplish the intent of the legislature. This bill offers an opportunity for a change that will result in the speedy accomplishment of legislatively assigned purposes of grant appropriations.

Sincerely,

/s/

Bill Sheffield
Governor"

HB 140

HOUSE BILL NO. 140 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the use of teleconferencing under the Administrative Procedure Act."

was read the first time and referred to the House Special Committee on Telecommunications, the Judiciary and Finance Committees.

A zero fiscal note with an analysis was attached and appears in House Journal Supplement No. 10.

The Governor's transmittal letter dated January 28, 1985, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the use of teleconferencing for meetings and hearings held under the Administrative Procedure Act (AS 44.62). The bill confirms and clarifies that teleconferencing is a legally permissible means for increasing efficient public access and input to government bodies. Provisions to safeguard the constitutional and statutory rights of the public relating to hearings and public meetings are included in the bill.

The availability of new communications technology combined with our declining revenues make passage of this important measure a timely step towards economical efficient expansion of public access to the administrative process.

Sincerely,

/s/

Bill Sheffield
Governor"

HB 141

HOUSE BILL NO. 141 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the parole of offenders; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services and Judiciary Committees.

Two zero fiscal notes, one with an analysis, were attached and appear in House Journal Supplement No. 10.

The Governor's transmittal letter dated January 28, 1985, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the administration of parole. The bill updates the statutory authority for parole administration, clarifying apparently conflicting dictates of court decisions, and providing a higher degree of certainty in the parole process. Under the bill, existing AS 33.15, governing parole administration is repealed; the re-organized and revised parole administration statutes are placed in new AS 33.16.

Under this bill, all prisoners sentenced to terms of imprisonment of more than 180 days are eligible for parole. Parole may be granted discretionarily by the parole board for non-presumptively sentenced prisoners, or it may be attained mandatorily through the accumulation of good time credits by the prisoner while incarcerated. The board retains custody and jurisdiction over all paroled prisoners until the expiration of the maximum terms of imprisonment to which the prisoner was sentenced, unless the parolee is discharged early under AS 33.16.210.

This bill clarifies existing law by clearly stating that prisoners with presumptive sentences, with aggravated presumptive sentences, or with consecutive presumptive sentences are not eligible for discretionary parole. Additionally, it clearly sets out that prisoners released on mandatory parole as well as on discretionary parole are subject to the custody and jurisdiction of the board. Attendant to this, the board may set conditions of release which, if violated, can result in the reincarceration of the parolee.

For those prisoners eligible for discretionary parole, the minimum amount of the sentence required to be served has been retained for individuals convicted of first or second degree murder, or of kidnapping; it is one-third of the sentence. For the remainder of the prisoners potentially eligible for discretionary parole -- misdemeanants serving over 180 days, and first-time class B or C felons -- the minimum term before consideration has been shortened to one-quarter of the sentence. In addition, a judge at sentencing is permitted to set a longer minimum term for these prisoners before they may be considered for discretionary parole.

HB 141

In setting conditions of release for both mandatory and discretionary parolees, the bill requires that the parolee not violate any laws or ordinances, and permits the board to set numerous other conditions that will reasonably ensure that the parolee attains rehabilitation and reintegration into society. The board may also require that the parolee pay restitution to the victim of the crime.

Finally, the bill sets out in detail the factors that should be considered when granting discretionary parole; the procedures for granting, revoking, or rescinding parole; and the considerations that must be addressed when deciding whether an alleged parole violator is to be released pending revocation proceedings.

Drafts of the bill have been extensively discussed by members of criminal justice agencies, and this final version addresses the concerns they have regarding our current system of parole. I urge your prompt action on this measure.

Sincerely,

/s/

Bill Sheffield
Governor"

CONSIDERATION OF THE DAILY CALENDARSECOND READING OF HOUSE BILLSHB 66

HOUSE BILL NO. 66 (relating to worker's compensation; effective date) was read the second time with the Labor & Commerce Committee report (page 172).

Representative Clocksin moved and asked unanimous consent that HB 66 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

HB 66 was read the third time.

The question being: "Shall HB 66 pass the House?" The roll was taken with the following result:

HB 66

Yeas:	33	Adams, Binkley, Boucher, Cato, Clocksin, Collins, Cotten, Davis, Duncan, Frank, Fuller, Furnace, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Jenkins, Koponen, Larson, Marrou, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Phillips, Rieger, Ringstad, Shultz, Sund, Uehling, Wallis
Nays:	0	
Excused:	5	Hurley, Pettyjohn, Pignalberi, Szymanski, Thompson
Absent:	2	Pourchot, Taylor

Article 10, HB 66 passed the House.

Representative Clocksin moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 66 was referred to the Chief Clerk for engrossment.

LEGISLATIVE CITATIONS

Representative Clocksin moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the House approved the following citations:

Honoring - Mou Thongdy
by Representatives Gruenberg and Jenkins

Honoring - Jodi Gee
by Representatives Gruenberg and Jenkins

Honoring - Chester Gilmore
by Representatives Clocksin, Uehling and Gruenberg

Honoring - Kathleen McGuire
by Representatives Gruenberg, Clocksin, Uehling, Hurley and Pettyjohn; and Senators Rodey, V. Fischer and Josephson

Honoring - Krista Wilkins
by Representatives Clocksin and Uehling

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION PRETRIAL DIVERSION PROGRAM

March 5, 1985

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- POUCH KIT
JUNEAU, ALASKA 99811
PHONE: (907) 465-3678
- 941 W 4th ST.
ANCHORAGE, ALASKA 99501
PHONE: (907) 278-3508
- 733 7th AVE.
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-7713

The Honorable Max Gruenberg
Chairman
Health, Education and Social
Services Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Gruenberg:

Enclosed for your consideration is a draft committee substitute for H.B. 141, an Act relating to parole. This proposed committee substitute incorporates amendments and changes suggested by members of the joint House HESS and Judiciary committees during hearings on this bill on February 22 and 25.

The major changes made in this draft are:

- 1) inclusion of language subjecting board appointments to legislative confirmation in AS 33.16.020(a); this was inadvertently omitted from the original draft of the bill;
- 2) inclusion of a new subsection requiring board appointments be made on geographical distribution; AS 33.16.030(e);
- 3) changing the method of compensating board members in AS 33.16.040, to an amount to be determined by the governor;
- 4) deleting AS 33.16.060(a)(6), as this subsection duplicated AS 33.16.060(b)(1);
- 5) adding language to AS 33.16.070 clearly indicating that subpoenas issued by the board are enforceable in Superior Court;
- 6) revising AS 33.16.100(a) to correspond to criteria used by courts at sentencing under State v. Chaney, 477 P.2d 441 (Alaska 1970), with particular emphasis on the rehabilitative goals of the board;

7) incorporating language in AS 33.16.100(8) which allows the board to consider disparate sentences;

8) addition of language in AS 33.16.150(a) clarifying the prohibition against violation of a law or ordinance to indicate a criminal law or ordinance;

9) deletion of AS 33.16.150(b)(9) as superfluous to the prohibition contained in subsection AS 33.16.150(a);

10) deletion of utilization of a grand jury indictment as conclusive proof of probable cause of a parole violation under AS 33.16.220(b); although Morrissey v. Brewer, 408 U.S. 471 (1972) does not prohibit the use of a grand jury indictment, the spirit of Morrissey may lead to protracted litigation of this issue; by using only the narrower, preliminary hearing requirement, litigation on this issue would be precluded;

11) rewording Section 8 of the bill to reflect the intent that board members retain their current seats for the duration of their appointments.

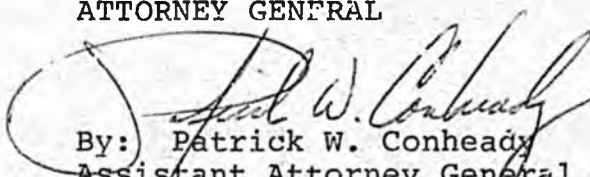
I have also made a number of minor technical changes in wording in order to make the bill read consistently.

Furthermore, I looked into the question raised by Chairman Miller regarding insertion of the sunset date change in the bill's title. This is not necessary. Rather, it is only required when the sunset date change is the major substance of the legislation.

I will continue to be available to assist the committee with any further changes. Additionally, I will be revising and expanding the previously transmitted commentary to this bill. It should be available in final form for your consideration before any floor action on the bill.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL


By: Patrick W. Conheady
Assistant Attorney General

Introduced: 1/28/85
Referred: Health, Education &
Social Services and Judiciary

BY THE HEALTH, EDUCATION
& SOCIAL SERVICES
COMMITTEE

1 IN THE HOUSE

2 CS HOUSE BILL NO. 141

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 the parole of offenders; and
7 providing for an effective date."

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

9 * Section 1. AS 12.55 is amended by adding a new section to read:

10 Sec. 12.55.115. FIXING ELIGIBILITY FOR DISCRETIONARY PAROLE AT
11 SENTENCING. The court may, as part of a sentence of imprisonment,
12 further restrict the eligibility of a prisoner for discretionary
13 parole for a term greater than that required under AS 33.16.100.

14 * Sec. 2. AS 33 is amended by adding a new chapter to read:

15 CHAPTER 16. PAROLE ADMINISTRATION.

16 Sec. 33.16.010. PAROLE. (a) A prisoner who is serving a term
17 or terms of at least 181 days is eligible for either discretionary or
18 mandatory parole.

19 (b) A prisoner who is eligible under AS 33.16.090 may be granted
20 discretionary parole by the board of parole.

21 (c) A prisoner who is not eligible for discretionary parole, or
22 who is not released on discretionary parole, must be released on
23 mandatory parole for the term of good time deductions credited under
24 AS 33.20, if the term or terms of imprisonment exceed 180 days.

25 (d) A prisoner released on discretionary or mandatory parole is
26 subject to the conditions of parole imposed under AS 33.16.150.
27 Parole may be revoked under AS 33.16.220.

28 Sec. 33.16.020. BOARD OF PAROLE. (a) There is in the Depart-
29 ment of Corrections a board of parole consisting of five members

1 appointed by the governor, subject to confirmation by a majority of
2 members of the legislature in joint session.

3 (b) Members of the board serve for staggered terms of five years
4 and until their successors are appointed.

5 (c) The governor shall choose the presiding officer of the board
6 from among the membership.

7 (d) The governor shall make appointments to the board with due
8 regard for representation on the board of the ethnic, racial, sexual,
9 and cultural populations of the state.

10 (e) The governor shall appoint at least one member living in the
11 First Judicial District, one member living in the Third Judicial
12 District, and one member living in either the Second or Fourth
13 Judicial District.

14 Sec. 33.16.030. SELECTION CRITERIA FOR BOARD MEMBERS. (a) The
15 governor shall appoint board members on the basis of their qualifi-
16 cations to make decisions that are compatible with the welfare of the
17 community and of individual offenders. The governor shall appoint
18 members who are able to consider the character and background of
19 offenders and the circumstances under which offenses were committed.

20 (b) At least one person appointed to the board must have ex-
21 perience in the field of criminal justice.

22 (c) Officers or employees of the state may not be appointed to
23 the board.

24 Sec. 33.16.040. COMPENSATION AND EXPENSES. A board member is
25 entitled to compensation at an amount to be set by the governor for
26 each day the member is participating in business of the board, and is
27 also entitled to the per diem and travel allowances provided under
28 AS 39.20.180.

29 Sec. 33.16.050. MEETINGS OF THE BOARD. (a) The board may meet

1 as often as it considers necessary to carry out its responsibilities,
2 but shall meet at least four times a year.

3 (b) Three members of the board constitute a quorum for the
4 conduct of business.

5 (c) Decisions and orders of the board require the affirmative
6 votes of a majority of the members present.

7 (d) The board may conduct meetings by the use of teleconferenc-
8 ing facilities.

9 Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

10 (1) serve as the parole authority for the state;

11 (2) upon receipt of an application, consider the suitability
12 for parole of a prisoner who is eligible for discretionary parole;

13 (3) impose parole conditions on all prisoners released
14 under discretionary or mandatory parole;

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

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

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

21 (7) recommend to the governor or the commissioner changes
22 in the practices of the department and of other departments of the
23 executive branch necessary to facilitate the purposes and practices of
24 parole;

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

27 (9) execute other responsibilities prescribed by law.

28 (b) The board shall adopt regulations under the Administrative
29 Procedure Act (AS 44.62)

1 (1) establishing standards under which the suitability of a
2 prisoner for discretionary parole will be determined;

3 (2) providing for the supervision of parolees and for
4 recommitment of parolees; and

5 (3) governing procedures of the board.

6 Sec. 33.16.070. PROCESS. The board or a member of the board may
7 issue subpoenas and subpoenas duces tecum in the performance of board
8 duties under AS 33.16.060(a). Subpoenas issued under this section are
9 enforceable in Superior Court.

10 Sec. 33.16.080. EXECUTIVE DIRECTOR. The board shall hire an
11 executive director to serve the board in the discharge of its duties.
12 The executive director must have had training and experience in the
13 field of criminal justice. The executive director may employ addi-
14 tional staff to assist the board.

15 Sec. 33.16.090. ELIGIBILITY FOR DISCRETIONARY PAROLE. (a) A
16 prisoner who is serving a term of at least 181 days, and who is not
17 otherwise ineligible under (b) of this section, may, in the discretion
18 of the board, be released on discretionary parole subject to AS 12.-
19 55.086(b), 12.55.115, and AS 33.16.100(c) and (d).

20 (b) A prisoner is not eligible for discretionary parole if the
21 prisoner is serving a presumptive sentence. A presumptive sentence
22 means

23 (1) a sentence imposed under AS 12.55.125(c)(1) -- (4),
24 (d)(1) -- (3), (e)(1) -- (3), or (i)(1) -- (4), including any period
25 of imprisonment imposed after adjustment under AS 12.55.155(a), (c),
26 or (d); or

27 (2) sentences imposed under the statutes listed in (1) of
28 this subsection which are to be served consecutively.

29 (c) In determining the eligibility of a prisoner for

1 discretionary parole, the board may rely upon the verbatim written
2 transcript of the judge's sentencing remarks under AS 12.55.025(a)(1),
3 and any other portion of the sentencing proceeding, as well as the
4 judgment entered by the court.

5 Sec. 33.16.100. GRANTING OF DISCRETIONARY PAROLE. (a) The
6 board may authorize the release of a prisoner on discretionary parole
7 if it determines that

8 (1) the prisoner will live and remain at liberty without
9 violating any laws or conditions imposed by the board;

10 (2) the prisoner's rehabilitation and reintegration into
11 society will be furthered by release on parole;

12 (3) the prisoner will not pose a threat of harm to the
13 public if released on parole; and

14 (4) release of the prisoner on parole would not diminish
15 the seriousness of the crime.

16 (b) If the board finds a change in circumstances in a prisoner's
17 parole release plan submitted under AS 33.16.130(a), or discovers new
18 information concerning a prisoner who has been granted a parole re-
19 lease date, the board may rescind or revise the previously granted
20 parole release date. In reconsidering the release date, the proce-
21 dures set out in AS 33.16.130(b) and (c) must be followed.

22 (c) Except as provided in (d) of this section, a prisoner may
23 not be released on discretionary parole until the prisoner has served
24 at least one-fourth of the period of confinement imposed, or any
25 minimum term set under AS 12.55.115 at sentencing, whichever is great-
26 er.

27 (d) A prisoner who is sentenced for a term under AS 12.55.125(a)
28 or (b) may not be released on discretionary parole until the prisoner
29 has served the mandatory minimum term under AS 12.55.125(a) or (b), at

1 least one-third of the period of confinement imposed, or any minimum
2 term set under AS 12.55.115 at sentencing, whichever is greater.

3 Sec. 33.16.110. PREPAROLE REPORT. In determining whether a
4 prisoner is suitable for discretionary parole, the board shall
5 consider the preparole reports including,

6 (1) the presentence report made to the sentencing court;

7 (2) the recommendations made by the sentencing court, by
8 the prosecuting attorney, by the defense attorney, and any statements
9 made by the victim or the prisoner at sentencing;

10 (3) the prisoner's institutional conduct history while
11 incarcerated;

12 (4) recommendations made by the staff of the correctional
13 facilities in which the prisoner was incarcerated;

14 (5) reports of prior crimes, juvenile histories, and previ-
15 ous experiences of the prisoner on parole or probation;

16 (6) physical, mental, and psychiatric examinations of the
17 prisoner;

18 (7) information submitted by the prisoner, the sentencing
19 court, the victim of the crime, the prosecutor, or other persons
20 having knowledge of the prisoner or the crime;

21 (8) information concerning an unjustified disparity in the
22 sentence imposed on a prisoner in relation to other sentences imposed
23 under similar circumstances; and

24 (9) other relevant information that may be reasonably
25 available.

26 Sec. 33.16.120. RIGHT OF VICTIM TO COMMENT ON PAROLE OF PRISON-
27 ER. (a) Upon request of the victim, notice of a hearing to review or
28 consider discretionary parole for a state prisoner who is convicted of
29 a crime against a person must be sent to the victim of the crime at

1 least 30 days before the scheduled hearing.

2 (b) It is the responsibility of the victim to keep the board
3 apprised of the victim's most current mailing address. The board
4 shall send the notice required under (a) of this section to the last
5 known address of the victim. The address of the victim may not be
6 disclosed to the prisoner or the prisoner's attorney.

7 (c) The victim has a right to comment in writing on the proposed
8 action of the board. Copies of the comments must be provided to the
9 prisoner and the prisoner's attorney before action by the board.

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

12 (e) Upon request of the victim, if the board decides to release
13 on parole a prisoner who is convicted of a crime against a person, the
14 board shall make every reasonable effort to notify the victim before
15 the prisoner's release date. Notification under this subsection must
16 include the expected date of the prisoner's release, the geographic
17 area in which the prisoner is required to reside, and other pertinent
18 information concerning the prisoner's conditions of parole that may
19 affect the victim.

20 (f) Upon request of the victim, if a prisoner is released under
21 AS 33.16.010(c), the board shall make every reasonable effort to
22 notify the victim before the prisoner's release date. Notification
23 under this subsection must include the expected date of the prisoner's
24 release, the geographic area in which the prisoner is required to
25 reside, and other pertinent information concerning the prisoner's
26 conditions of parole that may affect the victim.

27 Sec. 33.16.130. APPLICATION FOR DISCRETIONARY PAROLE. (a) A
28 prisoner eligible for discretionary parole may apply to the board for
29 discretionary parole. As part of the application for parole, the

1 prisoner must submit to the board a parole release plan which includes
2 the prisoner's plan for employment, residence, and other information
3 concerning the prisoner's rehabilitative plans if released on parole.

4 (b) Before the board determines a prisoner's suitability for
5 discretionary parole, the prisoner is entitled to a hearing before the
6 board. The prisoner must be furnished a copy of the preparole reports
7 listed in AS 33.16.110, and permitted access to all records that will
8 be considered by the board in making its decision except those that
9 are made confidential by law. The prisoner may also respond in
10 writing to all materials considered by the board, be present at the
11 hearing, and present evidence to the board.

12 (c) The board shall issue its decision in writing and provide
13 the basis for a denial of discretionary parole. A copy of the deci-
14 sion must be provided to the prisoner.

15 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by
16 the board, setting out the conditions imposed under AS 33.16.150(a)
17 and AS 33.16.150(b), and the date parole custody ends, must be
18 furnished to each prisoner released on discretionary or mandatory
19 parole.

20 Sec. 33.16.150. CONDITIONS OF PAROLE. (a) As a condition of
21 parole, a prisoner released on discretionary or mandatory parole shall
22 refrain from violation of state or federal law or municipal ordinance,
23 which is punishable by imprisonment.

24 (b) The board may require as a condition of discretionary or
25 mandatory parole that a prisoner released on parole

- 26 (1) meet family obligations;
- 27 (2) pursue employment, education, counseling, or training;
- 28 (3) remain within stated geographic limits unless written
29 permission to depart from the stated limits is granted the parolee;

1 (4) report upon release to the parole officer assigned to
2 the parolee;

3 (5) report as required to the parole officer assigned to
4 the parolee;

5 (6) reside at a stated place and notify the board of any
6 change in place of residence;

7 (7) not possess or control firearms or other dangerous
8 weapons;

9 (8) refrain from possessing or consuming alcoholic beverages;
10

11 (9) submit to reasonable searches and seizures by a parole
12 officer, or a peace officer acting under the direction of a parole
13 officer;

14 (10) submit to appropriate medical, mental health, or controlled
15 substance or alcohol examination, treatment, or counseling;

16 (11) submit to periodic examinations designed to detect the
17 use of alcohol or controlled substances;

18 (12) make restitution ordered by the court to a victim of
19 the prisoner's crime, according to a schedule established by the
20 board;

21 (13) refrain from opening, maintaining, or using a checking
22 account or charge account;

23 (14) refrain from entering into a contract other than a
24 prenuptial contract or a marriage contract;

25 (15) refrain from operating a motor vehicle;

26 (16) refrain from entering an establishment where alcoholic
27 beverages are served, sold, or otherwise dispensed;

28 (17) refrain from participating in any other activity or
29 associating with any other person that the board determines is

1 reasonably likely to diminish the rehabilitative goals of parole, or
2 which may endanger the public.

3 (c) Except for a condition imposed under (b) (4), (7), (9), (11)
4 or (12) of this section, the board may generally delegate imposition
5 of special conditions under (b) of this section to the discretion of
6 the parole officer.

7 (d) The board may require a prisoner released on parole to
8 comply with special conditions imposed under (b) of this section for
9 any period up to the maximum term under which the prisoner is subject
10 to the custody and jurisdiction of the board.

11 Sec. 33.16.160. CHANGE IN PAROLE CONDITIONS. (a) Upon appli-
12 cation of the state or the parolee, the board may change a condition
13 of parole previously imposed under AS 33.16.150(b).

14 (b) If the proposed change in conditions of parole is more
15 restrictive of a parolee's liberty, the parolee is entitled to notice
16 of the proposed change, the reasons for the proposed change, a hearing
17 before the board, and an opportunity to respond to the proposed change
18 and to present evidence.

19 (c) Notwithstanding (a) and (b) of this section, when a parole
20 officer determines that an emergency situation requires an immediate
21 change in a condition of parole, or the imposition of a new condition,
22 the parole officer may impose the change or new condition immediately,
23 without a hearing. The parole officer shall immediately notify the
24 board of the imposition of the emergency change or new condition and
25 shall provide a written report setting out the basis for the change or
26 new condition and the nature of the emergency. The effective period
27 of a change in condition or imposition of a new condition under this
28 section may not exceed 15 working days.

29 (d) A condition of parole may be changed, a new condition of

1 parole may be imposed, or a new or changed condition imposed under (c)
2 of this section may be extended by a member of the board or the
3 board's designee if, after a preliminary hearing, an emergency situa-
4 tion is found which requires a change in condition. The effective
5 period of a change in condition under this subsection, the imposition
6 of a new condition under this subsection, or the extension under this
7 subsection of a new or changed condition imposed under (c) of this
8 section may not exceed 90 days.

9 Sec. 33.16.170. CONFIDENTIALITY OF RECORDS AND INFORMATION. The
10 preparole reports listed in AS 33.16.110, and other information ob-
11 tained and used by the board under this chapter, are confidential and
12 may not be disclosed to anyone other than the board, the sentencing
13 judge, the prosecuting and defense attorneys, the prisoner, the pris-
14 oner's attorney, the attorney for the board, the staff of the board,
15 or others granted access to this information under this chapter.

16 Sec. 33.16.180. DUTIES OF THE COMMISSIONER. The commissioner
17 shall

- 18 (1) conduct investigations of prisoners eligible for discre-
19 tionary parole, as requested by the board;
- 20 (2) supervise the conduct of parolees;
- 21 (3) appoint and assign parole officers and personnel;
- 22 (4) provide the board, within 30 days after sentencing,
23 information on a sentenced prisoner who may be eligible for discre-
24 tionary parole under AS 33.16.090;
- 25 (5) notify the board and provide information on a prisoner
26 120 days before the prisoner's mandatory release date, if the prisoner
27 is to be released to mandatory parole; and
- 28 (6) maintain records, files, and accounts as requested by
29 the board.

1 Sec. 33.16.190. PAROLE AND PROBATION OFFICERS. An officer ap-
2 pointed by the commissioner under AS 33.05.020(a) or under AS 33.16.-
3 180, may discharge duties under AS 33.05 or AS 33.16.

4 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in
5 AS 33.16.210, the board retains custody of discretionary and mandatory
6 parolees until the expiration of the maximum term or terms of impris-
7 onment to which the parolee is sentenced.

8 Sec. 33.16.210. DISCHARGE OF PAROLEE. The board may uncondi-
9 tionally discharge a parolee from the jurisdiction and custody of the
10 board after the parolee has completed two years of parole, if the
11 sentence of the parolee does not include any residual period of pro-
12 bation. A parolee with a residual period of probation may, after two
13 years of parole, be discharged by the board to immediately begin
14 serving the residual period of probation.

15 Sec. 33.16.220. REVOCATION OF PAROLE. (a) The board may revoke
16 parole for violation of a state or federal law, a municipal ordinance,
17 or a condition imposed under AS 33.16.150(b).

18 (b) Except as provided in (e) of this section, within 15 working
19 days after the arrest and incarceration of a parolee for violation of
20 a condition of parole, the board or its designee shall hold a prelimi-
21 nary hearing. At the preliminary hearing, the board or its designee
22 shall determine if there is probable cause to believe that the parolee
23 violated the conditions of parole and, when probable cause exists,
24 whether the parolee should be released pending a final revocation
25 hearing. A finding of probable cause at a preliminary hearing in a
26 criminal case is conclusive proof of probable cause that a parole
27 violation occurred.

28 (c) In determining whether a parole violator should be released
29 pending a final revocation hearing, the board or its designee shall

1 consider

2 (1) the likelihood of the parolee's appearance at a final
3 revocation hearing;

4 (2) the seriousness of the alleged violation;

5 (3) whether the parolee presents a danger to the community;
6 and

7 (4) whether the parolee is likely to further violate con-
8 ditions of parole.

9 (d) If the parole violator is released pending a final revoca-
10 tion hearing, the board or its designee may impose additional con-
11 ditions necessary to ensure the parolee's appearance at the final
12 revocation hearing, and to prevent further violation of conditions of
13 parole.

14 (e) A preliminary hearing under (b) of this section is not re-
15 quired if the board holds a final revocation hearing within 20 working
16 days after the parolee's arrest and incarceration.

17 (f) The board shall hold a final revocation hearing no later
18 than 120 days after a parolee's arrest, subject to restrictions aris-
19 ing under AS 33.10.010 and (g) of this section.

20 (g) When the basis for the revocation proceeding is a criminal
21 charge, the parolee may request, or the board upon its own motion may
22 propose that further proceedings on the revocation be delayed. In
23 making the determination to delay further proceedings, the board shall
24 consider prejudice that may result to the parolee's and the state's
25 interests in the pending criminal case and the parolee's decision to
26 delay final revocation proceedings. If good cause to proceed is
27 found, the board shall consult with the attorney general before con-
28 tinuing the final revocation proceeding.

29 (h) At a final revocation hearing, a violation of a condition of

1 parole must be established by a preponderance of the evidence.

2 (i) If, after the final revocation hearing, the board finds that
3 the parolee has violated a condition of parole imposed under AS 33.-
4 16.150(b), or a law or ordinance, the board may revoke all or a por-
5 tion of the parole, or change any condition of parole.

6 Sec. 33.16.230. WAIVER OF HEARING. A prisoner or parolee may
7 waive the right to a hearing provided under AS 33.16.120, 33.16.160,
8 or 33.16.220 by submitting a written waiver to the board.

9 Sec. 33.16.240. ARREST OF A PAROLE VIOLATOR. (a) A parolee may
10 be arrested, with or without a warrant, for a violation of parole.

11 (b) A warrant for the arrest of a parolee who is charged with a
12 violation of parole may be issued by the board, or a member of the
13 board, based on probable cause that a violation has occurred.

14 (c) A parole officer may, without a warrant, arrest a parolee
15 for a violation of parole only if there is danger to the public, if
16 there is a likelihood that the parolee will flee, or if the parolee
17 committed a crime in the presence of the parole officer.

18 (d) If a parolee is arrested without a warrant, the parole
19 officer shall notify the board no later than the working day immedi-
20 ately following the arrest. The parole officer shall, within five
21 working days after the arrest, provide the board with a written report
22 setting out the alleged violation and circumstances that required
23 immediate arrest of the parolee.

24 (e) A parolee arrested for violation of parole is not entitled
25 to bail.

26 (f) Time spent in custody pending revocation proceedings must be
27 credited toward the unexpired term of imprisonment of the parolee;
28 however, the time the parolee was at liberty on parole does not alter
29 the time the parolee was sentenced to serve.

1 Sec. 33.16.250. EXECUTION OF WARRANT FOR ARREST OF PAROLEE. (a)
2 A parole officer, or a peace officer acting at the request of a parole
3 officer, shall execute a warrant issued under AS 33.16.240 by ar-
4 resting the parolee and confining the parolee in a correctional facil-
5 ity designated by the commissioner.

6 (b) The parole officer or peace officer shall immediately notify
7 the board or a member of the board of an arrest under (a) of this
8 section.

9 Sec. 33.16.260. DEFINITIONS. In this chapter

10 (1) "board" means the board of parole;

11 (2) "commissioner" means the commissioner of corrections;

12 (3) "controlled substance" means a drug, substance, or
13 immediate precursor included in the schedules set out in AS 11.71.-
14 140 -- 11.71.190;

15 (4) "crime against a person" has the meaning given in
16 AS 33.30.900;

17 (5) "department" means the Department of Corrections;

18 (6) "discretionary parole" means the release of a prisoner
19 by the board before the expiration of a term, subject to conditions
20 imposed by the board and subject to its custody and jurisdiction;

21 (7) "mandatory parole" means the release of a prisoner who
22 was sentenced to one or more terms of imprisonment exceeding 180 days,
23 for the period of good time credited under AS 33.20, subject to con-
24 ditions imposed by the board and subject to its custody and jurisdic-
25 tion;

26 (8) "parolee" means a prisoner, sentenced to one or more
27 terms of imprisonment exceeding 180 days, released by the board or by
28 operation of law before the expiration of the term, subject to the
29 custody and jurisdiction of the board;

1 (9) "prisoner" means an offender confined for a violation
2 of state law, but does not include a person confined under AS 47;

3 (10) "victim" has the meaning given in AS 12.55.185.

4 * Sec. 3. AS 33.20.040(a) is repealed and reenacted to read:

5 Sec. 33.20.040. RELEASED PRISONER. (a) A prisoner released
6 under AS 33.20.030 must be released on mandatory parole to the custody
7 and jurisdiction of the parole board under AS 33.16, until the expir-
8 ation of the maximum time to which the prisoner was sentenced, if the
9 term or terms of imprisonment exceeded 180 days. However, a prisoner
10 released on mandatory parole may be discharged under AS 33.16.210
11 before the expiration of the term. A prisoner who was sentenced to an
12 imprisonment of 180 days or less must be unconditionally discharged,
13 except as provided in (c) of this section.

14 * Sec. 4. AS 33.20.040 is amended by adding a new subsection to read:

15 (c) If a prisoner's sentence includes a residual period of
16 probation, a prisoner released under AS 33.20.030 must immediately
17 begin serving the residual probationary period, except that if manda-
18 tory parole is required under (a) of this section, serving the proba-
19 tionary period must immediately follow discharge from parole.

20 * Sec. 5. AS 39.50.200(b)(20) is amended to read:

21 (20) [STATE] Board of Parole (AS 33.16.020 [AS 33.15.010]);

22 * Sec. 6. AS 44.66.010(a)(3) is amended to read:

23 (3) [STATE] Board of Parole (AS 33.16.020 [AS 33.15.010])

24 -- June 30, 1989 [1985];

25 * Sec. 7. AS 33.15 is repealed.

26 * Sec. 8. Current members of the board of parole appointed under AS
27 33.15.010, repealed in sec. 7 of this Act, retain their membership on the
28 board of parole under AS 33.16.020 for the remainder of the terms of
29 appointment.

1 * Sec. 9. This Act takes effect January 1, 1986.
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