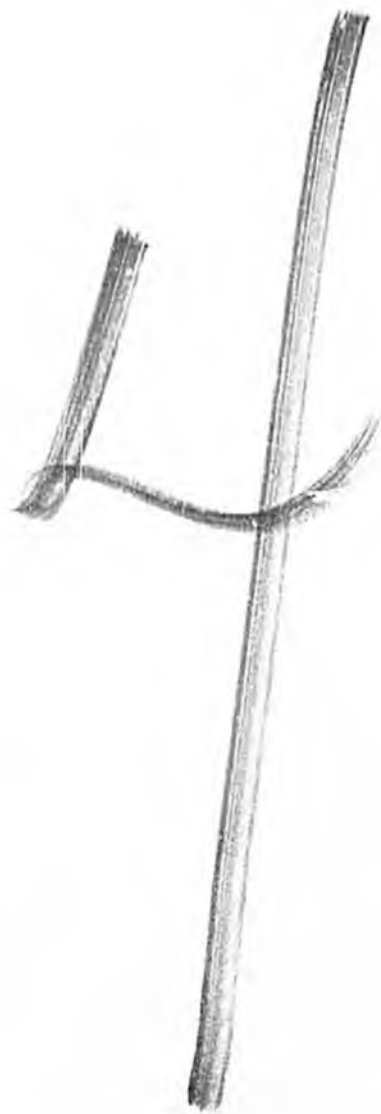


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# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNE 11, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary Jt mtg =	Hess	2/21/85	1:30 pm
" " " " " "	"	2/22/85	1:30 pm
" " " " " "	"	2/25/85	1:30 pm
" " " " " "	"	2/26/85	1:00 pm
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House Judiciary		3/30/85	9 Am
" "		4/2/85	7 pm
" "		4/9/85	1:30 pm
" "		4/9/85	7 pm
" "		4/16/85	7 pm
" "		4/23/85	7 pm
" "		4/24/85	1:30 pm

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 exam nation 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 AS 11.56.340 is repealed and reenacted to read: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

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- (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

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court;

(7) the record of convictions of the prisoner with particular emphasis on crimes specified in AS 11.41;

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

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

(10) other criteria considered appropriate by the commissioner, including experimental evaluation of correctional programs that are consistent with protection of the public and reformation of the prisoner.

Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt regulations governing the granting of prerelease and short-duration furloughs to prisoners to

(1) obtain counseling and treatment for alcohol or drug abuse;

(2) secure or attend vocational training;

(3) obtain medical or psychiatric treatment;

(4) secure or engage in employment;

(5) attend educational institutions;

(6) secure a residence or make other preparation for release;

(7) appear before a group whose purpose is a better understanding of crime or corrections; or

(8) for any other rehabilitative purpose the commissioner determines to be in the interests of the prisoner and the public.

(b) If the commissioner determines with reasonable probability that a prisoner can live under reduced supervision without violating the law or the conditions established for the conduct of the prisoner, the commissioner may grant a furlough after considering

(1) the factors in AS 33.30.091;

(2) violations, if any, by the prisoner of a condition of a prior furlough;

(3) the history, if any, of institutional misconduct by the prisoner; and

(4) the best interests of the prisoner and the public.

Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs established under AS 33.30.101 must include prerelease furloughs designed to facilitate the reintegration of a prisoner into society.

(b) A facility that is specifically adapted to provide a residence outside prison, including a halfway house, group home, or other placement that provides varying levels of restriction and supervision, may be used for a prisoner on a prerelease furlough.

(c) The restrictions and supervision required for a prerelease furlough shall provide safeguards that minimize risk to the public and include, as a minimum,

(1) frequent contact with the prisoner by persons supervising the prisoner;

(2) knowledge by supervisory staff of the location of the prisoner;

(3) periodic reports by supervisory staff to the commissioner on the performance of the prisoner while on furlough; and

(4) a residential setting in which persons supervising a prisoner are obliged to immediately report to the commissioner any violation of a condition set for the prisoner's conduct.

(d) Notwithstanding AS 33.30.101(b), and other eligibility criteria established by the commissioner, that relate to risks to the public posed by the proposed furlough of a prisoner,

(1) a prisoner sentenced to a definite term of imprisonment of more than one year but less than five years is not eligible for a

prerelease furlough until the prisoner has served at least one-third of the sentence;

(2) a prisoner sentenced to a definite term of imprisonment of five years or more is not eligible for a prerelease furlough until the prisoner has served at least one-third of the sentence or is within three years of the release date, whichever is later; and

(3) a prisoner who is denied discretionary parole under AS 33.15.080 may not be granted a prerelease furlough for a period of at least one year following the denial unless the board of parole expressly waives this provision.

(e) A prisoner may request a prerelease furlough under procedures adopted by the commissioner. If the commissioner denies a request for a prerelease furlough, the commissioner shall provide the prisoner with a written explanation of the reasons for the denial.

(f) Upon request of the victim, in the case of a prisoner convicted of a crime against a person, notice of the commissioner's intent to consider the prisoner for a prerelease furlough shall be sent to the victim. The victim may comment in writing on the intent of the commissioner to release the prisoner on prerelease furlough status. The commissioner shall consider the comments of the victim before making a final decision to release a prisoner on a prerelease furlough. If the victim requests notification, the commissioner shall make every reasonable effort to notify the victim of an intent to release the prisoner on a prerelease furlough. The notice must contain the expected date of the prisoner's release, the geographic area in which the prisoner will reside and other pertinent information concerning the prisoner's release that may affect the victim.

Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration furlough is an authorized leave of absence from a correctional

facility for a period not to exceed 12 hours at any one time, except for

(1) family visitations, that may not exceed one week or occur more frequently than once in each two-month period; or

(2) medical treatment, for which the furlough may not last longer than necessary for the treatment.

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

Sec. 33.30.131. PRERELEASE OR SHORT-DURATION FURLOUGH INVOLVING EMPLOYMENT. (a) The commissioner may grant a prerelease or short-duration furlough to permit a prisoner to participate in suitable employment under conditions and at wages that represent the prevailing standard for the area. A prisoner may not participate in employment where an organized labor dispute is in progress.

(b) Unless alternative arrangements are expressly approved by the commissioner, when a prisoner is employed outside a correctional facility as part of a prerelease or short-duration furlough program, the earnings of the prisoner shall be delivered to the commissioner. If an employer transmits the earnings to the commissioner, the employer has no liability to the prisoner for the earnings. The commissioner shall disburse the earnings of the prisoner, in an order determined appropriate, under procedures adopted by the commissioner to

(1) pay for the room, board, and personal expenses of the prisoner in an amount or at a rate determined by the commissioner;

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

(3) reimburse the state for an award made for violent crimes compensation under AS 18.67 arising out of the criminal conduct of the prisoner;

4 (4) pay a civil judgment arising out of the criminal con-  
duct of the prisoner; and

5 (5) support the dependents of the prisoner, and to provide  
6 child support payments as required by AS 09.65.132.

7 (c) After making the disbursements authorized under (b) of this  
8 section, the commissioner shall retain the balance remaining in the  
9 account of the prisoner and give it to the prisoner upon release. The  
10 commissioner may permit the prisoner to draw upon a portion of this  
11 money for other purposes that the commissioner considers appropriate.

12 (d) Only the earnings retained by the commissioner under (c) of  
13 this section are subject to lien, attachment, garnishment, execution,  
14 or other proceedings to encumber money or property.

15 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR  
16 FAILURE TO RETURN. (a) If, after a hearing, a prisoner on a furlough  
17 is found to have violated the conditions established for the prison-  
18 er's conduct, the commissioner may immediately require the return of  
19 the prisoner to actual confinement for a period not to exceed the  
20 balance of the term of imprisonment or initiate disciplinary proceed-  
21 ings authorized by regulations adopted by the commissioner or both.

22 (b) The failure of a prisoner on a furlough to return to the  
23 place of confinement or residence within the time specified by those  
24 having direct supervision over the prisoner is an unlawful evasion  
25 under AS 11.56.340 - 11.56.350.

### 26 ARTICLE 3. GENERAL PROVISIONS.

27 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the  
28 policy of the state that prisoners be productively employed for as  
29 many hours each day as feasible, not to exceed 40 hours a week unless  
30 overtime has been specifically approved by the commissioner.

(b) The commissioner may enter into contracts or cooperative

agreements with any public agency for the performance of conservation projects. The commissioner may enter into a contract with an 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.

(c) The commissioner may direct a prisoner to participate in a type of productive employment listed in (d)(1), and (d)(4)-(6) of this section while the prisoner is confined in a correctional facility. A prisoner who refuses to participate in productive employment when directed under this section is subject to disciplinary sanctions imposed in accordance with regulations adopted by the commissioner.

(d) In this section "productively employed" includes the following kinds of employment:

(1) routine maintenance and support services essential to the operation of a correctional facility;

(2) education including both academic and vocational;

(3) industrial, agricultural, and service activities conducted in accordance with AS 33.32;

(4) public conservation projects including but not limited to forest fire prevention and control, forest and watershed enhancement, recreational area development, construction and maintenance of trails and campsites, fish and game enhancement, soil conservation, and forest watershed revegetation;

(5) renovation, repair or alteration of existing correctional facilities as permitted by AS 44.65.050(d); and

(6) other work performed inside or outside of a correctional facility if the work has 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.

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

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

(b) When a person is sentenced to a term of imprisonment, copies of the pre-sentence report, sentencing report prepared under AS 12.55.025, and any other information of the probation office or of the court that may affect the person's rehabilitation shall be transmitted to the superintendent of the correctional facility in which the prisoner will be confined.

(c) The commissioner shall adopt regulations providing for the 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 or accept compensation from a prisoner for acts performed under this section.

Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE  
CSHB 114(Jud) -14-

CORRECTIONAL INSTITUTIONS. (a) Except as provided in (b) of this section, a prisoner shall have reasonable access to a telephone.

(b) A prisoner who is classified maximum custody, is placed in segregation as punishment for a rule infraction, or is placed in segregation because the prisoner poses a threat to others or to the security of a correctional facility may not have access to a telephone except to communicate with an attorney, to otherwise communicate as provided in Rule 5(b) of the Alaska Rules of Criminal Procedure, or in an emergency as determined appropriate by the commissioner.

(c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the security and orderly administration of the institution and to protect the public, the commissioner may authorize the use of monitoring or recording equipment to listen to a telephone conversation of a prisoner who has been convicted of an offense if a warning is posted by the telephone informing the prisoner that a call may be monitored or recorded. A telephone call made by or to a prisoner who has not been convicted or a telephone call between an attorney and a prisoner may not be monitored or 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 felony is disqualified from serving as a juror until the person's unconditional discharge.

(c) In this section "unconditional discharge" has the meaning given in AS 12.55.185.

Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

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Except as provided in (b) of this section, it is the obligation of each person committed to the custody of the commissioner to provide for the appropriate disposition of all of the person's property remaining at a correctional facility within 90 days of the date of the person's release or transfer from the correction facility.

(b) The commissioner shall provide for the shipment to the receiving facility of a reasonable amount of a prisoner's property, as determined by the commissioner, when the prisoner is transferred from one correctional facility to another.

(c) A prisoner's personal property that remains at a correctional facility after 90 days from the date of the prisoner's release or transfer is considered abandoned, and shall be delivered to the Department of Administration for disposal under AS 44.71.010.

(d) The state is not liable for any loss or damage to personal property properly determined to be abandoned under (c) of this section.

Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who possesses money in an amount greater than that permitted by the commissioner is subject to disciplinary sanctions under regulations adopted by the commissioner.

(b) Money in the possession of a prisoner in an amount greater than that permitted by the commissioner is contraband. If, after a hearing under regulations adopted by the commissioner, a prisoner is found to have been in possession of contraband under this section, the contraband shall be forfeited and deposited into the general fund.

Sec. 33.30.221. FORFEITURE OF PROPERTY. A conviction of a person for a crime does not work a forfeiture of property, except in cases where a forfeiture is expressly provided by law.

Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who

commits a crime against a sentenced prisoner is punishable as if the prisoner was not sentenced and incarcerated.

Sec. 33.30.901. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Corrections;

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

(3) "court" means the supreme court, the court of appeals, the superior court, the district or magistrate court, or a justice or judge of a court;

(4) "crime against a person" means a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330; or a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330;

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

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

(7) "health care provider" means

(A) a physician's assistant or nurse practitioner licensed to practice in the state and working under the direct supervision of a licensed physician or psychiatrist; or

(B) a mental health professional as defined in AS 47.30.915;

(8) "municipality" means a borough or city in the state, or a municipality unified under AS 29.68.240 - 29.68.440, authorized by law to establish a correctional facility;

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

(10) "temporary commitment" means detention of a person for any period under authority of state law, but does not include confinement upon conviction and judgment of a court of this state;

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

\* Sec. 6. AS 33.32.015(b) is amended to read:

(b) The commissioner of corrections may

(1) subject to the Fiscal Procedures Act (AS 37.05), use, purchase, lease, equip, and maintain buildings, machinery, and other equipment, and may purchase materials and enter into contracts, which may be necessary for the correctional industries program;

(2) provide for prisoners to be employed in rendering services and producing articles, materials, and supplies needed by a state agency, a political subdivision of the state, an agency of the federal government, other states or their political subdivisions, or for use by nonprofit organizations;

(3) if the Correctional Industries Commission established in AS 33.32.070 approves, employ prisoners to provide services or 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) authorize a prisoner to engage in productive employment within or outside a correctional facility or enter into a contract

under AS 33.30.151 for the employment of a prisoner if the Correctional Industries Commission determines that the employment will have minimal negative impact on an existing private industry or labor force in the state; and

(5) 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 under AS 33.32.017, if the Correctional Industries Commission determines that the "Free Venture" industry will have minimal negative impact on an existing private industry or labor force in the state.

\* 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 that is operated and managed in total or in part by a private industry or organization within a correctional facility under an agreement entered into under AS 33.32.015(b)(5).

(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.

(e) The private industry or organization shall indemnify, save harmless, and defend the state, its agents, officers, and employees from liability of any kind resulting from injuries or damages sustained by a person or property as a result of the use of the goods or services of the "Free Venture" industry.

\* Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:

(f) The provisions of this section do not apply to "Free Venture" industries established under AS 33.32.017.

\* Sec. 9. AS 39.35.360(e) is amended to read:

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.031 or former AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961, and the effective date of the transfer of the facility to the state.

\* Sec. 10. AS 44.65.050 is amended by adding a new subsection to read:

(d) The Department of Corrections and the Department of Transportation and Public Facilities may enter into agreements under this chapter for the construction, renovation, repair or alteration of state correctional facilities as defined in AS 33.30.301. An agreement entered into under this subsection is limited to an estimated cost of \$100,000 for each project as determined by the terms of the agreement.

\* 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.  
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Edwards  
4/24/85

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

3 CS FOR HOUSE BILL NO. 114 (Judiciary)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

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

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

10 \* Section 1. AS 09.20.020 is amended to read:

11 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-  
12 qualified from serving [TC ACT] as a juror if the person

13 (1) has served as a juror in the state within one year of  
14 the time of examination for service; or

15 (2) has been convicted of a felony for which the person has  
16 not been unconditionally discharged. Unconditional discharge has the  
17 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE  
18 PERSON HAVE NOT BEEN RESTORED].

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

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

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

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

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

1  
2 \* Sec. 3. AS 11.56.350 is repealed and reenacted to read:

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

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

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

12 (b) Unlawful evasion in the second degree is a class B misde-  
13 meanor.

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

15 (d) Notwithstanding a contrary provision of law, a defendant  
16 receiving treatment under (b) of this section may not be released

17 (1) on furlough under AS 33.30.101 - 33.30.131, except for  
18 treatment in a secure setting; or

19 (2) on parole.

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

21 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

27 (2) classify prisoners;

28 (3) for persons committed to the custody of the commis-  
29 sioner, establish programs, including furlough programs that are  
reasonably calculated to

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

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

14 (5) provide necessary psychological or psychiatric treat-  
15 ment if a physician or other health care provider, exercising ordinary  
16 skill and care at the time of observation, concludes that

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

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

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

23 Sec. 33.30.(31). CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.

24 (a) The commissioner shall determine the availability of state cor-  
25 rectional facilities suitable for the detention and confinement of  
26 persons held under authority of state law. If the commissioner deter-  
27 mines that suitable state correctional facilities are not available,  
28 the commissioner may enter into an agreement with a public or private  
29 agency to provide necessary facilities. Correctional facilities  
provided through agreement may be in this state or in another state.

1  
2 The commissioner may not enter into an agreement with an agency unable  
3 to provide a degree of custody, care, and discipline similar to that  
4 required by the laws and regulations of this state.

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

10 (c) An agreement with a private agency to provide necessary  
11 facilities under (a) of this section is subject to the provisions of  
12 the Fiscal Procedures Act (AS 37.05).

13 (d) A person employed outside the facility while confined in a  
14 privately operated correctional facility established under (a) of this  
15 section is subject to the provisions of AS 33.30.131.

16 (e) The commissioner may enter into an agreement with the United  
17 States, another state, a municipality of this state, or another state  
18 agency, to provide a correctional facility for the custody, care, and  
19 discipline of a person held under authority of the law of that juris-  
20 diction.

21 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.

22 (a) If the commissioner determines that it would be in the best  
23 interest of the state, the commissioner may enter into an agreement  
24 with a municipality of the state for the lease of a state correctional  
25 facility or for the use and operation of a state correctional facility  
26 for the joint benefit of the municipality and the state.

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

29 (1) the state has the right to detain or confine a prisoner  
held under authority of law in the correctional facility;

1  
2 (2) the administrator of the correctional facility agrees  
3 to implement an order, concerning a prisoner, issued by a court of the  
4 state;

5 (3) the administrator of the correctional facility shall  
6 comply with the law, and regulations adopted by the commissioner,  
7 relating to the custody, care, and discipline of a prisoner detained  
8 or confined in the correctional facility; and

9 (4) the commissioner may inspect the correctional facility  
10 at any time to determine the conditions under which a prisoner is  
11 detained or confined.

12 (c) The agreement executed by the commissioner under (a) of this  
13 section may require the administrator of the correctional facility to  
14 comply with requirements that the commissioner considers necessary for  
15 the protection of the public or for the quality of care and programs  
16 for prisoners required by this chapter and regulations adopted by the  
17 commissioner.

18 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

19 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted  
20 of an offense against the state shall be committed to the custody of  
21 the commissioner for the term of imprisonment that the court directs.

22 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The  
23 commissioner shall designate the correctional facility to which a  
24 prisoner is to be committed to serve a term of imprisonment or period  
25 of temporary commitment. The commissioner may designate a facility  
26 without regard to whether it is maintained by the state, is located  
27 within the judicial district in which the prisoner was convicted, or  
28 is located in the state.

29 (b) The commissioner may designate an out-of-state facility  
under this section only if the commissioner determines that

1  
2 rehabilitation or treatment of the prisoner will not be substantially  
3 impaired.

4 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

5 (a) Notwithstanding AS 33.30.011(1), the commissioner of public  
6 safety shall provide for the custody, care, and discipline of prison-  
7 ers pending arraignment, commitment by a court to the custody of the  
8 commissioner of corrections, or admission to a state correctional  
9 facility. Except as provided in (c) of this section, the responsibil-  
10 ity for providing necessary medical services for prisoners remains  
11 with the commissioner of corrections under AS 33.30.011(3). The  
12 commissioner of corrections and the commissioner of public safety are  
13 not responsible for providing custody, care, and discipline for a  
14 person detained under AS 47.30.705 or AS 47.37.170, unless the person  
15 is admitted into a state correctional facility.

16 (b) The responsibility of the commissioner of public safety  
17 under (a) of this section does not begin until a prisoner is accepted  
18 into the custody of the commissioner of public safety, or admitted  
19 into a correctional facility or other facility designed for holding  
20 prisoners, and the commissioner of public safety is notified of the  
21 acceptance or admission.

22 (c) Medical services for a prisoner who is unconscious or in  
23 immediate need of medical attention before admission to a correctional  
24 facility or commitment by a court to the custody of the commissioner  
25 of corrections shall be provided by the law enforcement agency having  
26 custody of the prisoner. The law enforcement agency may require the  
27 prisoner to compensate the agency for the cost of medical services  
28 provided for a preexisting medical condition not arising out of the  
29 prisoner's arrest.

Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The

1  
2 commissioner of public safety is responsible for transporting a pris-  
3 oner to and from the court having jurisdiction over the prisoner and  
4 for delivering a prisoner to a correctional facility upon temporary or  
5 final commitment by a court or upon transfer of a prisoner from one  
6 correctional facility to another either inside or outside the state.

7 (b) The commissioner of corrections shall make available return  
8 transportation to the place of arrest for a prisoner who is released  
9 from custody in a state correctional facility.

10 (c) The commissioner of public safety shall make available  
11 return transportation to the place of arrest for a prisoner who is  
12 released from custody before admission to a state correctional facili-  
13 ty.

14 (d) The commissioner of corrections shall adopt regulations  
15 governing the furnishing of transportation, discharge payments, and  
16 clothing to prisoners upon release from a state correctional facility  
17 at any stage of a criminal proceeding.

18 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
19 AS 33.30.111, the commissioner may assign a prisoner committed to the  
20 commissioner's custody to a program established under AS 33.30.011(2)  
21 considering

22 (1) safeguards to the public;  
23 (2) the prospects for the prisoner's rehabilitation;  
24 (3) the availability of program and facility space;  
25 (4) the prospect of future judicial proceedings requiring  
26 the presence of the prisoner;

27 (5) the nature and circumstances of the offense for which  
28 the prisoner was sentenced;

29 (6) the needs of the prisoner as determined by a classi-  
fication committee and any recommendations made by the sentencing

1  
2 court;

3 (7) the record of convictions of the prisoner with particu-  
4 lar emphasis on crimes specified in AS 11.41;

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

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

7 (10) other criteria considered appropriate by the commis-  
8 sioner, including experimental evaluation of correctional programs  
9 that are consistent with protection of the public and reformation of  
10 the prisoner.

11 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt  
12 regulations governing the granting of prerelease and short-duration  
13 furloughs to prisoners to

14 (1) obtain counseling and treatment for alcohol or drug  
15 abuse;

16 (2) secure or attend vocational training;

17 (3) obtain medical or psychiatric treatment;

18 (4) secure or engage in employment;

19 (5) attend educational institutions;

20 (6) secure a residence or make other preparation for re-  
21 lease;

22 (7) appear before a group whose purpose is a better under-  
23 standing of crime or corrections; or

24 (8) for any other rehabilitative purpose the commissioner  
25 determines to be in the interests of the prisoner and the public.

26 (b) If the commissioner determines with reasonable probability  
27 that a prisoner can live under reduced supervision without violating  
28 the law or the conditions established for the conduct of the prisoner,  
29 the commissioner may grant a furlough after considering

(1) the factors in AS 33.30.091;

1  
2 (2) violations, if any, by the prisoner of a condition of a  
3 prior furlough;

4 (3) the history, if any, of institutional misconduct by the  
5 prisoner; and

6 (4) the best interests of the prisoner and the public.

7 Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs  
8 established under AS 33.30.101 must include prerelease furloughs  
9 designed to facilitate the reintegration of a prisoner into society.

10 (b) A facility that is specifically adapted to provide a resi-  
11 dence outside prison, including a halfway house, group home, or other  
12 placement that provides varying levels of restriction and supervision,  
13 may be used for a prisoner on a prerelease furlough.

14 (c) The restrictions and supervision required for a prerelease  
15 furlough shall provide safeguards that minimize risk to the public and  
16 include, as a minimum,

17 (1) frequent contact with the prisoner by persons supervis-  
18 ing the prisoner;

19 (2) knowledge by supervisory staff of the location of the  
20 prisoner;

21 (3) periodic reports by supervisory staff to the commis-  
22 sioner on the performance of the prisoner while on furlough; and

23 (4) a residential setting in which persons supervising a  
24 prisoner are obliged to immediately report to the commissioner any  
25 violation of a condition set for the prisoner's conduct.

26 (d) Notwithstanding AS 33.30.101(b), and other eligibility  
27 criteria established by the commissioner, that relate to risks to the  
28 public posed by the proposed furlough of a prisoner,

29 (1) a prisoner sentenced to a finite term of imprisonment  
of more than one year but less than five years is not eligible for a

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prerelease furlough until the prisoner has served at least one-third of the sentence;

(2) a prisoner sentenced to a definite term of imprisonment of five years or more is not eligible for a prerelease furlough until the prisoner has served at least one-third of the sentence or is within three years of the release date, whichever is later; and

(3) a prisoner who is denied discretionary parole under AS 33.15.080 may not be granted a prerelease furlough for a period of at least one year following the denial unless the board of parole expressly waives this provision.

(e) A prisoner may request a prerelease furlough under procedures adopted by the commissioner. If the commissioner denies a request for a prerelease furlough, the commissioner shall provide the prisoner with a written explanation of the reasons for the denial.

(f) Upon request of the victim, in the case of a prisoner convicted of a crime against a person, notice of the commissioner's intent to consider the prisoner for a prerelease furlough shall be sent to the victim. The victim may comment in writing on the intent of the commissioner to release the prisoner on prerelease furlough status. The commissioner shall consider the comments of the victim before making a final decision to release a prisoner on a prerelease furlough. If the victim requests notification, the commissioner shall make every reasonable effort to notify the victim of an intent to release the prisoner on a prerelease furlough. The notice must contain the expected date of the prisoner's release, the geographic area in which the prisoner will reside and other pertinent information concerning the prisoner's release that may affect the victim.

Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration 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  
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 (c) After making the disbursements authorized under (b) 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 (d) Only the earnings retained by the commissioner under (c) 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, after a hearing, a prisoner on a furlough  
16 is found to have violated the conditions established for the prison-  
17 er's conduct, the commissioner may immediately require the return of  
18 the prisoner to actual confinement for a period not to exceed the  
19 balance of the term of imprisonment or initiate disciplinary proceed-  
20 ings authorized by regulations adopted by the commissioner or both.

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.

(b) The commissioner may enter into contracts or cooperative

1  
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 Correctional  
7 Industries Commission under AS 33.32.015.

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 follow-  
15 ing 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  
private industry or labor force in the state as determined by the

1  
2 Correctional Industries Commission under AS 33.32.015.

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 AS 33.-  
8 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-  
9 tional industries program and to prisoners productively employed in  
10 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.

Sec. 33.30.181. TELEPHONE MONITORING INSIDE CORRECTIONAL

1 INSTITUTIONS. (a) Except as provided in (b) of this section, a  
2 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 or in an emergency as deter-  
8 mined appropriate by the commissioner.

9 (c) Notwithstanding AS 42.20.300 and 42.20.310, the commissioner  
10 may authorize the use of monitoring or recording equipment to listen  
11 to a telephone conversation of a prisoner who has been convicted of an  
12 offense in order to preserve the security and orderly administration  
13 of the institution and to protect the public, if a warning is posted  
14 by the telephone informing the prisoner that a call may be monitored  
15 or recorded. A telephone call made by a prisoner whose case is pend-  
16 ing disposition or a telephone call to an attorney made by any pri-  
17 soner may not be monitored or recorded except when authorized by a  
18 court.

19  
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)  
Except as provided in (b) of this section, it is the obligation of

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each person committed to the custody of the commissioner to provide for the appropriate disposition of all of the person's property remaining at a correctional facility within 90 days of the date of the person's release or transfer from the correction facility.

(b) The commissioner shall provide for the shipment to the receiving facility of a reasonable amount of a prisoner's property, as determined by the commissioner, when the prisoner is transferred from one correctional facility to another.

(c) A prisoner's personal property that remains at a correctional facility after 90 days from the date of the prisoner's release or transfer is considered abandoned, and shall be delivered to the Department of Administration for disposal under AS 44.71.010.

(d) The state is not liable for any loss or damage to personal property properly determined to be abandoned under (c) of this section.

Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who possesses money in an amount greater than that permitted by the commissioner is subject to disciplinary sanctions under regulations adopted by the commissioner.

(b) Money in the possession of a prisoner in an amount greater than that permitted by the commissioner is contraband. If, after a hearing under regulations adopted by the commissioner, a prisoner is found to have been in possession of contraband under this section, the contraband shall be forfeited and deposited into the general fund.

Sec. 33.30.221. FORFEITURE OF PROPERTY. A conviction of a person for a crime does not work a forfeiture of property, except in cases where a forfeiture is expressly provided by law.

Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who commits a crime against a sentenced prisoner is punishable as if the

1  
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;

(8) "municipality" means a borough or city in the state, or

1  
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  
under AS 33.30.151 for the employment of a prisoner if the

1  
2 Correctional Industries Commission determines that the employment will  
3 have minimal negative impact on an existing private industry or labor  
4 force 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,  
multiplied by the total number of hours worked during that week by

1 inmates employed in the "Free Venture" correctional industry.

2 (e) The private industry or organization shall indemnify, save  
3 harmless, and defend the state, its agents, officers, and employees  
4 from liability of any kind resulting from injuries or damages sus-  
5 tained by a person or property as a result of the use of the goods or  
6 services of the "Free Venture" industry.

7  
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,  
33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080,  
CSHB 114(Jud)

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33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.-  
150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225,  
33.30.227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.-  
320, and 33.30.900.

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

COMMITTEE REPORT  
HOUSE

(7)

FURTHER: FINANCE

3/25/55

Date: \_\_\_\_\_

The Committee on JUDICIARY has had HR 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 HR 114 (TUD)  same title
- new title
- and recommends do not 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

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

M.M. Miller

Clocks in

Sund

Petty John

Gruenberg

Taylor

Phillips

CHAIRMAN



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, S. Capitol  
Juneau, Alaska 99811  
(907) 465-3991

April 19, 1985

MEMORANDUM

TO: Representative M. Mike Miller

ATTN: Hayden Kaden

FROM: Katherine Hazard *KH*  
Legislative Analyst

RE: Phone Access for Pretrial Detainees  
Research Request 85-316

You asked for information about the policies in other states for providing phone access to pretrial detainees. We were asked specifically: whether calls are monitored; if so, what provisions are made for calls to the detainee's attorney; and whether there are differences among inmates in privileges to phone access.

I called six states for information: California, Massachusetts, New York, Oregon, Texas and Washington. Except in rare cases, pretrial detainees are kept in municipal or county jails and are not detained in state penitentiaries. Because you inquired about differences in phone access privileges among inmates of varying security classes, I have included some information about phone privileges in state penitentiaries.

Summary

In the six states called, pretrial detainees have access to phones during the day. Their calls are not monitored. In addition, the county jail that I called in Oregon has a special line to the public defenders and to several attorneys that take indigent cases. In all of the states, higher security inmates had less access to phones than permitted pretrial detainees and lower security inmates.

With the exception of the New York City Department of Corrections, all agencies I spoke with had a phone system for prisoner use, whereby no incoming calls are received and all calls, local and long distance, are collect. When the inmate picks up the receiver an operator is on the line and will place only collect calls.

California

Sacramento County Correctional Facilities:

- After booking, pretrial detainees have unrestricted access to phones during the day;
- Calls are generally not monitored. Calls are only monitored if wardens are suspicious of an inmate;
- There is one phone for approximately 12 inmates; and
- There is no separate system for calling attorneys.<sup>1</sup>

California State Penitentiaries:

- Inmates are allowed 1 - 4 calls per week. Phone privileges are granted according to which group the inmate is in. Inmates are grouped according to behavior, security risk and participation in work incentive programs.<sup>2</sup> Inmates in "administrative segregation", as a disciplinary measure, are permitted to call only in the case of an emergency.
- A supervisor will notify the security officer when an inmate is going to call his/her counsel, so that the tower officer will not monitor the call.
- Calls are limited to 15 minutes.

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<sup>1</sup>Lt. Cheris, Chief Deputy of the Sacramento County Correctional Facilities, said that if in monitoring a call the warden overhears a conversation between an inmate and counsel, they will cease monitoring and "disregard what they heard "

<sup>2</sup>Two institutions have phones on the yard. The officer on duty in the yard determines whether or not an inmate can use the phone. Sheila Mahonie of the Department of Corrections, said that several years ago the Department of Corrections lost a court case; they had monitored a phone call without first informing the inmate. The federal court said that this was wire tapping. Since then, phone calls have not been monitored and are not logged. Mail and visits are logged.

Representative Miller  
April 19, 1985  
Page 3

### Massachusetts

Cambridge Facilities: (This institution houses pretrial detainees and convicted inmates.)

- Every cell block has a phone;
- Inmates can use the phone whenever they are out on recreation;
- Phone calls are never monitored or logged; and
- There is approximately one phone per 15 inmates.

Terry McCarthy, of the Cambridge Facilities, said this system is the same everywhere in the state. Inmates have called in bomb scares and phoned the fire department, but he said the new system (with the collect only phones) has worked very well and they haven't had any problems.

### Massachusetts State Penitentiaries:

- The general population of inmates have access to phones during the day. There is no limit to the number of calls they can make.
- Inmates in isolation or disciplinary status are in their cells most of the time; their access to phones is restricted.

### New York

New York City Department of Corrections (this institution houses pre-trial detainees and convicted inmates serving less than a year time.)

#### Pretrial Detainees

- Pretrial detainees have access to phones during all lockout periods (approximately 14 hours per day);
- Each detainee is permitted one free completed local call per day; they must pay for other calls;
- If there is an emergency, the Department of Corrections will pay for the call;
- The department pays for calls to the court or the detainee's attorney; and
- Calls are not monitored. The department does check phone bills to keep records of how many calls are made.

Sentenced prisoners

- Sentenced prisoners are allowed two completed local calls per week;
- They might have access to the phone during other times, but they work most of the day; and
- Calls are not monitored, except that a record is kept of how many calls are made.

New York State Penitentiaries:

- Medium security inmates have access to a phone in the day room and may use it as they wish;
- Maximum security inmates have access to a phone once every two weeks;
- Notice is posted by the phones that the calls may be monitored;<sup>3</sup>
- Generally, phone calls are not monitored; there would need to be a specific reason to monitor a phone call; and
- No record is kept of where calls are made to.<sup>4</sup>

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<sup>3</sup>Chester Clark, Director of Classification and Movement at the Department of Correctional Services, said he did not know whether inmates are told when their calls are being monitored. He said staff would be prohibited from listening to inmates' calls to counsel, but he said that calls to counsel would be very rare. He added that visits are not monitored.

<sup>4</sup>Chester Clark said that with the collect only phones it is possible to get a record of calls from the phone company, but it is very expensive.

Oregon

Multnomah County Jail:

- Pretrial detainees have access to phones from 7:00 a.m. to 11:30 p.m. during the week, except during meals. On weekends, there is access to phones until about 1:30 a.m.;
- Phone calls are not monitored;
- No records are kept of where inmates call;
- High security prisoners are only in the day room about 4 hours per day, so their access to the phones is limited in this manner;
- Most inmates have access to phones during the day;
- There are approximately ten people per phone;
- In addition to these phones, the jail has a special line for calls to public defenders and several law offices that handle indigent defense. On this phone line, the incarcerated person can dial to the public defender or law office. There is no need to place a collect call. Thus inmates who have an attorney who would not accept a collect call can still contact an attorney.

Booking Area

In the booking facility, there are phones in the one-person cells and in the holding area (capacity of ten inmates). In the booking facility area, the ratio of people to phones is about 2 to 1.

Oregon State Penitentiaries:

- An inmate may use the phone every third night.

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### Texas

#### Jail Division of the Houston Police Department:

- Pretrial detainees are guaranteed one phone call;
- There are phones in the "tanks" that may be used any time during the day. At night, they could be used a couple of times, but this is more restricted because the guard needs to allow the person access to the phone;
- Calls are not monitored; and
- Calls can be terminated by the guard from a switch;<sup>5</sup>

#### Texas State Penitentiaries:

- Inmates do not have access to a phone. They may use a phone only in an emergency, such as a death in the family, and even then, the call is placed by the chaplain and the prison staff may or may not permit the inmate to talk on the phone; and
- Inmates cannot call counsel.

### Washington

#### Pierce County Jail:

- Pretrial detainees and other inmates have access to phones from 7 a.m. to 11 p.m.;
- Calls are limited to 30 minutes;
- Phones are not monitored;
- No record is kept of where the call is placed;

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<sup>5</sup>These rules of access to phones apply to convicted as well as pretrial inmates. Pretrial detainees are transferred to the county jails within 24 hours. I was not able to reach a Texas county jail. However, Captain Burnett, Commander of the Jail Division of the Houston Police said that there is access to phones most of the time in the municipal and county jails. Phones are in the day area.

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- There is one phone to approximately ten inmates; and
- High security inmates have access to phones at least one or two times a day.

Washington State Penitentiaries:

- Phone calls are not monitored;
- No record is kept of phone calls;
- Maximum security inmates have access to a phone during the one hour per day when they are out of the cell for exercise.

Please call if you have further questions.

KH

*If there are any questions, call Mike Stark 465-3460*

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 Delendant 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 33.30.091. 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, 590 P.2d 420 (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 vindictive, these decisions are left solely to the discretion of the commissioner. La Barbera v. State, 598 P.2d 947, 949 (Alaska 1979); Good v. State, supra, Brandon v. State, 581 P.2d 1116,

1119 n.11 (Alaska 1978); McGinnis v. Stevens, 543 P.2d 1221, 1237 (Alaska 1975).

This section is consistent with these principles.

Section 33.30.101. Furloughs.

This section sets out the purposes for which a prisoner may be granted a furlough and the factors which must be considered before a furlough is granted. Former AS 33.30.150, 33.30.250 and 33.30.270 described available furlough programs. This section and AS 33.30.111--33.30.141 address furlough programs in a much more comprehensive fashion. The types of furloughs available to prisoners (prerelease and short-duration) and the particular requirements are addressed in AS 33.30.111 and AS 33.30.121 and the commentary to these sections.

Section 33.30.111. Pre-Release Furloughs.

This section describes pre-release furloughs which will be the principal type of furlough granted to a prisoner. A pre-release furlough is an authorized absence from actual confinement for any of the purposes set out in AS 33.30.101.

Under subsection (b), a prisoner on a pre-release furlough will reside in a facility with varying levels of

restriction and supervision depending upon the needs of the prisoner and the risks to the public. This may range from a secure halfway house to furlough in a remote location in the state. Subsection (c) sets out minimum levels of restriction and supervision for all prisoners on a pre-release furlough to monitor the prisoner's performance and adequately protect the public.

Subsection (d) makes clear, in addition to other eligibility criteria established by the commissioner which must relate to risks to the public, that a prisoner is not eligible for a pre-release furlough until at least one third of the sentence has been served (similar to discretionary parole eligibility) or where the sentence is longer than five years when the prisoner is within three years of release. These time requirements reflect the view that the reintegration of a prisoner into society requires a portion of the sentence being served before a prisoner may venture into the community. In addition, subsection (d) precludes granting a prerelease furlough to a prisoner who is denied discretionary parole by the parole board for a period of at least one year following the denial unless the board expressly waives this restriction.

Under subsection (e) a prisoner who is denied a furlough must be provided a written explanation of the reasons for the denial.

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(.), 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. . 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 6-7. AS 33.32.015(b), AS 33.32.017, "Free Venture" Correctional Industries.

Section 6 amends AS 33.32.015 dealing with prisoner employment and correctional industries. AS 33.32.015(b)(4) 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. Such 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 7 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 AS 33.32.015(b) (5) and in which a private industry operates and manages in total or in part a correctional industry within a correctional facility, and provides all machinery, tools, materials, training and marketing of a product in return for which the commissioner provides inmate workers for which the department is paid an hourly 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 principal reason for adopting this section is the recognition of the high costs involved in getting the correctional industries program operating effectively. This greatly increases the potential for long term cost savings to the state both in resources generated by the industries program as well as in a hoped for decline in recidivism due to the rehabilitative benefits derived from the program.

Section 8. AS 33.32.030(f), Marketing of Correctional Industries Products.

This section amends AS 33.32.030 to exempt "Free Venture" industries from the requirements of this statute, which give preference to correctional industries products to state agencies, set prices for industries products, and limit the sale of industries products to a private industry to certain circumstances requiring the approval of the Correctional Industries Commission. It is a recognition of the fact that the

private industry in the "Free Venture" program will do its own marketing, and should have no priority in the marketing of its goods or services to state agencies.

Section 9. AS 39.35.360(e), Earlier Service.

This section is a housekeeping change relating to credited service for correctional employees.

Section 10. AS 44.65.050(d), Restriction on Construction Contracts.

This is a new section which permits the Department of Corrections and the Department of Transportation and Public Facilities to enter into agreements whereby DOTPF may delegate the responsibility for construction, renovation, repair, or alteration of a state correctional facility to the Department of Corrections up to an estimated cost of \$100,000 per project.

Since under present law DOTPF may do this amount of work itself, this section merely allows DOTPF to delegate the work to the Department of Corrections, if the department agrees. This will provide additional productive employment for prisoners (e.g. construction of a greenhouse, etc.) at a substantial cost savings to the state. A number of other departments are provided even greater authority under AS 44.65.050 to

perform construction work on projects related to their respective responsibilities. A limitation of \$100,000 is provided for here in recognition of the desire to minimize any impact on an existing labor force or construction industry.

Section 11. Repeal of various sections contained in AS 33.30.-  
010--33.30.900.

This section repeals Alaska's existing statutory scheme pertaining to correctional facilities and management and control of prisoners.

Section 12. Regulations.

This section makes clear that regulations already in effect are not nullified because they were adopted under a statute which is amended or repealed by this Act unless they are inconsistent or are in conflict with a provision of this Act.

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSHB 114(HESS)

Page 15, line 1, after "TELEPHONE" insert "ACCESS AND"

Page 15, line 2, after the title insert "(a)"

Page 15, after line 9, insert:

"(b) A prisoner charged in a criminal case shall be permitted reasonable access to a telephone for the purpose of case preparation."

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 (HESS)

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 09.10.140, Disabilities for Minority and Incompetency.

This section repeals the provision in former AS 09.-10.140 which tolled the statute of limitations of the time period in which a prisoner could commence a court action which accrued during imprisonment. Because the right to access to the courts is no longer precluded for prisoners under AS 33.-30.191 of this Act, it would give a prisoner an unequal advantage over a normal citizen to retain the tolling of the statute

of limitations. This is more fully explained in the commentary to section 33.30.191.

Section 2. 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 crime 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 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 criminal conviction, disqualification from serving as a juror until the person's unconditional discharge. This amendment is supported by the Alaska Court System.

Sections 3-4. 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 5. 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 6. 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.

Subsection (2) incorporates the responsibilities set out in former AS 33.30.020 (classifying prisoners and establishing programs for their rehabilitation). It 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 (3) 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 (4) 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, 33.30.301 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) 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 (d) 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) also makes clear that the courts have limited power to override the decision of the commissioner to designate a facility for a prisoner who has a pending appeal unless the prisoner would be denied the right to effective assistance of counsel. This subsection is consistent with the Alaska Supreme Court's decision in Padie v. State, 594 P.2d 50,

60-61 (1979), in which the court cautioned Alaska's correctional authorities to keep a convicted defendant at the place of trial a reasonable period of time before transferring him or her in order to consult with counsel regarding an appeal. It is noteworthy that the Department of Corrections entered into a court ordered settlement agreement in Cleary v. Smith, 3AN-81-5274, which precludes transfer of a prisoner who is appealing his or her conviction to a facility outside of Alaska until 30 days after the record on appeal is certified.

Similarly, the decision of the commissioner to designate a facility for a prisoner not appealing his or her conviction may not be halted by a court unless the prisoner can demonstrate an abuse of discretion by the commissioner. This envisions the prisoner exhausting his or her administrative remedies within the department of corrections, and only then demonstrating to a court that there was no reasonable basis supporting the commissioner's decision to designate a particular facility. This is consistent with decisions of the Alaska Supreme Court in Rust v. State, supra, and the Alaska Court of Appeals in Nell v. State, 642 P.2d 1361 (1982). The past few years have resulted in a number of prisoners securing court orders prohibiting their transfer for lengthy periods of time, when the prisoners' concerns could be adequately met at other institutions, and the orders prohibiting transfer impaired the department's ability to efficiently manage and

appropriately classify prisoners. This provision will further make clear the court's limited role in designating facilities for prisoners.

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 or commitment by a court to the custody of the commissioner of corrections, 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 33.30.091. 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, 590 P.2d 420 (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 vindictive, these decisions are left solely to the discretion of the commissioner. La Barbera v. State, 598 P.2d 947, 949 (Alaska 1979); Good v. State, supra, Brandon v. State, 581 P.2d 1116, 1119 n.11 (Alaska 1978); McGinnis v. Stevens, 543 P.2d 1221, 1237 (Alaska 1975).

This section is consistent with these principles.

Section 33.30.101. Furloughs.

This section sets out the purposes for which a prisoner may be granted a furlough and the factors which must be considered before a furlough is granted. Former AS 33.30.150, 33.30.250 and 33.30.260 described available furlough programs. This section and AS 33.30.111--33.30.141 address furlough programs in a much more comprehensive fashion. The types of

furloughs available to prisoners and the particular requirements are addressed in AS 33.30.111 and AS 33.30.121 and the commentary to these sections.

Section 33.30.111. Pre-Release Furloughs.

This section describes pre-release furloughs which will be the principal type of furlough granted to a prisoner. A pre-release furlough is an authorized absence from actual confinement for any of the purposes set out in AS 33.30.101.

Under subsection (b), a prisoner on a pre-release furlough will reside in a facility with varying levels of restriction and supervision depending upon the needs of the prisoner and the risks to the public. This may range from a secure halfway house to furlough in a remote location in the state. Subsection (c) sets out minimum levels of restriction and supervision for all prisoners on a pre-release furlough to monitor the prisoner's performance and adequately protect the public.

Subsection (d) makes clear, in addition to other eligibility criteria established by the commissioner which must relate to risks to the public, that a prisoner is not eligible for a pre-release furlough until at least one third of the sentence has been served (similar to discretionary parole

eligibility) or where the sentence is longer than five years when the prisoner is within three years of release. These time requirements reflect the view that the reintegration of a prisoner into society requires a portion of the sentence being served before a prisoner may venture into the community.

Under subsection (e) a prisoner who is denied a furlough must be provided a written explanation of the reasons for the denial.

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 (identical 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. Pre-Release Furlough Involving Employment.

This section authorizes the commissioner to collect the earnings of a prisoner who is working while on a pre-release 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 and 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. 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 Monitoring Inside Correctional Institutions.

This is a new section which permits the commissioner to authorize the monitoring or recording of inmate telephone calls 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. Prisoner telephone calls to attorneys may not be monitored except when authorized by a court. Despite a provision in the court ordered settlement agreement in Cleary v. Smith,

JAN-81-5274, which prohibits monitoring of telephone calls of pretrial detainees, this section is intended to extend to pretrial detainees as well as to convicted prisoners, as they often pose the greatest risk to the public or to the security and orderly administration of a correctional facility.

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 any crime. In section 2 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.

One reason courts have upheld suspending this civil right was that the statute of limitations of the period in which a prisoner could commence a court action was tolled for the duration of the prisoner's sentence. This tolling was provided for in AS 09.10.140. Thus, while a normal citizen may only have two years to file a tort action from the date the action accrues, a prisoner with a 30 year sentence would have 32 years to file the same action. Rather than continue the constitutionally questionable practice of suspending access of prisoners to the courts under former AS 33.30.310 (which not all courts have done) and correspondingly giving prisoners a much longer time than a normal citizen in which to file a court action, it is determined that the better policy is to allow prisoners the same right to commence a court action as any other citizen and to repeal the provision in AS 09.10.140 which tolled the statute of limitations for prisoners. This has been done by amending AS 09.10.140 in section 1 of this bill.

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 33.30.301. Definitions.

This section defines the terms used in AS 33.30.

Sections 7-8. AS 33.32.015(b), AS 33.32.017, "Free Venture" Correctional Industries.

Section 7 amends AS 33.32.015 dealing with correctional industries to permit the commissioner to enter into a joint cooperative venture with private industry for the employment of prisoners in correctional industries. Such a joint venture is subject to competitive bidding laws, thus providing

an equal opportunity for all interested parties in the private sector.

Section 8 is a new section which permits the commissioner, upon the recommendation of the Correctional Industries Commission, to establish "Free Venture" correctional industries. A "Free Venture" correctional industry is a form of joint venture in which a private industry operates and manages in total or in part a correctional industry within a correctional facility, and provides all machinery, tools, materials, training and marketing of a product in return for which the commissioner provides inmate workers for which the department is paid an hourly 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 principal reason for adopting this section is the recognition of the high costs involved in getting the correctional industries program operating effectively. This greatly increases the potential for long term cost savings to the state both in resources generated by the industries program as well as in a hoped for decline in

recidivism due to the rehabilitative benefits derived from the program.

Section 9. AS 33.32.030(f), Marketing of Correctional Industries Products.

This section amends AS 33.32.030 to exempt "Free Venture" industries from the requirements of this statute, which give preference to correctional industries products to state agencies, set prices for industries products, and limit the sale of industries products to a private industry to certain circumstances requiring the approval of the Correctional Industries Commission. It is a recognition of the fact that the private industry in the "Free Venture" program will do its own marketing, and should have no priority in the marketing of its goods or services to state agencies.

Section 10. AS 39.35.360(e), Earlier Service.

This section is a housekeeping change relating to credited service for correctional employees.

Section 11. AS 44.65.050(d), Restriction on Construction Contracts.

This is a new section which permits the Department of Corrections and the Department of Transportation and Public Facilities to enter into agreements whereby DOTPF may delegate the responsibility for construction, renovation, repair, or alteration of a state correctional facility to the Department of Corrections up to an estimated cost of \$100,000 per project.

Since under present law DOTPF may do this amount of work itself, this section merely allows DOTPF to delegate the work to the Department of Corrections, if the department agrees. This will provide additional productive employment for prisoners (e.g. construction of a greenhouse, etc.) at a substantial cost savings to the state. A number of other departments are provided even greater authority under AS 44.65.050 to perform construction work on projects related to their respective responsibilities. A limitation of \$100,000 is provided for here in recognition of the desire to minimize any impact on an existing labor force or construction industry.

Section 12. Repeal of various sections contained in AS 33.30.-010--33.30.900.

This section repeals Alaska's existing statutory scheme pertaining to correctional facilities and management and control of prisoners.

Section 13. Regulations.

This section makes clear that regulations already in effect are not nullified because they were adopted under a statute which is amended or repealed by this Act unless they are inconsistent or are in conflict with a provision of this Act.

*Petty*

Proposed Amendment to CS for HB 114 (HESS)

- (a) Page 15, line 1 -- change title by adding words "ACCESS AND" after "TELEPHONE" and before "MONITORING".
- (b) Page 15, lines 2-9 -- make this a subsection (b).
- (c) Page 15, line 2 -- add a new subsection (a) as follows:

(a) A prisoner who is classified maximum custody, is placed in segregation as punishment for a rule infraction, or is placed in segregation because the prisoner poses a threat to others or to the security of a correctional facility may not use a telephone except to communicate with an attorney or in an emergency as determined appropriate by the commissioner.

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HB 114

Page 14, following line 23, insert a new subsection to read:

"(c) A person serving a sentence in a correctional facility may not receive state land available under AS 38.05 or AS 38.09 or a loan funded by the state or take any action preparatory to receiving land available under AS 38.05 or AS 38.09 or a loan funded by the state."

Reletter succeeding subsections accordingly.

A M E N D M E N T

Offered in the HOUSE

By Clocksin

TO: CSHB 114 (HESS)

Page 1, line 9, through page 2, line 23, delete all material.

Page 2, line 24, delete "\* Sec. 5." and insert "\* Section 1."

Renumber succeeding bill sections accordingly.

Page 3, line 8, delete "and," and insert "; (3)"

Renumber succeeding paragraphs accordingly.

Page 3, lines 25 - 26, delete "with reasonable medical certainty"

Page 4, line 2, delete "shall" and insert "may"

Page 4, line 11, after ".", insert:

"In accordance with the policy established under AS 33.36.010, the commissioner may not transfer a resident inmate outside of the state if the inmate's continued confinement in the state will better facilitate rehabilitation or treatment."

Page 4, line 20, delete "Earnings of a" and insert "A"

Page 4, line 22, delete "are" and insert "is"

Page 4, line 22, after "AS 33.30.131" insert "and 33.30.250(b)"

Page 5, line 17, delete "reasonable times" and insert "any time"

Page 5, line 29, delete "(a)"

Page 6, line 3, after "." delete all material through page 6, line 13.

Page 8, line 19, after "public" insert "and reformation of the prisoner"

Page 9, line 28, after "prisoner" insert "at all times"

Page 11, line 10, delete "six" and insert "four"

Page 11, line 19, delete "by the employer"

Page 12, line 18, after "ment" through line 20, delete all material and insert:

"and, after a hearing,

(1) confine the prisoner for a period not to exceed the balance of the term of imprisonment; and

(2) initiate disciplinary proceedings authorized by regulations adopted by the commissioner."

Page 13, lines 6 - 7, delete "commissioner" and insert "Department of Labor"

Page 15, lines 1 - 18, delete all material.

Page 16, line 5, after "property" insert "properly"

Page 18, line 10, after "state" insert "determined by the Department of Labor"

Page 18, lines 13 - 14, delete ", or as otherwise necessary to fulfill the purpose of this chapter"

Page 18, line 23, after "." insert "It shall have minimal negative affect on an existing private industry or labor force in the state."

Page 20, line 9:

Delete "and"

Page 20, line 9:

After "33.30.900", insert "and AS 37.05.230(9)"

Slack

Proposed Amendment to CS for HB 114 (HESS)

- (a) Page 7, lines 17-18 - delete "is responsible for furnishing" and in its place add "shall make available"
- (b) Page 7, lines 20-21 - delete "is responsible for furnishing" and in its place add "shall make available"

Proposed Amendment to CS for HB 114 (HESS)

Page 8, line 21 - after "of" and before "furloughs," add  
"prerelease and short-duration"

Proposed Amendment to CS for HB 114 (HESS)

Page 9, line 5 - after "determines" and before "that," add  
"with reasonable probability"

Proposed Amendment to CS for HB 114 (HESS)

Page 10, lines 27-28 - delete "The victim shall keep the commissioner apprised of the victim's current mailing address."

Proposed Amendment to CS for HB 114 (HESS)

Page 11, line 10 - change "six" to "four"

Proposed Amendment to CS for HB 114 (HESS)

- (a) Page 11, line 15 - change title by adding "OR SHORT-DURATION" after "PRERELEASE" and before "FURLOUGH"
- (b) Page 11, line 18 - after "a" and before "furlough," add "prerelease or short-duration"

Stark

Proposed Amendment to CS for HB 114 (HESS)

- (a) Page 15, line 1 -- change title by adding words "ACCESS AND" after "TELEPHONE" and before "MONITORING".
- (b) Page 15, lines 2-9 -- make this a subsection (b).
- (c) Page 15, line 2 -- add a new subsection (a) as follows:

(a) A prisoner who is classified maximum custody, is placed in segregation as punishment for a rule infraction, or is placed in segregation because the prisoner poses a threat to others or to the security of a correctional facility may not use a telephone except to communicate with an attorney or in an emergency as determined appropriate by the commissioner.

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

OFFICE OF THE CHIEF PROSECUTOR  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 28, 1985

Honorable M. Mike Miller  
Honorable Max F. Gruenberg, Jr.  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representatives Miller and Gruenberg:

Enclosed for your information and review is a list of proposed changes to HB 114, An Act Relating to Correctional Facilities, and the Imprisonment and Rehabilitation of Offenders. These suggestions are now offered after careful study and consultation with you or members of your staff. It is our hope that you and the members of your committees will be receptive to these suggested changes.

In addition, we have enclosed an updated Proposed Draft Commentary and Sectional Analysis to HB 114 which incorporates the proposed changes. We emphasize the words "proposed draft", although the proposed language in the commentary is presented as if HB 114 has already been adopted.

We have not yet had the opportunity to incorporate the various restitution center bills into HB 114, so this material is not included in the enclosed documents. We hope to accomplish this in the next few days.

On behalf of both Commissioner Endell and Attorney General Gorsuch, thank you for your continuing support in our efforts to address the problems facing Alaska's correctional system.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: Michael J. Stark  
Michael J. Stark  
Assistant Attorney General

Enclosures

Proposed Changes To HB114

1. (a) Page 5 line 21: add "effective assistance of" between "to" and "counsel"  
(b) Page 5 line 22: change "is" to "may"  
(c) Page 5 line 23: substitute "be enjoined" for "subject to review"
2. Page 6 line 5: add "or AS 47.30.705" after "AS 47.37.170"
3. Page 11 line 12: change the period (.) to a comma (,) and after the comma add "including child support payments as required by AS 09.65.132"
4. (a) Page 14 lines 24-29: take out subsection (c)  
(b) Page 15 line 1: change "(d)" to "(c)"
5. (a) Page 15 line 6: between "property" and "within", add the words "remaining at the correctional facility"  
(b) Page 15 line 8: add a new subsection (b) to read "(b) Notwithstanding (a) of this section, when a prisoner is transferred from one correctional facility to another, the commissioner shall provide for the shipment of a reasonable amount of the prisoner's property as determined appropriate by the commissioner."  
(c) Page 15 line 8: change "(b)" to "(c)"  
(d) Page 15 line 12: change "(c)" to "(d)"
6. Add a new section to read "Sec. 33.30.211. Confiscation of Contraband." (see attached)
7. (a) Page 16 line 6: add a new definition to read "(7) health care provider" means (see attached definition)  
(b) Change all numbering of definitions beginning with "municipality" by increasing the numbering by one.
8. Page 17 line 29: add a new subsection (e) to read "(e) The private industry or organization shall identify, save harmless, and defend the state, its agents, officers and employees from liability of any kind resulting from injuries or damages sustained by any person or property as a result of the use of any of the goods or services of the "Free Venture" industry."

9. Page 18 line 24: change the period (.) to a comma (,) and after the comma add the words: "except to the extent that a regulation is inconsistent or in conflict with a provision of this Act."
10. Add a new section amending AS 09.10.140 (see attached).
11. Add a new section amending AS 09.20.020 (see attached).

Sec. 33.30.211. CONFISCATION OF CONTRABAND. (a) A prisoner who possesses money in an amount greater than that permitted by the commissioner is subject to disciplinary sanctions under regulations adopted by the commissioner.

(b) Money in the possession of a prisoner in an amount greater than that permitted by the commissioner is contraband and must be seized and summarily forfeited to the state. Money forfeited under this section must be deposited into the general fund.

(7) "health care provider" means a physician's assistant or nurse practitioner licensed to practice in the state and working under the direct supervision of a licensed physician or psychiatrist, and a mental health professional as defined in AS 47.30 915;

\* Sec. \_\_\_\_ . AS 09.10.140 is amended to read:

Sec. 09.10.140. DISABILITIES OF MINORITY AND [,] INCOMPETENCY [AND IMPRISONMENT]. If a person entitled to bring an action mentioned in this chapter is at the time the cause of action accrues either (1) under the age of majority [,] or (2) incompetent by reason of mental illness [, OR (3) IMPRISONED ON A CRIMINAL CHARGE, OR IN EXECUTION UNDER SENTENCE OF A COURT FOR A TERM LESS THAN THE PERSON'S NATURAL LIFE], the time of the disability is not a part of the time limited for the commencement of the action. But the period within which the action may be brought is not extended in any case longer than two years after the disability ceases.

\* Sec. \_\_\_\_ AS 09.20.020 is amended to read:

Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is disqualified from serving [TO ACT] as a juror if the person

(1) has served as a juror in the state within one year of the time of examination for service; or

(2) has been convicted of a crime [FELONY AND THE CIVIL RIGHTS OF THE PERSON HAVE NOT BEEN RESTORED.] , until the person's unconditional discharge. Unconditional discharge has the meaning given in AS 12.55.185.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 27, 1985

REPLY TO:

OFFICE OF THE CHIEF PROSECUTOR  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

Honorable Max F. Gruenberg  
Chairman, Health, Education  
and Social Services Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: Letter of Intent (Commentary  
and Sectional Analysis) to  
CS for HB 114 (HESS)

Dear Chairman Gruenberg,

In reviewing CS for HB 114 (HESS), I noticed that legislative counsel moved what was previously section 6 of the bill to section 12, and sections 7-12, have now become sections 6-11. Unfortunately, the commentary and sectional analysis, which the House HESS Committee approved as a letter of intent for this bill and which appeared in the House Journal Supplement No. 35 on March 25, 1985, does not reflect this change.

Enclosed is a revised commentary and sectional analysis which does reflect this housekeeping change. I request that you please notify whomever publishes the House Journal of this change so it may be reflected in the Journal.

Thank you for your attention on this matter.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: Michael J. Stark  
Michael J. Stark  
Assistant Attorney General

MJS/ab-43

Enclosure

cc: ✓ Honorable Mike Miller (w/enclosure)  
Chairman House Judiciary Committee

Roger Endell, Commissioner (w/enclosure)  
Department of Corrections

LAW OFFICES OF  
TIMOTHY H. STEARNS  
415 L STREET  
ANCHORAGE, ALASKA 99501  
(907) 276-2828

April 16, 1985

Don Clocksin  
Alaska State Legislature  
Pouch W (MS 3100)  
Juneau, AK 99811

Dear Don:

The following is a list proposed amendments to House Bill 114; Sec.1 AS09.10.140.

Subjected imprisoned on a misdemeanor charge.

2. Proposed Amendment

Imprisoned on a criminal charge serving a sentence of one year or less.

3. Proposed Amendment

ADD "Provided that the person has access to attorney at state expense" to the existing propose change.

4. Proposed Amendment

Add the above language and the following language; or has \$5,000 or more in the inmates account"

5. Proposed Amendment

Sec.2

1. Proposed Amendment

Change to: been convicted of a crime involving moral turpitude.

2. Proposed Amendment

Been convicted of a crime involving moral turpitude

Article 1, Sec. 33.30.011

1. Proposed amendment

ADD "Safety, subsistence, proper government, treatment, rehabilitation and reformation".

33.30.011

2. Proposed Amendment

Classify prisoners based upon validated security-custody criteria and guidelines and classify prisoners for treatment and reformation using validated tests and guidelines.

3. Proposed Amendment

"Classify prisoners to maximize reformation opportunities using validated tests and procedures consistent with the security of the institution and to ensure that prisoners are housed in the least restrictive setting necessary for the reformation of the prisoner, protection of the public, and ~~the safety of the institution~~"  
(Remainder of this section was lost in printing)

33.30.021

(first part of this lost in printing)

3. Proposed Amendment

Change to: "Provide necessary psychological or psychiatric treatment if a physician or other health care provider reasonably believes that such treatment may heed in the refrimation or rehabilitation of the prisoners"

AS33.30.031

Sub A, Line 10 after agency ADD "or person".

2. Proposed Amendment

On line 11, after last word, ADD, "accept the commissioner should not transfer a resident inmate outside of the State if that inmate's time in Alaska may better facilitate a rehabilitation or treatment period"

3. Proposed amendment

On line 13, after the care, ADD "Treatment, or rehabilitation, refrimation, safety".

AS33.0.031 B

1. Proposed Amendment

T The Commissioner should have the discretion of placing any appropriate prisoner in the program at some state of his/her confinement.

2. Proposed Amendment

Line 17, after the word misdemeanor, ADD "or Class A Felony"

AS33.30.031 C

1. Proposed Amendment

Prisoners confined in a privately operated correctional facility or a publicly operated correctional facility may not be used as strike breakers scab labor otherwise be permitted to work where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed."

MORE TO FOLLOW



# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

Contents - HB 114  
March 29, 1985

CSHB 114

HB 114

3/27/85 Cover Letter from Mike Stark revision of commentary  
revised Commentary and Sectional Analysis

2/25/85 Cover Letter from Mike Stark with proposed changes  
Proposed Changes to HB 114

Proposed Draft Commentary and Sectional Analysis

1/23/85 Governor's letter with two fiscal notes:

0- Administration

0- Dept of Corrections

Sectional Analysis

2/8/85 Letter from Karla Forsythe re jury disqualification

1/4/85 Letter from Glennwood Center

Blurb from Anchorage Chamber of Commerce Crime Commission

3/1/85 letter from Bob Cochrane

Bob Cochran

SUBJECT: Recommendations for  
House Bill 104 and  
House Bill 114

HOUSE BILL 104

We are in favor of the overall language of House Bill (HB) 104. The only portion of this bill that we are not in agreement with is on page 1, line 20, where the word [EARNED] will be deleted. If this is allowed to happen, offenders will be granted their good time in a block allotment. We feel the block allotment is necessary for the administrative purpose of determining a release date for an offender. If disciplinary action is deemed necessary, Corrections will have the ability to absorb all or part of this block allotment, as the bill reads now. We feel the offender should only forfeit good time earned to date for a disciplinary action, and that the word [EARNED] should remain in its present context.

HOUSE BILL 114

From the onset of the reading of HB 114, we were confused as to whether this was a correctional bill or a criminal law bill. The bill starts out with a section dealing with AS 11.56.340 Unlawful Evasion in the First Degree. This extends from page 1, line 9 through page 2, line 3. We are in agreement with this revision in the Statutes.

Please note the following findings:

Page 2, line 4 - 8. Indicates language that would be needed is AS 33.30 was repealed and reenacted.

Page 2, line 9 -  
Page 16, line 15 Indicates language of reenactment of AS 33.30.

The language of Alaska Statutes 33.30 has been defined and challenged many times in our high courts. Those challenges have refined the working ability of these sections of the statutes to allow Corrections to administer their day to day operations of their correctional facilities. This statute for the most part, is mandated by the Alaska Constitution, Article 1, Sec. 12, which reads in part "Penal administration shall be based on the principle of reformation and upon the need for protecting the public."

A recent court decision dealing with language of Article 1, Sec. 12, states "that prisoners should at some point during their incarceration, be allowed reformation".

The language of HB 114 limits or deletes most of the language that is mandated by the Constitution and that has been defined by the recent court. We then turned to the economic standpoint of HB 114. Millions of dollars have been exhausted in the drafting, implementing, and litigating of the current statute. If we allow HB 114 to be introduced into law as it is written, the people of Alaska are subject once more to footing the bill of implementing and litigating the new statute to meet constitutional standards. HB 114 is not without merit. There is language within it that is badly needed to clarify some of the existing problems of the daily operation of our correctional facilities.

The following is a cross-section of HB 114 vs AS 33.30 as it appears in its present form. What we will try to establish is what will be encompassed into the statute and what will be deleted as to the section headings.

HB 114	AS 33.30
33.30.011 Duties of Commissioner	33.30.010 Commissioner to control and manage state prison facilities 33.30.020 Commissioner to establish and administer prison facilities 33.30.040 Duty of Commissioner to provide prison facilities 33.30.050 Commissioner to provide medical services
33.30.021 Regulations	33.30.030 Commissioner to adopt rules and regulations
33.30.031 Contract for confinement and care of prisoners	33.30.060 Commissioner may contract for confinement and care of prisoners 33.30.070 Commissioner may contract to furnish facilities to the United States or political subdivisions of this state
33.30.041 Lease of correctional facility to municipality	33.30.080 Commissioner may lease state prison facility to political subdivision
33.30.051 Commitment to Commissioner	33.30.090 Commitment to Commissioner
33.30.061 Commissioner to designate facility	33.30.100 Commissioner to designate facility

HB 114	AS 33.30
NONE	33.30.110 Commissioner may designate facility for service of temporary commitments or sentences of one year or less
NONE	33.30.120 Transfer of Prisoners
33.30.071 Responsibility of prisoners pending commitment	33.30.130 Duties of the Commissioner of Public Safety to provide for persons pending commitment
NONE	33.30.140 Place of service of sentence by prisoner
NONE (limited in part to 33.30.121(1))	33.30.150 Visitation privileges
33.30.081 Transportation of prisoners	33.30.160 Transportation of prisoners
NONE	33.30.170 Expenses of prisoners to be paid by the department
NONE (limited to 33.30.161(a))	33.30.180 Copy of commitment
NONE (limited to 33.30.161(b)(c))	33.30.185 Transmission of criminal records and data to place of imprisonment
33.30.091 Designation of programs	NONE
33.30.101 Furloughs	33.30.250 Work furloughs 33.30.260 Rehabilitation furloughs Note: These in part only
33.30.111 Pre-release furloughs	Same as above
33.30.121 Short duration furloughs	NONE (limited in part to 33.30.150)

HB 114	AS 33.30
33.30.131 Pre-release furloughs involving employment	33.30.250(d) Work furloughs
NONE	33.30.250 Work furloughs
NONE	33.30.260 Rehabilitation furloughs or (limited in part to 33.30.101)
33.30.141 Effect of violation of furlough conditions or failure to return	NONE
33.30.151 Employment of prison inmates	33.30.225 Employment of inmates
33.30.156 Pay of prison inmates	33.30.227 Pay of prison inmates
33.30.161 Transmission of documents	33.30.185 Transmission of criminal records and data to place of imprisonment
33.30.171 Superintendent of correctional facility may administer oath and acknowledgements	33.30.190 Keeper of prison facility may administer oaths and acknowledgements
33.30.181 Telephone monitoring inside correctional institutions	NONE
33.30.191 Effect of judgement of conviction on civil rights	NONE
NONE	33.30.290 Forfeiture of property upon conviction and lien for fine and costs
NONE	33.30.300 Crime against convict in penitentiary
NONE	33.30.310 Effect of judgement of imprisonment in penitentiary

HB 114	AS 33.30
NONE	33.30.320 Effect of sentence to life imprisonment
33.30.201 Disposal of abandoned personal property	NONE
33.30.301 Definitions	33.30.900 Definitions

As the cross-section has indicated, there are many sections of the current statute that would not be addressed in HB 114.

Therefore, it is the opinion of this committee not to endorse this portion of HB 114.

Page 16, line 16 -  
page 18, line 3

The language of these portions deal with upgrading the correctional industrial program.

We are in favor of this language.

Page 10, line 4 -

We have no objections

Page 18, line 14-21

Sets limits as to agreement to be entered upon regarding construction, renovation, repair of state correctional facilities.

We are not in favor of this language. The estimated costs of \$100,000 per project is too high to allow corrections an open checkbook.

Page 18, line 22-24

Regulations

We do not agree with this language.

End of recommendations

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 114 (HESS)  
 Title: "An Act relating to  
 correctional facilities..."  
 Sponsor: Rules Committee  
 Requestor: House Judiciary  
 Date of Request: 03/29/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		[99.4]				
200 TRAVEL		[37.1]				
300 CONTRACTUAL		[3,099.1]	210.0	220.5	231.5	243.1
400 SUPPLIES		[7.0]				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>3,242.6</b>	<b>210.0</b>	<b>220.5</b>	<b>231.5</b>	<b>243.1</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		[3,242.6]	210.0	220.5	231.5	243.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>3,242.6</b>	<b>210.0</b>	<b>220.5</b>	<b>231.5</b>	<b>243.1</b>

POSITIONS:

FULL-TIME		[2.0]				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie Phone: 465-4349  
 Division: Administrative Services Date: 03/29/85  
 Approved by Commissioner: Robert J. Sundberg Date: \_\_\_\_\_  
 Agency: 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 (HESS)

I. Alaska State Troopers BRU

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.

Increased costs to Public Safety:

	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Contractual Services	200.0	210.0	220.5	231.5	243.1

II. DPS Administration BRU

Under the proposed Section 33.30.031, the Department of Public Safety would no longer be responsible for local contract jail facilities in seventeen communities, and funding for these contracts would be transferred to the Department of Corrections. The Special Assistant to the Commissioner of Public Safety and a Clerk-Typist III would also be transferred to Corrections with corresponding associated costs.

The Special Assistant has expertise in the area of administration of small jail facilities and is responsible for contract negotiation and monitoring, including on-site inspections. The Special Assistant's other functions will be reassigned to other staff personnel within the Department of Public Safety. The Cleary decision (facility and program standards) could affect the Department of Corrections ability to contract with small rural jails. Present short-term confinement service must be maintained.

Funding transferred from Public Safety to Corrections:

Personal Services *	[99.4]
Travel	[37.1]
Contractual Services	[3,299.1]
Commodities	[7.0]
TOTAL	<u>[3,442.6]</u>

\* 2 positions, Special Assistant to the Commissioner (PCN 12-0085) and Clerk-Typist III (PCN 12-4205)

III. Net Fiscal Impact on the Department of Public Safety:

	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Alaska State Troopers	200.0	210.0	220.5	231.5	243.1
DPS Administration	[3,442.6]				
TOTAL	[3,442.6]	210.0	220.5	231.5	243.1

TO: JUDICIARY COMMITTEE

MARCH 1, 1985

HESS COMMITTEE

FINANCE COMMITTEE

FROM: BOB COCHRANE  
1211 Friendly Lane #3  
Anchorage, Alaska 99504

RE: HOUSE BILL 114  
By the Rules Committee by  
Request of the Governor

The overall Bill is acceptable and much needed as a house cleaning measure in dealing with budgetary problems. There is some items within that need to be reviewed. They are as follows:

Page 3, lines 1-4 -- the word "necessary" in line 1, needs to be clarified.

Page 7, line 29 -- should read "that are consistent with protection of the public and reformation of the prisoner."

Page 9, lines 17-20 -- this entire section should be eliminated due to the conflict with placing prisoners with limited amounts of time to serve in pre-release or restitution centers, i.e. misdemeanor with a sentence of one year or less is not eligible for these programs if this portion is allowed to stand. It will defeat our whole intention of creating pre-release centers.

Page 9-10, lines 1 of Page 9, and lines 1-14 of Page 10. This whole section should be eliminated. While we recognize the rights of our victims, this portion of the Bill will allow the victim to have information to the whereabouts of the prisoner and may create a situation where a new crime can be committed by the victim, their relatives, or friends, or by the prisoner. I believe the intention of giving victims their proper rights is covered at the first portion of the Justice system. The prisoner has served his time to repay society for his deviant behavior. Our high courts have recognized that arbitrary, vindictive, or capricious attitudes are not acceptable, and this portion of the Bill is just that.

Page 10, line 18 -- should read 7 days and not "one week".

Page 10, lines 27-29 and page 11, line 1 -- It is hard enough for our felons to obtain employment without their employers being subjected to extra administrative duties concerning paychecks. Our release centers already have devised adequate policies in dealing with prisoners paychecks.

Page 11, lines 18-20 (c) -- This whole portion is not needed.

Page 13, line 13-14 -- It indicates that gratuities that made available for prisoners who work while incarcerated, is at the pleasure of the legislature. I feel that prisoners assist the State of Alaska in employment costs for those positions that they would otherwise have to go to the private sector for. This portion should be withdrawn from this section.

Page 14, line 8-16 -- This whole section is vague and should be rewritten to explain the exact authorization and who will administrate and oversee this type of monitoring.