

TELECONFERENCE  
WITH INMATES  
AT LEMON CREEK  
CORRECTIONAL  
CENTER, 3-4-85

5 TAPES OF INMATES  
DISCUSSING WHAT  
THEY WANT TO SAY  
TO LEGISLATORS AT  
TELECONFERENCE—  
KEPT AT END OF  
1985-86 HOUSE  
JUDICIARY TAPES.



SOUTH EAST REGIONAL RESOURCE CENTER  
S.E.R.R.C. INC.

218 Front St. Juneau, Alaska 99801  
Phone: 586-6806

M E M O R A N D U M

TO: Representative Mike Miller, Chairman  
House Judiciary Committee

FROM: Rosalee T. Walker, Coordinator *Rosalee*  
Juneau Corrections Adult Education

RE: Teleconference

The South East Regional Resource Center is the vendor to provide adult education classes for the inmates at the Lemon Creek Correctional Center in Juneau. Government and law is one of the topics that is addressed in the required Life Skills classes. As one of the activities in our class this year, the students wanted to study some of the legislative bills that have been introduced during this legislative session.

We really appreciate your giving the participants the opportunity to express their comments on the bills that are being considered.

In the selection of the participants we tried to reflect a broad spectrum, with regard to age, length of incarceration, gender, and seriousness of offense. Participants have been given the option to choose whether or not to identify themselves. For the record, however, the institution can provide any data that is requested.

Your positive consideration of this activity is very important to all of us who are involved. Again, we thank you.

cc: Mary Jo Welch, Education Coordinator - LCCC  
Mark L. Hanson, Director, Juneau Adult Education  
Mike Mosher, Department of Education



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March 6, 1985

MAR 13 1985

Representative Mike Miller  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Miller:

We would like to thank you for your support and cooperation with the inmate's presentation to the legislators.

The inmates who were involved worked very hard and meticulous on their presentation. It certainly meant a lot to them that these legislators took the time out of their busy schedule to come listen to their critique and comments of current legislation.

We hope there will be more of these cooperative and positive endeavors towards our efforts to develop positive skills. Again, thanks for your support.

Enclosed you will find a prepared summary of their presentation, as well as their individual thank you letters.

Enclosure

Sincerely,

*Janet Underwood*

Janet Underwood  
ABE/GED Instructor

*Rosalee T. Walker*

Rosalee Walker  
ABE/GED Coordinator

cc: Mark Hanson  
Margaret Pugh

Satellite Center 444 Dock Street, Ketchikan, Alaska 99901  
Phone (907) 225-5250

AGENDA

OPENING STATEMENT  
(MICHAEL L. HUTCHINSON)

HB-187 INMATE EDUCATIONAL ADVISORY COMMITTEE.  
1) ROBERT GREENE  
2) DEBRA ATHAWAL

PRESUMPTIVE SENTENCING SUMMATION  
Prepared by:  
1) Chuck Cudmore-speaker  
2) Ted Palmer

HB-85 CORRECTIONAL RESTITUTIONAL CENTERS  
Prepared by:  
1) Michael L. Hutchinson-speaker  
2) Bill Bidwell

HB-104 COMPUTATION, FORFEITURE, RESTORATION OF STATUTORY GOOD TIME  
Prepared by:  
1) Michael L. Hutchinson-speaker

HB-114 CORRECTIONAL FACILITIES-IMPRISONMENT-REHABILITATION  
OF OFFENDERS  
Prepared by: Michael L. Hutchinson & Paul Staal  
1) Paul Staal-speaker

HB-119 CAPITAL PUNISHMENT. (moral statement)  
Prepared by:  
1) Paul Staal-speaker

HB-141 DISCRETIONARY AND MANDATORY PAROLE  
Prepared by:  
1) Don Huitv-speaker

CLOSING STATEMENT  
(Michael L. Hutchinson)

PRESUMPTIVE SENTENCING SUMMATION  
Presentation-Charles Cudmore

This presentation is strictly for the purpose of giving some of our ideas and thoughts on the now existing presumptive sentencing statute. It will cover some of the problems that we as inmates see them and also a couple of suggestions that may or may not be beneficial in solving these problem areas.

There is no reason to go into all of the facets of the presumptive law, so we will try to direct our comments to specific problems.

First and most important is the problem of motivation. We feel that when a person is sentenced to a definite period of incarceration without the possibility of parole, then he or she loses all initiative to program themselves. If a person knows that the corrections system has to release them after they serve  $3/4$  of their sentence, then they have no reason to try to program themselves. On the other hand, should that same person know that he will be eligible for parole, then he will make an effort to start a program early in his sentence so as to be eligible for the parole board.

On the subject of overcrowding, we see more persons entering the system and less leaving. This is due primarily to the presumptive sentencing.

There are still various interpretations as to how the law was intended by the trial judges. One judge may view a particular statute differently than another.

It has not satisfied the intent of the law. It was intended to correct the disparity of sentences handed down by different judges. As in the Langton case, we see that these disparities still exist.

It takes the power and discretion out of the hands of the judges and puts it into the hands of the prosecutors. It will depend on how the DA wishes to charge a person to decide how much time that person will serve.

All of the bills we will be discussing today deal with the possibility of changing the allowance for statutory good time to be given an inmate. If this is in fact passed, the the presumptive statutes will of necessity have to be changed to coincide with that bill. If not, then it is conceivable that persons under presumptive sentencing could end up serving time that was awarded as good time.

the individual instution.

- 4.) Vocational programs to be offered to both male and female inmates at all coed instutions.
- 5.) Coed parcipitation avilable in all programs offered in all instutions throughout the state.

EDUCATIONAL BILL PRESENTATION

by Debrah Athwal/Robert Green

- I. To take the power of education from corrections and give it back to the University of Alaska.
2. And make this advisory committee something that will remain, and not come up for a dismissal. Make this a continuous-ever lasting committee.
  - a.) Custody level affects programs eligibility, with regard to security.
  - b.) This institutions majority population is of a close custody level.
3. Prison access to the Advisory Committee so that the inmates can voice their concerns.
4. Staggered term for purpose of a continual board (until successors are appointed) so that the intention of the committee is carried through.
5. Place a neutral Director over that Advisory Board.

In conclusion to the above statement, we agree to this advisory committee being set up so that consideration will be given to Inmate Degree Programs, Vocational Programs, and Prison Industries with regard to the inmates concerns. :

PRESENT EDUCATION BILL

House Bill #187

- I. Governor appoints 5 members of his choice to the board.
  - 1.) No previous experience necessary.
  - 2.) No prison administrators or inmates may preside on this board.
    - A.) Civillians only?
  - 3.) Board only to last the length of the present Governor's appointed office term of 4 years.
  - 4.) New board with new administrators every 4 years, ie, new programs also or cancellation of existing ones?
- II. Existing Prison Educational Programs at L.C.C.C.
  - 1.) Basic G.E.D. program
  - 2.) First and second level college classes
    - A.) No degree or certification program for the college classes offered at the present time.
- III.) Documented Educational Programs which are non-existent
  - 1.) Vocational
    - A.) Automotive Mechanics
  - 2.) Greenhouse (Physically existent bldg.) No student classes
    - A.) Horticulture
    - B.) Botany
    - C.) Soil Irrigation and Cultivation
    - D.) Fertilization
  - 3.) Barber School
  - 4.) Cooking Instruction in kitchen
  - 5.) 2 year college education program

In addition to the 5 board members nominated by the Governor we would like to recommend the following amendments:

I. An independant Certified individual with some kind of a degree in one of the following catagories:

- 1.) Humanaties
- 2.) Sociology
- 3.) Psychology

A.) Someone who is not a board member, nor in any way affiliated with the department of corrections, or the University of Alaska, to act as a director for both the educational programs and also for the funding appropriated for these programs and also the 5 members of the board.

II. Duties of the director to include the following:

- 1;) Quartely funding audits for both the educational and Vocational training programs to insure monies alegated for these programs are spent appropiately.
- 2.) The director to make themselfe available on a monthly basis to both the inmates, Institutional Staff, Educational Staff and the board members in case of any problems which may arise with either any of the programs or monies appropriated for these programs.
- 3.) To make sure that a list of programs that are filed as being offered at L.C.C.C. actually do in fact exist.

III. Security ratings for inmates at L.C.C.C.

- 1.) L.C.C.C. is a Multi Level Close Maxium Security Instution.
  - a.) How custody rating affects the inmates educational opportunities.
  - b.) Programs to be geared for a "close" security population to be able to offer them to approximately 70-80% of the population at L.C.C.C.

IV. Suggested programs for inmates at L.C.C.C.

- 1.) 4 year college program
- 2.) Certification and Degrees awarded for college courses completed

As for solutions to the problem, we see only two major ways to correct it:

1. Make parole eligibility for those persons sentenced under the presumptive law.
2. Do away with the presumptives.

#### QUESTIONS

1. What is the status of presumptive sentencing right now?
2. What provisions for change are being considered?
3. What alternatives are being considered and how will they be implemented?
4. How would any changes enacted now affect those of us now under presumptive sentence? Would these changes be retroactive ?

THANK YOU

HB- 85 CORRECTIONAL RESTITUTIONAL CENTERS  
Presentation-Michael L. Hutchinson, Bill Bidwell

If we were to assume the intention of this house bill, we would have to assume that it is designed to solve the overcrowding of the present correctional system. The wording and structure of this bill doesn't fulfill the assumed intention. Our major problem with this bill is the eligibility requirements.

Pge 1, line 15.

Should read, "term of imprisonment that was imposed," instead of could have been imposed.

Somewhere in this bill there should be a ceiling limitation of 36 months to participate in this program. Once a person has served a portion of his sentence, and has a remaining sentence of a tentative release date of 36 months, and upon meeting other eligibility requirements, would therefor also be eligible for this program.

Pge. 1, line 21.

States "to determine eligibility, the court shall hold a hearing at which the defendant and the prosecution are allowed to present evidence.

This should also include in some manner that a defendant be afforded the opportunity for re-evaluation, for example, at approximate six (6) month intervals to determine defendants eligibility. This hearing should be held upon the request of the defendant or possibly upon the request of the commissioner of corrections.

Pge. 1, line 26.

Presently states "(1) must be employable and agree to secure employment.

We would like to add -(1) agree to secure employment within a time period of 30 to 60 days.

Pge. 2, line 1.

States (3) may not have been convicted of an offense involving violence or the use of force.

Anyone, irregardless of the nature of offense, should be afforded the opportunity to participate in a program such as this one, if the said defendant shows ability and worthyness in a sincere manner. This also reaffirms the requested re-evaluation time period of every six (6) months.

Pge. 2, line 16.

should state-"not to exceed the maximum term of imprisonment that was imposed"--in place of could have been imposed.

HB-85 cont.

This bill should also state that the inmate receives the standard amount of statutory good time.

1. This may be taken as being an understood factor. We would like it clarified so that no-one would have to assume this fact; by stating that the inmate will receive statutory good time.

For inmates presently incarcerated to the care of the Division of Corrections, an eligibility hearing should be granted by the Division of Corrections as outlined by departmental procedures and regulations. Again we are re-affirming a re-evaluation hearing at approximate six (6) month intervals.

In conclusion: these are our comments and suggestions regarding House Bill 85, thank you.

HB-104 COMPUTATION, FORFEITURE, RESTORATION OF STATUTORY GOOD TIME  
Presentation-Michael L. Hutchinson

I am addressing house bill 104-"an act relating to computation, forfeiture and restoration of statutory good time."

Our group as a whole have concluded that this bill is of our agreement--except for one deletion that we feel needs to be made.

Pge. 1, line 12.

Against the state should be deleted from this line.

Our reasoning behind this is so that city offenders will also receive good time. By leaving "against the state" in this house bill, you are denying municipality offenders the right to earn good time that is being afforded state offenders. This good time should include them as well.

In conclusion--we agree to the nature of this house bill, with regard to our concerns to Pge. 1, line 12. Thank You.

HB-114 CORRECTIONAL FACILITIES-IMPRISONMENT-REHABILITATION  
OF OFFENDERS

Presented by: Paul Staal

Prepared by: Michael L. Hutchinson & Paul Staal

Pge. 3 line 21.

Correctional facilities provided through agreement may be in this state or in another state.

We feel and believe strongly that ("may be in") should be deleted and replaced with the wording (within). Also, ("or in another state") should be deleted.

It has been outwardly voiced by the federal <sup>burial</sup> of prisons that they no longer wish to retain Alaska state prisoners. In fact this state is supposedly in the process of making arrangements to bring back all out of state Alaska prisoners to our own state. We may be a young state, but we are a state with many resources. Our state should carry the burden of maintaining the incarceration of our own Alaska state prisoners. Therefor we would not be sending prisoners out of state; so agreements or contracts with out of state agencies would be unnecessary.

Pge. 4, lines 5-9 sect. (d).

This whole section should be deleted from this bill, and for the same reasoning as outlined above.

Pge. 5, lines 14-17.

Should also be deleted from this bill for the same above listed reasoning. (Alaska prisoners should remain in Alaska.)

The state of Alaska is attempting to shift the burdon of Alaska to other states with regard to the housing of Alaska state prisoners. Alaska isn't facing their responsibilities. The federal government has already stated that they do not wish to enter into agreements with the state:of Alaska in order to house Alaska prisoners.

Pge. 5, lines 18-24.

This section needs to be reworded to contain the following factors insome form so that the placement of a prisoner in a facility for a term of incarceration is taken into consideration.

The sentencing judge should designate a deŕendant in or to a correctional region that is beneficial to the defenđant with regards to security and programs. Apparent factors are family/community ties, programing and pending court proceedings.

HB-114 cont.

Pge. 7, line 10.

States, "the commissioner may assign a prisoner committed to the commissioners' custody to any programs established...

We prefer that on line 10, that "may assign" be deleted, and on line 11, delete the words "to any". Therefor the sentence, as we would like it to read would be; the commissioner will make available to a prisoner committed to the commissioners custody, programs established under...

Pge. 7, line 13.

We would like "and prisoners" added so that it reads: (1) safeguards to the public and prisoners.

We can see that the first concern is to protect the public, but we feel the prisoner should also be a factor with regard to employment. Safty is a factor to any employment.

Pge. 8, line 1.

Where it deals with furloughs, the subject of furloughs.

I would like to make a comment in regard to this section. I would like to stress that furloughs and programs should not be limited to just non-violent offenders. Violent crime offenders with a showing of good faith should be allowed the same oppurtunities for programing and furloughs as non-violent offenders.

Pge. 9, Victims right to comment.

We wish to basicly bring our concerns co your attention to this issue.

We agree that this is a good idea, what we want to stress is that we don't want so much weight given to the victims'opinions that it hinders the rehabilitation or rehabilitative process of the defender. The opinions should be considered--considered with respect to the rest of the information provided for deceision making factors.

Pge. 10, line 18-19. family visitations

Instead of a six month time limitation period, we would like it to read every 3 or 4 months. On a quarterly basis.

To be eligible for such furloughs, the individual prisoner would have had to shown the division of corrections that they have earned or need such a furlough. We would also like to see that the Commissioner have this authority to decide the eligibility of an offender to participate in a furlough. Commissioners assessment according to the individuals need.

HB-cont.

Pge. 11, line 3.

An addition to this section for clarrification purposes, giving a percentage of funds for the purpose of making personal purchases.

For example, our now existing in-house commissary and special commissary, which is done through policies and procedures already established by the commissioner of corrections.

Pge. 13, line 4.

States-The commissioner may direct a prisoner to participate in a type of productive employment...

We would prefer that the words "may direct" be deleted and additions added so that this sentence would read as: (c) The commissioner will make available to a prisoner the oppurtunity to participate in a type of productive employment...

Pge 13, lines 12-13. Pay of Prison Inmates.

States at a rate determined by the commissioner.

There is a desparity in the wages between Prison Industries and in house work. We feel that it should be considered on an equal basis. If the work the prisoner is employed at, is essential to the smooth operation of the institution in a constructive manner, the pay should be equivelant to that of Prison Industry and outside work programs. Some consideration in comparison should be made.

For example--a kitchen job position receives the maximum amount of pay at 40 cents an hour. Which works out to three dollars a day. Prison Industries lowest pay is 65 cents an hour. Their highest pay is 1.15 an hour. Right off the bat you have a 25 cent difference between the lowest pay of a prison industry employee and the highest pay of a kitchen employee. I find this hard to understand, especially since the kitchen position is somuch more essential to the operation of an institution.

In conclusion on house bill 114, we have presented our objective opinions, we hope that they are beneficial and worthy of your consideration. Thank you.

HB-119 CAPITOL PUNISHMENT  
Prepared by: Paul Staal

We would like to go on record as being opposed to this bill.

1. The finality of a death sentence leaves no room for error.
2. It has not been shown to be a deterrent.
3. It is not cost effective.
4. The poor and minorities will be the ones to suffer such punishment because of lack of legal counsel.

It is felt that revenge is revenge, and revenge brutalizes the society, if it is okay to kill in this instance, then there will be other instances where citizens may feel its okay.

In conclusion, we feel it is bad to kill, whether it be the society or an individual in that society.

HOUSE BILL # 141

by Donald Huitt

Hello,

My name is Donald Huitt and I am addressing House Bill #141. House Bill #141 is well written, we agree with this bill partically. There is only one specific amendment that is nedded in House Bill #141, in order for us to be in full agreement.

The amendment we would make in this bill would be on page #4, lines 15 and 16, section B.

There it reads;

"A prisioner is not eligilbe for discretionary parole if the prisioner is serving a presumptive sentence."

We believe that the amendment should in fact read;

"A prisioner is eligible for discretionary parole if the prisioner is serving a presumptive sentence, presumptive sentenced prisioners would be eligible for descretionary parole after serving 50% of their time, including good time incurred."

We believe that the adoption of this bill would:

1. Lessen the cost to the state
2. Reduce overcrowding
3. Allow judges to be more discretionary
4. Allow the prisoner a ray of hope for the future and thus give him the initiative to program himself.

Thank you

Bill Bidwell  
PO Box 309  
Juneau, Alaska  
99801

March 6, 1985

Sir:

I wish to take this time to thank you for giving your valuable time to those of us at the Lemon Creek Correctional Center. It was a most rewarding and informative session.

Those of us in the institutions throughout the state have a lot of ideas which we feel would help iron out some of the problems in both the corrections system and the legal system. It is therefore quite an occasion when we get to personally present these ideas to a group of legislators.

I hope that you and your associates in the legislature can and will benefit from our ideas and thoughts. We would also appreciate the opportunity to voice our ideas and thoughts again to you in the future.

Again, please accept my heartfelt thanks and appreciation for the opportunity which you afforded us.

Sincerely,

*Bill Bidwell*

Bill Bidwell

March 5, 1985

Dear Sir:

I wish to take this opportunity to personally thank you for the time which you took out of your busy schedule and afforded to those of us at the Lemon Creek Correctional Center. I know that your time is very limited while the legislature is in session and very much appreciate the amount which you all gave to us so that we could voice our opinions on some of the issues before you.

I felt that the presentation went very well and would only hope that another chance can be afforded those of us in the correctional system to help in any way possible.

We would very much appreciate the chance to voice our opinions on other issues. Perhaps, as was mentioned at the meeting, we could make a practice of allowing inmates the option of making a comment or two on issues which affect us. We would try to do this in a sincere, intelligent manner.

Again, I wish to thank you for giving your valuable time to hear what those of us in the correctional system have to say.

Sincerely,

*Charles Cudmore*  
Charles Cudmore

Representative Mike Miller  
Pouch V  
Juneau, Alaska 99801

Dear Mr. Miller,

I would like to thank you for taking the time out of your busy schedule to come out to L.C.C.C. and meet with us on Monday, March 4, 1985.

I was very proud to be able to be a part of what I considered to be a very important step forward in the relations between the correctional institutions and the state officials for the State of Alaska.

Very Respectfully Yours,

  
Ms. Debrah Athwal

AGENDA

OPENING STATEMENT  
(MICHAEL L. HUTCHINSON)

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2) DEBRA ATHAWAL

PRESUMPTIVE SENTENCING SUMMATION  
Prepared by:  
1) Chuck Cudmore-speaker  
2) Ted Palmer

*Mike's  
correction  
bills*

HB-85 CORRECTIONAL RESTITUTIONAL CENTERS  
Prepared by:  
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2) Bill Bidwell

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HB-141 DISCRETIONARY AND MANDATORY PAROLE  
Prepared by:  
1) Don Huitt-speaker

CLOSING STATEMENT  
(Michael L. Hutchinson)

*Presumptive Sentencing:*  
1. Takes away initiative to program themselves.  
2. still lots of disparity between convicts/sentences  
3. make presumptive people eligible for parole  
4. Questions: status of presumptive sentencing?  
How effect present convicts

*CAPITAL PUNISHMENT -  
oppose  
"murder's murder"*

*OVERCROWDING: Due presumptive  
drunk driving*

Introduced: 2/13/85  
Referred: Health, Education &  
Social Services, Judiciary and  
Finance

*INMATES:*  
1. open communication of  
2. Transferability of  
3. Gen to all  
4. set up a  
5. will. random visit to  
program visit to  
Loren Cook, send  
hand.  
1. PUT BACK in University  
2. Put in prison accept  
3. Put  
4. New  
5. 4-5 year college prof.

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 187

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Inmate Education Advisory  
7 Council."

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

9 \* Section 1. AS 33.30 is amended by adding new sections to read:

10 Sec. 33.30.400. INMATE EDUCATION ADVISORY COUNCIL ESTABLISHED.

11 There is created in the Department of Corrections the Inmate Education  
12 Advisory Council to coordinate inmate education services.

13 Sec. 33.30.410. MEMBERSHIP AND TERM OF OFFICE. The council  
14 consists of five members who are appointed by and serve at the plea-  
15 sure of the governor.

16 Sec. 33.30.420. COMPENSATION. Members of the council receive no  
17 compensation for their services but are entitled to per diem and  
18 travel allowances authorized by law for other boards and commissions.

19 Sec. 33.30.430. DUTIES. The council shall

20 (1) research and make recommendations regarding inmate  
21 education in the state's prisons;

22 (2) coordinate a system of inmate education that is based  
23 on the individual inmate's education level;

24 (3) hire the staff necessary to carry out the provisions of  
25 AS 33.30.400 - 33.30.440; and

26 (4) perform all acts necessary to carry out the purposes of  
27 AS 33.30.400 - 33.30.440.

28 Sec. 33.30.440. DEFINITION. In AS 33.30.400 - 33.30.440

29 "council" means the Inmate Education Advisory Council.

Introduced: 1/18/85  
Referred: Health, Education & Social  
Services, Judiciary and Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

HOUSE BILL NO. 85

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 restitution cen-  
7 ters."

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

9 \* Section 1. AS 12.55.015 is amended by adding a new subsection to  
10 read:

11 (e) If the defendant is ordered to serve a definite term of  
12 imprisonment, the court may recommend that the defendant serve all or  
13 part of the term in a correctional restitution center. The term of  
14 service in a correctional restitution center may not exceed the maxi-  
15 mum term of imprisonment that <sup>was imposed</sup> could have been imposed. }  
*INMATES !*

16 \* Sec. 2. AS 12.55 is amended by adding a new section to read:

17 Sec. 12.55.021. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL  
18 RESTITUTION CENTER. (a) The court may not allow a defendant to serve  
19 time in a correctional restitution center unless the court specific-  
20 ally finds that the defendant meets the eligibility requirements imposed  
21 by this section. To determine eligibility, the court shall hold a  
22 hearing at which the defendant and the prosecution are allowed to  
23 present evidence.

24 (b) To be eligible to serve time in a correctional restitution  
25 center, the defendant

26 (1) must be employable and agree to secure employment <sup>within 30, 60 days</sup> and  
27 obey the rules of the center;

28 (2) must be an individual who otherwise would have been  
29 sentenced to imprisonment in a prison facility;

Should receive standard  
statutory good file,

want:  
6 mos. re-evaluations

says anyone w/ ability  
and success should  
be eligible

1 (3) may not have been convicted of an offense involving  
2 violence or the use of force, as defined in AS 11.81.900, and may not  
3 have a history of violence; in this section, violence or the use of  
4 force includes possession of a dangerous instrument, as defined in  
5 AS 11.81.900, in the commission of an offense, whether or not the  
6 dangerous instrument was actually used; and

7 (4) may not have been convicted of an offense under AS 11.-  
8 41.410 - 11.41.470 or an offense in the state or another jurisdiction  
9 having elements substantially identical to an offense under AS 11.41.-  
10 410 - 11.41.470.

11 \* Sec. 3. AS 12.55.086(a) is amended to read:

12 (a) When the imposition of sentence is suspended under AS 12.-  
13 55.085, the court may require, as a special condition of probation,  
14 that the defendant serve a definite term of continuous or periodic im-  
15 prisonment, including imprisonment in a correctional restitution  
16 center, not to exceed the maximum term of imprisonment that could have  
17 been imposed.

18 \* Sec. 4. AS 33.30 is amended by adding new sections to read:

19 ARTICLE 3A. CORRECTIONAL RESTITUTION CENTERS.

20 Sec. 33.30.282. CORRECTIONAL RESTITUTION CENTERS. (a) The  
21 commissioner shall establish correctional restitution centers in the  
22 state. The purpose of the centers is to provide certain nonviolent  
23 offenders with rehabilitation through community service and employment  
24 while protecting the community through partial incarceration of the  
25 offender.

26 (b) The commissioner shall adopt regulations setting standards  
27 for the operation of the centers including

28 (1) requirements that the centers be secure and in compli-  
29 ance with state and local safety laws;

1           (2) standards for disciplinary rules to be imposed on  
2 prisoners confined to the centers;

3           (3) standards for the granting of emergency absence to  
4 prisoners confined to the centers; and

5           (4) standards for periodic review of the performance of  
6 prisoners confined to the centers.

7           Sec. 33.30.284. COMMUNITY ADVISORY COMMITTEES. The commissioner  
8 shall appoint a community advisory committee for each center, to  
9 consist of five members of the community in which the center is locat-  
10 ed. The committee shall consider complaints made against prisoners  
11 confined to a center and shall make recommendations to the commis-  
12 sioner.

13           Sec. 33.30.286. DISTRIBUTION OF PRISONER'S EARNINGS. The em-  
14 ployer of a prisoner confined to a center shall pay the prisoner's  
15 earnings to the commissioner. The commissioner shall deposit the  
16 earnings in a fund to be paid to the prisoner upon release from the  
17 center after making and distributing deductions for

18           (1) an amount determined by the commissioner for the cost  
19 of the housing, food, and clothing provided to the prisoner;

20           (2) necessary travel expenses to and from work and other  
21 incidental expenses of the prisoner;

22           (3) an amount determined by the court to be necessary for  
23 the support of the prisoner's dependents; and

24           (4) an amount determined by the court to be necessary for  
25 restitution to the victims of an offense committed by the prisoner.

26           Sec. 33.30.288. CONFINEMENT TO THE CENTER. (a) A prisoner  
27 shall be confined to the center at all times except while

28           (1) at work and traveling to and from work;

29           (2) attending and traveling to and from a community service

1 project approved by the commissioner; and

2 (3) on emergency absence.

3 (b) The commissioner may grant an emergency absence to a prison-  
4 er confined to a center to obtain medical treatment or diagnosis.

5 \* Sec. 5. AS 33.30.900 is amended by adding a new paragraph to read:

6 (10) "center" means a correctional restitution center.

Introduced: 1/23/85  
Referred: Health, Education &  
Social Services and Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 104

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 computation, forfeiture and  
7 restoration of statutory good time."

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

9 \* Section 1. AS 33.20.010 is repealed and reenacted to read:

10 Sec. 33.20.010. COMPUTATION OF GOOD TIME. Notwithstanding  
11 AS 12.55.125(f)(3) and (g)(3), a prisoner convicted of an offense  
12 [against the state] and sentenced to a term of imprisonment exceeding  
13 three days, who follows the rules of the correctional facility in  
14 which the prisoner is confined, is entitled to a deduction of one-  
15 third from the term of imprisonment rounded off to the nearest day.

16 \* Sec. 2. AS 33.20.050 is amended to read:

17 Sec. 33.20.050. FORFEITURE FOR OFFENSE. If during the term of  
18 imprisonment a prisoner commits an offense or violates the rules of  
19 the correctional facility [INSTITUTION], all or any part of the pris-  
20 oner's [EARNED] good time may be forfeited under regulations adopted  
21 by the commissioner of corrections.

22 \* Sec. 3. AS 33.20.060 is amended to read:

23 Sec. 33.20.060. RESTORATION OF LOST GOOD TIME. The commissioner  
24 of corrections may restore forfeited or lost good time or such portion  
25 of it which the commissioner considers proper if the prisoner demon-  
26 strates progress in faithfully observing the rules of the correctional  
27 facility in which the prisoner is confined [UPON RECOMMENDATION OF THE  
28 KEEPER OR PERSON IN CHARGE OF THE PENAL OR CORRECTIONAL INSTITUTION IN  
29 WHICH THE PRISONER IS INCARCERATED].

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

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Good bill.*

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

1 the time authorized by those having direct supervision.

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

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

5 (d) Notwithstanding any contrary provision of law, a defendant  
6 receiving treatment under (b) of this section may not be released on  
7 either furlough under AS 33.30.101 -- 33.30.131, except for treatment  
8 in a secure setting, or parole.

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

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

11 CHAPTER 30. CORRECTIONAL [PRISON] FACILITIES AND  
12 PROGRAMS [PRISONERS].

13 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

15 (1) establish, maintain, operate, and control correctional  
16 facilities suitable for the custody, care, and discipline of persons  
17 charged or convicted of offenses against the state or held under  
18 authority of state law;

19 (2) classify prisoners and, for persons committed to the  
20 custody of the commissioner, establish programs, including furlough  
21 programs that are reasonably calculated to

22 (A) protect the public;

23 (B) maintain health;

24 (C) create or improve occupational skills;

25 (D) enhance educational qualifications;

26 (E) support court-ordered restitution; and

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

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

5 (4) provide necessary psychological or psychiatric treat-  
6 ment if a physician or other health care provider, exercising ordinary  
7 skill and care at the time of observation, concludes with reasonable  
8 medical certainty that

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

11 (B) the potential for harm to the prisoner by reason  
12 of delay or denial of care would be substantial.

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

15 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.

16 (a) The commissioner shall determine the availability of state cor-  
17 rectional facilities suitable for the detention and confinement of  
18 persons held under authority of state law. If the commissioner deter-  
19 mines that suitable state correctional facilities are not available,  
20 the commissioner may enter into an agreement with a public or private  
21 agency to provide necessary facilities. Correctional facilities  
22 provided through agreement may be in this state or in another state.  
23 The commissioner may not enter into an agreement with an agency unable  
24 to provide a degree of custody, care, and discipline similar to that  
25 required by the laws of this state.

26 (b) The commissioner may not enter into an agreement with a  
27 privately operated correctional facility under (a) of this section  
28 unless the purpose is to involve prisoners in a program established  
29 under AS 33.30.091 -- 33.30.131 or to confine prisoners convicted of a

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1 misdemeanor.

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

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

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

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

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

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

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

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

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

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

7 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

25 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

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

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1 section, the responsibility for providing necessary medical services  
2 for prisoners remains with the commissioner of corrections under  
3 AS 33.30.011(3). The commissioner of corrections and the commissioner  
4 of public safety are not responsible for providing custody, care, and  
5 discipline for a person detained under AS 47.37.170, unless the person  
6 is admitted into a state correctional facility.

7 (b) The responsibility of the commissioner of public safety  
8 under (a) of this section does not begin until a prisoner is accepted  
9 into the custody of the commissioner of public safety, or admitted  
10 into a correctional facility or other facility designed for holding  
11 prisoners, and the commissioner of public safety is notified of the  
12 acceptance or admission.

13 (c) Medical services for a prisoner who is unconscious or in  
14 immediate need of medical attention before admission to a correctional  
15 facility or commitment by a court to the custody of the commissioner  
16 of corrections must be provided by the law enforcement agency having  
17 custody of the prisoner. The law enforcement agency may require the  
18 prisoner to compensate the agency for the cost of medical services  
19 provided for a pre-existing medical condition not arising out of the  
20 prisoner's arrest.

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

27 (b) The commissioner of corrections is responsible for furnish-  
28 ing return transportation to the place of arrest for a prisoner held  
29 in a state correctional facility, upon release from custody.

1 (c) The commissioner of public safety is responsible for fur-  
2 nishing return transportation to the place of arrest for a prisoner  
3 who is released from custody before admission to a state correctional  
4 facility.

5 (d) The commissioner of corrections shall adopt regulations  
6 governing the furnishing of transportation, discharge payments, and  
7 clothing to prisoners upon release from a state correctional institu-  
8 tion at any stage of a criminal proceeding.

9 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
10 AS 33.30.111, the commissioner may ~~assign~~ a prisoner committed to the  
11 commissioner's custody to any program established under AS 33.30.  
12 011(2) considering

- 13 (1) safeguards to the public *and prisoners*
- 14 (2) the prospects for the prisoner's rehabilitation;
- 15 (3) the availability of program and facility space;
- 16 (4) the prospect of future judicial proceedings requiring  
17 the presence of the prisoner;
- 18 (5) the nature and circumstances of the offense for which  
19 the prisoner was sentenced;
- 20 (6) the needs of the prisoner as determined by a classi-  
21 fication committee and any recommendations made by the sentencing  
22 court;
- 23 (7) the record of convictions of the prisoner with particu-  
24 lar emphasis on crimes specified in AS 11.41;
- 25 (8) the use of drugs or alcohol by the prisoner;
- 26 (9) the length of the prisoner's sentence; and
- 27 (10) other criteria considered appropriate by the commis-  
28 sioner, including experimental evaluation of correctional programs  
29 that are consistent with protection of the public.

*Don't limit to non-violent offenders*

1           Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt  
2 regulations governing the granting of furloughs to prisoners to

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

5           (2) secure or attend vocational training;

6           (3) obtain medical or psychiatric treatment;

7           (4) secure or engage in employment;

8           (5) attend educational institutions;

9           (6) secure a residence or make other preparation for re-  
10 lease;

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

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

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

19           (1) the factors in AS 33.30.091;

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

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

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

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

28           (b) A facility that is specifically adapted to provide a resi-  
29 dence outside prison, including a halfway house, group home, or other

1 placement which provides varying levels of restriction and super-  
2 vision, may be used for a prisoner on a pre-release furlough.

3 (c) The restrictions and supervision required for a pre-release  
4 furlough must provide safeguards that minimize risk to the public and  
5 include, as a minimum,

6 (1) frequent contact with the prisoner by persons supervis-  
7 ing the prisoner;

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

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

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

15 (d) Notwithstanding AS 33.30.101(b) and other eligibility crite-  
16 ria established by the commissioner,

17 (1) a prisoner sentenced to a definite term of imprisonment  
18 of more than one year but less than five years is not eligible for a  
19 pre-release furlough until the prisoner has served at least one-third  
20 of the sentence;

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

25 (e) A prisoner may request a pre-release furlough under proce-  
26 dures adopted by the commissioner. If the commissioner denies a  
27 request for a pre-release furlough, the commissioner shall provide the  
28 prisoner with a written explanation of the reasons for the denial.

29 (f) Upon request of the victim, in the case of a prisoner

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1 convicted of a crime against a person, notice of the commissioner's  
2 intent to consider the prisoner for a pre-release furlough must be  
3 sent to the victim. The victim may comment in writing on the intent  
4 of the commissioner to release the prisoner on pre-release furlough  
5 status. The commissioner shall consider the comments of the victim  
6 before making a final decision to release a prisoner on a pre-release  
7 furlough. The victim shall keep the commissioner apprised of the  
8 victim's current mailing address. If the victim requests notification,  
9 the commissioner shall make every reasonable effort to notify  
10 the victim of an intent to release the prisoner on a pre-release  
11 furlough. The notice must contain the expected date of the prisoner's  
12 release, the geographic area in which the prisoner will reside and  
13 other pertinent information concerning the prisoner's release that may  
14 affect the victim.

15 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration  
16 furlough is an authorized leave of absence from a correctional facility  
17 for a period not to exceed 12 hours at any one time, except for

18 (1) family visitations, which may not exceed one week nor  
19 occur more frequently than once in each six month period; or

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

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

24 Sec. 33.30.131. PRE-RELEASE FURLOUGH INVOLVING EMPLOYMENT. (a)  
25 Unless alternative arrangements are expressly approved by the commis-  
26 sioner, when a prisoner is employed outside a correctional facility as  
27 part of a furlough program, the earnings of the prisoner must be sent  
28 by the employer to the commissioner. If an employer transmits the  
29 earnings to the commissioner, the employer has no liability to the

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

1 having direct supervision over the prisoner is an unlawful evasion  
2 under AS 11.56.340 -- 11 56.350.

3 ARTICLE 3. GENERAL PROVISIONS.

4 Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the  
5 policy of the state that prisoners be productively employed for as  
6 many hours each day as feasible, not to exceed 40 hours per week  
7 unless overtime has been specifically approved by the commissioner.  
8 The term "productively employed" includes the following kinds of  
9 employment:

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

12 (2) education including both academic and vocational;

13 (3) industrial, agricultural, and service activities con-  
14 ducted in accordance with AS 33.32;

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

20 (5) renovation, repair or alteration of existing correc-  
21 tional facilities as permitted by AS 44.65.050(d); and

22 (6) other work performed inside or outside of a correction-  
23 al facility if the work has minimal negative impact on an existing  
24 private industry or labor force in the state as determined by the  
25 commissioner.

26 (b) The commissioner may enter into contracts or cooperative  
27 agreements with any public agency for the performance of conservation  
28 projects. The commissioner may enter into a contract with an indi-  
29 vidual or agency for the employment of prisoners if the work to be

1 performed will have minimal negative impact on an existing state  
2 industry or labor force in the state as determined by the commissioner.  
3

4 (c) The commissioner <sup>will make available</sup> may direct a prisoner to participate in a  
5 type of productive employment listed in (a)(1), and (4)-(6) of this  
6 section while the prisoner is confined in a correctional facility. A  
7 prisoner who refuses to participate in productive employment when  
8 directed under this section is subject to disciplinary sanctions  
9 imposed in accordance with regulations adopted by the commissioner.

10 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is  
11 productively employed, as defined in AS 33.30.151(a)(1) or (3) - (6),  
12 may receive for that work compensation at a rate determined by the  
13 commissioner under AS 33.32.050 if the money is available from legis-  
14 lative appropriations. The provisions of AS 33.32.050 and AS 33.32.-  
15 040(b) apply to prisoners employed in the correctional industries  
16 program and to prisoners productively employed in activities outside  
17 that program.

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

22 (b) When a person is sentenced to a term of imprisonment, copies  
23 of the pre-sentence report, sentencing report prepared under AS 12.55-  
24 .025 and any other information of the probation office or of the  
25 court that may affect the person's rehabilitation must be transmitted  
26 to the superintendent of the correctional facility in which the pris-  
27 oner will be confined.

28 (c) The commissioner shall adopt regulations providing for the  
29 security, confidentiality, and use of documents transmitted under (b)

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1 of this section.

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

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

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

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

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

1 (d) In this section, "unconditional discharge" has the meaning  
2 given in AS 12.55.185.

3 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)  
4 It is the obligation of each person committed to the custody of the  
5 commissioner to provide for the appropriate disposition of all person-  
6 al property within 90 days of the date of the person's release or  
7 transfer from a correctional facility.

8 (b) Any personal property remaining at a correctional facility  
9 after 90 days from the date of release or transfer is deemed aban-  
10 doned, and will be delivered to the Department of Administration for  
11 disposal pursuant to AS 44.71.010.

12 (c) The state shall not be liable for any loss or damage to  
13 personal property deemed abandoned under (b) of this section.

14 Sec. 33.30.301. DEFINITIONS. In this chapter, unless the con-  
15 text requires otherwise,

16 (1) "crime against a person" means a crime as set out in  
17 AS 11.41, except custodial interference under AS 11.41.320 and 11.41-  
18 .330; or a crime against a person in this or another jurisdiction  
19 having elements substantially identical to those of a crime as set out  
20 in AS 11.41, except custodial interference under AS 11.41.320 and  
21 11.41.330;

22 (2) "commissioner" means the commissioner of the Department  
23 of Corrections or the commissioner's designee;

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

29 (4) "court" means the supreme court, the court of appeals,

1 the superior court, the district or magistrate court, or a justice or  
2 judge of a court;

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

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

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

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

12 (9) "temporary commitment" means detention of a person for  
13 any period under authority of state law, but does not include confine-  
14 ment upon conviction and judgment of a court of this state;

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

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

17 (b) The commissioner of corrections may

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

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

27 (3) if the Correctional Industries Commission established  
28 in AS 33.32.070 approves, employ prisoners to provide services or  
29 products as needed by private industry if the services or products

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

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

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

9 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)  
10 Upon recommendation of the Correctional Industries Commission estab-  
11 lished under AS 33.32.070, the commissioner may establish "Free Ven-  
12 ture" correctional industries for the sale of goods or services to the  
13 public or private sector. A "Free Venture" correctional industry is a  
14 correctional industry which is operated and managed in total or in  
15 part by a private industry or organization within a correctional  
16 facility pursuant to an agreement entered into under AS 33.32.-  
17 015(b)(4).

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

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

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

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

2 (f) The provisions of this section do not apply to "Free Ven-  
3 ture" industries established under AS 33.32.017.

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

5 (e) An employee of a detention facility provided by a local  
6 government unit to the territorial or state government under AS 33.-  
7 30.031 [AS 33.30.060], who continues in state employment upon transfer  
8 of the facility to the state, is entitled to credited service for  
9 prior service with the facility if the employee remains in continuous  
10 employment with the state until July 1, 1976. To obtain credited  
11 service the employee is required to make retroactive contributions for  
12 the period of service between January 1, 1961, and the effective date  
13 of the transfer of the facility to the state.

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

15 (d) The Department of Corrections and the Department of Trans-  
16 portation and Public Facilities may enter into agreements under this  
17 chapter for the construction, renovation, repair or alteration of  
18 state correctional facilities as defined in AS 33.30.301. An agree-  
19 ment entered into under this subsection is limited to an estimated  
20 cost of \$100,000 per project as determined by the terms of the agree-  
21 ment.

22 \* Sec. 11. Regulations adopted under a statute amended or repealed by  
23 this Act continue in effect until amended or repealed by the commissioner  
24 of corrections.

25

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

*Allow  
Prisoner,  
Parole  
if served.*

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 141

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

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

9

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

10

Sec. 12.55.115. FIXING ELIGIBILITY FOR DISCRETIONARY PAROLE AT

11

SENTENCING. The court may, as part of a sentence of imprisonment,

12

further restrict the eligibility of a prisoner for discretionary

13

parole for a term greater than that required under AS 33.16.100.

14

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

15

CHAPTER 16. PAROLE ADMINISTRATION.

16

Sec. 33.16.010. PAROLE. (a) A prisoner who is serving a term

17

of at least 181 days is eligible for either discretionary or mandatory

18

parole.

19

(b) A prisoner who is eligible under AS 33.16.090 may be granted

20

discretionary parole by the board of parole.

21

(c) A prisoner who is not eligible for discretionary parole, or

22

who is not released on discretionary parole, must be released on

23

mandatory parole for the term of good time deductions credited under

24

AS 33.20, if the term or terms of imprisonment exceed 180 days.

25

(d) A prisoner released on discretionary or mandatory parole is

26

subject to the conditions of parole imposed under AS 33.16.150.

27

Parole may be revoked under AS 33.16.220.

28

Sec. 33.16.020. BOARD OF PAROLE. (a) There is in the Depart-

29

ment of Corrections a board of parole consisting of five members

1 appointed by the governor.

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

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

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

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

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

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

19 Sec. 33.16.040. COMPENSATION AND EXPENSES. A board member is  
20 entitled to compensation of \$150 a day for each day the member is  
21 participating in business of the board, and is also entitled to the  
22 per diem and travel allowances provided under AS 39.20.180.

23 Sec. 33.16.050. MEETINGS OF THE BOARD. (a) The board may meet  
24 as often as it considers necessary to carry out its responsibilities,  
25 but shall meet at least four times a year.

26 (b) Three members of the board constitute a quorum for the  
27 conduct of business.

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

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

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

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

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

7           (3) impose parole conditions on all prisoners released  
8 under discretionary or mandatory parole;

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

11           (5) maintain records of the meetings and proceedings of the  
12 board;

13           (6) adopt standards determining when a prisoner should be  
14 granted discretionary parole;

15           (7) recommend to the governor and the legislature changes  
16 in the law administered by the board;

17           (8) recommend to the governor or the commissioner changes  
18 in the practices of the department and of other departments of the  
19 executive branch necessary to facilitate the purposes and practices of  
20 parole;

21           (9) upon request of the governor, review and recommend  
22 applicants for executive clemency;

23           (10) execute other responsibilities prescribed by law.

24           (b) The board shall adopt regulations under the Administrative  
25 Procedure Act (AS 44.62)

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

28           (2) providing for the supervision of parolees and for  
29 recommitment of parolees; and

1 (3) governing procedures of the board.

2 Sec. 33.16.070. PROCESS. The board or a member of the board may  
3 issue subpoenas and subpoenas duces tecum in the performance of board  
4 duties under AS 33.16.060(a).

5 Sec. 33.16.080. EXECUTIVE DIRECTOR. The board shall hire an  
6 executive director to serve the board in the discharge of its duties.  
7 The executive director must have had training and experience in the  
8 field of criminal justice. The executive director may employ addi-  
9 tional staff to assist the board.

10 Sec. 33.16.090. ELIGIBILITY FOR DISCRETIONARY PAROLE. (a) A  
11 prisoner who is serving a term of at least 181 days, and who is not  
12 otherwise ineligible under (b) of this section, may, in the discretion  
13 of the board, be released on discretionary parole subject to AS 12.-  
14 55.086(b), 12.55.115, and AS 33.16.100(c) and (d).

15 (b) A prisoner is not eligible for discretionary parole if the  
16 prisoner is serving a presumptive sentence. A presumptive sentence  
17 means

18 (1) a sentence imposed under AS 12.55.125(c)(1) -- (4),  
19 (d)(1) -- (3), (e)(1) -- (3), or (i)(1) -- (4), including any period  
20 of imprisonment imposed after adjustment under AS 12.55.155(a), (c),  
21 or (d); or

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

24 (c) In determining the eligibility of a prisoner for discretion-  
25 ary parole, the board may rely upon the verbatim written transcript of  
26 sentencing proceedings prepared under AS 12.55.025(a)(1), as well as  
27 the judgment entered by the court.

28 Sec. 33.16.100. GRANTING OF DISCRETIONARY PAROLE. (a) The  
29 board may authorize the release of a prisoner on discretionary parole

1 if it determines that

2 (1) the prisoner eligible for discretionary parole will,  
3 with reasonable probability, live and remain at liberty without vi-  
4 olating any laws and without violating any conditions imposed by the  
5 board; and

6 (2) the release of the prisoner on discretionary parole is  
7 compatible with the welfare of society and would not diminish the  
8 seriousness of the crime.

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

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

20 (d) A prisoner who is sentenced for a term under AS 12.55.125(a)  
21 or (b) may not be released on discretionary parole until the prisoner  
22 has served the mandatory minimum term under AS 12.55.125(a) or (b), at  
23 least one-third of the period of confinement imposed, or any minimum  
24 term set under AS 12.55.115 at sentencing, whichever is greater.

25 Sec. 33.16.110. SUITABILITY FOR DISCRETIONARY PAROLE. In de-  
26 termining whether a prisoner is suitable for discretionary parole, the  
27 board shall consider the preparole reports including,

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

29 (2) the recommendations made by the sentencing court, by

1 the prosecuting attorney, by the defense attorney, and any statements  
2 made by the victim or the prisoner at sentencing;

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

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

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

9 (6) physical, mental, and psychiatric examinations of the  
10 prisoner;

11 (7) information submitted by the prisoner, the sentencing  
12 court, the victim of the crime, the prosecutor, or other persons  
13 having knowledge of the prisoner or the crime; and

14 (8) other relevant information that may be reasonably  
15 available.

16 Sec. 33.16.20. RIGHT OF VICTIM TO COMMENT ON PAROLE OF PRISON-  
17 ER. (a) Upon request of the victim, notice of a hearing to review or  
18 consider the parole eligibility or the setting of a parole date for a  
19 prisoner in a state prison who is convicted of a crime against a  
20 person must be sent to the victim of the crime at least 30 days before  
21 the scheduled hearing.

22 (b) It is the responsibility of the victim to keep the board  
23 apprised of the victim's most current mailing address. The board  
24 shall send the notice required under (a) of this section to the last  
25 known address of the victim. The address of the victim may not be  
26 disclosed to the prisoner or the prisoner's attorney.

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

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

3           (e) Upon request of the victim, if the board decides to release  
4 on parole a prisoner who is convicted of a crime against a person, the  
5 board shall make every reasonable effort to notify the victim before  
6 the prisoner's release date. Notification under this subsection must  
7 include the expected date of the prisoner's release, the geographic  
8 area in which the prisoner is required to reside, and other pertinent  
9 information concerning the prisoner's conditions of parole that may  
10 affect the victim.

11           (f) Upon request of the victim, if a prisoner is released under  
12 AS 33.16.010(c), the board shall make every reasonable effort to  
13 notify the victim before the prisoner's release date. Notification  
14 under this subsection must include the expected date of the prisoner's  
15 release, the geographic area in which the prisoner is required to  
16 reside, and other pertinent information concerning the prisoner's  
17 conditions of parole that may affect the victim.

18           Sec. 33.16.130. APPLICATION FOR DISCRETIONARY PAROLE. (a) A  
19 prisoner eligible for discretionary parole may apply to the board for  
20 discretionary parole. As part of the application for parole, the  
21 prisoner must submit to the board a parole release plan which includes  
22 the prisoner's plan for employment, residence, and other information  
23 concerning the prisoner's rehabilitative plans if released on parole.

24           (b) Before the board determines a prisoner's suitability for  
25 discretionary parole, the prisoner is entitled to a hearing before the  
26 board. The prisoner must be furnished a copy of the preparole reports  
27 listed in AS 33.16.110, and permitted access to all records, except  
28 those that are otherwise excluded by law, that will be considered by  
29 the board in making its decision. The prisoner may also respond in

1 writing to all materials considered by the board, be present at the  
2 hearing, and present evidence to the board.

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

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

10 Sec. 33.16.150. CONDITIONS OF PAROLE. (a) As a condition of  
11 parole, a prisoner released on discretionary or mandatory parole shall  
12 refrain from violation of state or federal law or municipal ordinance.

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

15 (1) meet family obligations;

16 (2) pursue employment, education, counseling, or training;

17 (3) remain within stated geographic limits unless written  
18 permission to depart from the stated limits is granted the parolee;

19 (4) report upon release to the parole officer assigned to  
20 the parolee;

21 (5) report as required to the parole officer assigned to  
22 the parolee;

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

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

27 (8) refrain from possessing or consuming alcoholic bever-  
28 ages;

29 (9) refrain from possessing or consuming a controlled

1 substance without a doctor's prescription;

2 (10) submit to reasonable searches and seizures by a parole  
3 officer, or a peace officer acting under the direction of a parole  
4 officer;

5 (11) submit to appropriate medical, mental health, or con-  
6 trolled substance or alcohol examination, treatment, or counseling;

7 (12) submit to periodic examinations designed to detect the  
8 use of alcohol or controlled substances;

9 (13) make restitution to a victim of the prisoner's crime,  
10 according to a schedule established by the board;

11 (14) refrain from opening, maintaining, or using a checking  
12 account or charge account;

13 (15) refrain from entering into a contract other than a  
14 prenuptial contract or a marriage contract;

15 (16) refrain from operating a motor vehicle;

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

18 (18) refrain from participating in any other activity or  
19 associating with any other person that the board determines is rea-  
20 sonably likely to diminish the rehabilitative goals of parole, or  
21 which may endanger the public.

22 (c) Except for a condition imposed under (b)(4), (7), (9), (10),  
23 (12) or (13) of this section, the board may generally delegate imposi-  
24 tion of special conditions under (b) of this section to the discretion  
25 of the parole officer.

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

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

4           (b) If the proposed change in conditions of parole is more  
5 restrictive of a parolee's liberty, the parolee is entitled to notice  
6 of the proposed change, the reasons for the proposed change, a hearing  
7 before the board, and an opportunity to respond to the proposed change  
8 and to present evidence.

9           (c) Notwithstanding (a) and (b) of this section, when a parole  
10 officer determines that an emergency situation requires an immediate  
11 change in a condition of parole, or the imposition of a new condition,  
12 the parole officer may impose the change or new condition immediately,  
13 without a hearing. The parole officer shall immediately notify the  
14 board of the imposition of the emergency change or new condition and  
15 shall provide a written report setting out the basis for the change or  
16 new condition and the nature of the emergency. The effective period  
17 of a change in condition or imposition of a new condition under this  
18 subsection may not exceed 15 working days.

19           (d) A condition of parole may be changed, a new condition of  
20 parole may be imposed, or a new or changed condition imposed under (c)  
21 of this section may be extended by a member of the board or the  
22 board's designee if, after a preliminary hearing, an emergency situa-  
23 tion is found which requires a change in condition. The effective  
24 period of a change in condition under this subsection, the imposition  
25 of a new condition under this subsection, or the extension under this  
26 subsection of a new or changed condition imposed under (c) of this  
27 section may not exceed 90 days.

28           Sec. 33.16.170. CONFIDENTIALITY OF RECORDS AND INFORMATION. The  
29 preparole reports listed in AS 33.16.110, and other information

1 obtained and used by the board under this chapter, are confidential  
2 and may not be disclosed to anyone other than the board, the sentenc-  
3 ing judge, the prosecuting and defense attorneys, the prisoner, the  
4 prisoner's attorney, the attorney for the board, the staff of the  
5 board, or others granted access to this information under this chap-  
6 ter.

7 Sec. 33.16.180. DUTIES OF THE COMMISSIONER. The commissioner  
8 shall

9 (1) conduct investigations of prisoners eligible for dis-  
10 cretionary parole, as requested by the board;

11 (2) supervise the conduct of parolees;

12 (3) appoint and assign parole officers and personnel;

13 (4) provide the board, within 30 days after sentencing,  
14 information on a sentenced prisoner who may be eligible for discre-  
15 tionary parole under AS 33.16.090;

16 (5) notify the board and provide information on a prisoner  
17 120 days before the prisoner's mandatory release date, if the prisoner  
18 is to be released to mandatory parole; and

19 (6) maintain records, files, and accounts as requested by  
20 the board.

21 Sec. 33.16.190. PAROLE AND PROBATION OFFICERS. An officer ap-  
22 pointed by the commissioner under AS 33.05.020(a) or under AS 33.16.-  
23 180, may discharge duties under AS 33.05 or AS 33.16.

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

28 Sec. 33.16.210. DISCHARGE OF PAROLEE. The board may uncondi-  
29 tionally discharge a parolee from the jurisdiction and custody of the

1 board after the parolee has completed two years of parole, if the  
2 sentence of the parolee does not include any residual period of pro-  
3 bation. A parolee with a residual period of probation may, after two  
4 years of parole, be discharged by the board to immediately begin  
5 serving the residual period of probation.

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

9 (b) Except as provided in (e) of this section, within 15 working  
10 days after the arrest and incarceration of a parolee for violation of  
11 a condition of parole, the board or its designee shall hold a prelimi-  
12 nary hearing. At the preliminary hearing, the board or its designee  
13 shall determine if there is probable cause to believe that the parolee  
14 violated the conditions of parole and, when probable cause exists,  
15 whether the parolee should be released pending a final revocation  
16 hearing. A grand jury indictment or a finding of probable cause at a  
17 preliminary hearing in a criminal case is conclusive proof of probable  
18 cause that a parole violation occurred.

19 (c) In determining whether a parole violator should be released  
20 pending a final revocation hearing, the board or its designee shall  
21 consider

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

24 (2) the seriousness of the alleged violation;

25 (3) whether the parolee presents a danger to the community;

26 and

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

29 (d) If the parole violator is released pending a final

1 revocation hearing, the board or its designee may impose additional  
2 conditions necessary to ensure the parolee's appearance at the final  
3 revocation hearing, and to prevent further violation of conditions of  
4 parole.

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

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

11 (g) When the basis for the revocation proceeding is a criminal  
12 offense, the parolee may request, or the board upon its own motion may  
13 propose that further proceedings on the revocation be delayed. In  
14 making the determination to delay further proceedings, the board shall  
15 consider prejudice that may result to the parolee's and the state's  
16 interests in the pending criminal case and the parolee's decision to  
17 delay final revocation proceedings. If good cause to proceed is  
18 found, the board shall consult with the attorney general before con-  
19 tinuing the final revocation proceeding.

20 (h) At a final revocation hearing, a violation of a condition of  
21 parole must be established by a preponderance of the evidence.

22 (i) If, after the final revocation hearing, the board finds that  
23 the parolee has violated a condition of parole imposed under AS 33.-  
24 16.150(b), or a law or ordinance, the board may revoke all or a por-  
25 tion of the parole, or change any condition of parole.

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

29 Sec. 33.16.240. ARREST OF A PAROLE VIOLATOR. (a) A parolee may

1 be arrested, with or without a warrant, for a violation of parole.

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

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

9 (d) If a parolee is arrested without a warrant, the parole  
10 officer shall notify the board no later than the working day immedi-  
11 ately following the arrest. The parole officer shall, within five  
12 working days after the arrest, provide the board with a written report  
13 setting out the alleged violation and circumstances that required  
14 immediate arrest of the parolee.

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

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

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

26 (b) The parole officer or peace officer shall immediately notify  
27 the board or a member of the board of an arrest under (a) of this  
28 section.

29 Sec. 33.16.260. DEFINITIONS. In this chapter

- 1 (1) "board" means the board of parole;
- 2 (2) "commissioner" means the commissioner of corrections;
- 3 (3) "controlled substance" means a drug, substance, or  
4 immediate precursor included in the schedules set out in AS 11.71.-  
5 140 -- 11.71.190;
- 6 (4) "crime against a person" has the meaning given in  
7 AS 33.30.900;
- 8 (5) "department" means the Department of Corrections;
- 9 (6) "discretionary parole" means the release of a prisoner  
10 by the board before the expiration of a term, subject to conditions  
11 imposed by the board and subject to its custody and jurisdiction;
- 12 (7) "mandatory parole" means the release of a prisoner who  
13 was sentenced to one or more terms of imprisonment exceeding 180 days,  
14 for the period of good time credited under AS 33.20, subject to con-  
15 ditions imposed by the board and subject to its custody and jurisdic-  
16 tion;
- 17 (8) "parolee" means a prisoner, sentenced to one or more  
18 terms of imprisonment exceeding 180 days, released by the board or by  
19 operation of law before the expiration of the term, subject to the  
20 custody and jurisdiction of the board;
- 21 (9) "prisoner" means an offender confined for a violation  
22 of state law, but does not include a person confined under AS 47;
- 23 (10) "victim" has the meaning given in AS 12.55.185.

24 \* Sec. 3. AS 33.20.040(a) is repealed and reenacted to read:  
25 Sec. 33.20.040. RELEASED PRISONER. (a) A prisoner released  
26 under AS 33.20.030 must be released on mandatory parole to the custody  
27 and jurisdiction of the parole board under AS 33.16, until the expir-  
28 ation of the maximum time to which the prisoner was sentenced, if the  
29 time of imprisonment exceeded 180 days. However, a prisoner released

1 on mandatory parole may be discharged under AS 33.16.210 before the  
2 expiration of the term. A prisoner who was sentenced to an imprison-  
3 ment of 180 days or less must be unconditionally discharged, except as  
4 provided in (c) of this section.

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

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

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

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

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

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

15 -- June 30, 1989 [1985];

16 \* Sec. 7. AS 33.15 is repealed.

17 \* Sec. 8. The terms of members of the board of parole appointed under  
18 AS 33.15.010, repealed in sec. 7 of this Act, terminate on the effective  
19 date of this Act. The governor shall appoint members to the board of  
20 parole under AS 33.16.020 for the following initial terms: one member for a  
21 five-year term; one member for a four-year term; one member for a three-  
22 year term; one member for a two-year term; and one member for a one-year  
23 term.

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

Offered: 2/13/85  
Referred: Judiciary

Original sponsors: Kelly, Sturgulewski,  
Faiks, et al

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 4 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to correctional restitution cen-  
7 ters."

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

9 \* Section 1. AS 12.55.015 is amended by adding a new subsection to  
10 read:

11 (e) If the defendant is ordered to serve a definite term of  
12 imprisonment, the court may recommend that the defendant serve all or  
13 part of the term in a correctional restitution center.

14 \* Sec. 2. AS 12.55.086(a) is amended to read:

15 (a) When the imposition of sentence is suspended under AS 12.-  
16 55.085, the court may require, as a special condition of probation,  
17 that the defendant serve a definite term of continuous or periodic im-  
18 prisonment, not to exceed the maximum term of imprisonment that could  
19 have been imposed. The court may recommend that the defendant serve  
20 all or part of the term in a correctional restitution center.

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

22 ARTICLE 3A. CORRECTIONAL RESTITUTION CENTERS.

23 Sec. 33.30.282. CORRECTIONAL RESTITUTION CENTERS. (a) The  
24 commissioner shall establish correctional restitution centers in the  
25 state. The purpose of the centers is to provide certain nonviolent  
26 offenders with rehabilitation through community service and employment  
27 while protecting the community through partial incarceration of the  
28 offender, and to create a means to provide restitution to victims of  
29 crimes.

1 (b) The commissioner shall adopt regulations setting standards  
2 for the operation of the centers including

3 (1) requirements that the centers be secure and in compli-  
4 ance with state and local safety laws;

5 (2) standards for disciplinary rules to be imposed on  
6 prisoners confined to the centers;

7 (3) standards for the granting of emergency absence to  
8 prisoners confined to the centers; and

9 (4) standards for periodic review of the performance of  
10 prisoners confined to the centers.

11 Sec. 33.30.283. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL  
12 RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to  
13 serve time in a correctional restitution center unless the commis-  
14 sioner specifically finds that the prisoner meets the eligibility  
15 requirements imposed by this section.

16 (b) To be eligible to serve time in a correctional restitution  
17 center, the prisoner

18 (1) must be employable and agree to secure employment and  
19 obey the rules of the center;

20 (2) may not have been convicted of an offense, in this  
21 state or another jurisdiction, involving violence or the use of force,  
22 as defined in AS 11.81.900; in this section, violence or the use of  
23 force includes possession of a firearm, as defined in AS 11.81.900, in  
24 the commission of an offense, whether or not the firearm was actually  
25 used; and

26 (3) may not have been convicted of an offense under AS 11.-  
27 41.410 - 11.41.470 or an offense in the state or another jurisdiction  
28 having elements substantially identical to an offense under AS 11.41.-  
29 410 - 11.41.470.

1           Sec. 33.30.284. COMMUNITY ADVISORY COMMITTEES. The commissioner  
2 shall appoint a community advisory committee for each center, to  
3 consist of five members of the community in which the center is locat-  
4 ed. The committee shall consider complaints made against prisoners  
5 confined to a center and shall make recommendations to the commis-  
6 sioner.

7           Sec. 33.30.285. CONTRACTS FOR OPERATION OF RESTITUTION CENTERS.  
8 The commissioner may enter into an agreement with a public or private  
9 agency to provide necessary facilities under AS 33.30.282 - 33.30.288.  
10 The commissioner may not enter into an agreement with an agency that  
11 is unable to provide a degree of custody, care, and discipline similar  
12 to that required by the laws of the state.

13           Sec. 33.30.286. DISTRIBUTION OF PRISONER'S EARNINGS. The em-  
14 ployer of a prisoner confined to a center shall pay the prisoner's  
15 earnings to the commissioner. The commissioner shall deposit the  
16 earnings in a fund to be paid to the prisoner upon release from the  
17 center after making and distributing deductions for

18           (1) an amount determined by the commissioner for the cost  
19 of the housing, food, and clothing provided to the prisoner;

20           (2) necessary travel expenses to and from work and other  
21 incidental expenses of the prisoner;

22           (3) an amount determined by the commissioner to be neces-  
23 sary for the support of the prisoner's dependents; and

24           (4) a fine or restitution ordered by the court.

25           Sec. 33.30.288. CONFINEMENT TO THE CENTER. A prisoner shall be  
26 confined to the center at all times except while

27           (1) at work and traveling to and from work;

28           (2) at and traveling to and from a community service pro-  
29 ject approved by the commissioner;

- 1                   (3) on emergency absence; or
- 2                   (4) at and traveling to and from a job interview.
- 3       \* Sec. 4. AS 33.30.900 is amended by adding a new paragraph to read:
- 4                   (10) "center" means a correctional restitution center.

Introduced: 1/22/85  
Referred: Health, Education and Social Services  
          Judiciary and Finance

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 72

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 sentencing."

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

8 \* Section 1. AS 12.55.015(a) is amended to read:

9           (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in  
10 imposing sentence on a defendant convicted of an offense, may singly  
11 or in combination

12           (1) impose a fine when authorized by law and as provided in  
13 AS 12.55.035;

14           (2) order the defendant to be placed on probation under  
15 conditions specified by the court which may include provision for  
16 active supervision;

17           (3) impose a definite term of periodic imprisonment;

18           (4) impose a definite term of continuous imprisonment;

19           (5) order the defendant to make restitution as provided in  
20 AS 12.55.045;

21           (6) order the defendant to carry out a continuous or peri-  
22 odic program of community work as provided in AS 12.55.055;

23           (7) suspend execution of all or a portion of the sentence  
24 imposed as provided in AS 12.55.080;

25           (8) suspend imposition of sentence as provided in AS 12.-  
26 ".085;

27           (9) order the defendant, unless indigent, to pay, in an  
28 amount determined by the court and in addition to amounts determined  
29 under Rule 39(c) of the Rules of Criminal Procedure for costs of

1        defense attorneys, all or part of the court costs and the expenses of  
2        prosecution.

3        \* Sec. 2. AS 12.55.085 is amended by adding a new subsection to read:

4                (f) A suspended imposition of sentence, whether or not dis-  
5        charged by the court, is considered a prior conviction for purposes of  
6        presumptive sentencing under AS 12.55.125(c) - (e) and (i) or another  
7        law requiring enhanced penalties for repeat offenders.

8        \* Sec. 3. AS 12.80.030 is repealed.

Offered: 2/8/85  
Referred: Judiciary and Finance

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 73 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the identification of persons  
7 arrested when driving while intoxicated."

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

9 \* Section 1. AS 12.25 is amended by adding a new section to read:

10 Sec. 12.25.240. PHOTOGRAPH AND FINGERPRINTS REQUIRED. (a) When  
11 a person is arrested for an offense committed while that person was  
12 operating a motor vehicle, and the arresting officer has probable  
13 cause to believe that the person was in violation of AS 28.35.030 or  
14 an ordinance with substantially similar elements at the time the  
15 offense was committed, the arresting officer or the law enforcement  
16 agency that has custody of the person shall obtain a photograph and  
17 fingerprints before that person's release from custody.

18 (b) A law enforcement agency that obtains fingerprints under  
19 this section shall forward two sets of fingerprints and information  
20 concerning the subject's arrest to the Alaska State Troopers, Scien-  
21 tific Crime Detection Laboratory.

Offered: 2/8/85  
Referred: Judiciary and Finance

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 74 (State Affairs)  
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 driving while intoxicated."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 28.35.030(a) is amended to read:

9 (a) A person commits the crime of driving while intoxicated if  
10 the person operates or drives a motor vehicle or operates an aircraft  
11 or a watercraft

12 (1) while under the influence of intoxicating liquor, or  
13 any controlled substance listed in AS 11.71.140 - 11.71.190, or a  
14 combination of intoxicating liquor and a controlled substance;

15 (2) when, as determined by a chemical test taken within  
16 four hours after the alleged offense was committed, there is 0.10  
17 percent or more by weight of alcohol in the person's blood or 100  
18 milligrams or more of alcohol per 100 milliliters of blood, or when  
19 there is 0.10 grams or more of alcohol per 210 liters of the person's  
20 breath; [OR]

21 (3) while the person is under the combined influence of  
22 intoxicating liquor and a drug or another substance that acts as a  
23 central nervous system depressant, hallucinogen or stimulant; or

24 (4) while the person is under the influence of a drug or  
25 another substance that acts as a central nervous system depressant  
26 hallucinogen or stimulant.

27 \* Sec. 2. AS 28.35.030(g) is amended by adding a new paragraph to read:

28 (j) "drug" has the meaning given in AS 11.71.900.

29 \* Sec. 3. AS 28.35.030 is amended by adding a new subsection to read:

1           (h) A person convicted under this section may not receive credit  
2 toward all or part of a minimum mandatory sentence for time spent in a  
3 residential alcohol treatment or rehabilitation program.

4 \* Sec. 4. AS 28.35.032 is amended by adding a new subsection to read:

5           (k) A person convicted under this section may not receive credit  
6 toward all or part of a minimum mandatory sentence for time spent in a  
7 residential alcohol treatment or rehabilitation program.

8 \* Sec. 5. AS 28.35.035(b) is amended to read:

9           (b) A person who is unconscious or otherwise in a condition or  
10 at a location rendering that person incapable of providing a breath  
11 sample [REFUSAL] is considered not to have withdrawn the consent  
12 provided under AS 28.35.031(a) and a chemical test may be administered  
13 to determine the amount of alcohol in that person's breath or blood.  
14 A person who is unconscious or otherwise incapable of providing a  
15 breath sample [REFUSAL] need not be placed under arrest before a  
16 chemical test may be administered.

Offered: 2/22/85  
Referred: Judiciary and Finance  
Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 75 (State Affairs)  
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 suspension of the privilege to  
7 obtain a driver's license."

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

9 \* Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND  
11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of  
13 inquiring into the cause of restraint of liberty, returnable before a  
14 judge of the superior court, and the same proceedings shall be had on  
15 the writ as if it had been granted by the superior court judge under  
16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-  
20 rants according to manner and procedure prescribed by law and the  
21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-  
23 nary examinations in criminal proceedings; to set, receive and forfeit  
24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to  
26 the judge or magistrate by the superior court, with all powers con-  
27 ferred upon referees by laws;

28 (7) of the superior court in all respects including but not  
29 limited to contempts, attendance of witnesses and bench warrants;

1 (8) to order the temporary detention of a minor, or take  
2 other action authorized by law or rules of procedure, in cases arising  
3 under AS 47.10, when the minor is in a condition or surrounding dan-  
4 gerous or injurious to the welfare of the minor or others which re-  
5 quire immediate action; the action may be continued in effect until  
6 reviewed by the superior court in accordance with rules of procedure  
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive  
9 relief in cases involving domestic violence as provided in AS 25.35.-  
10 020;

11 (10) to review an administrative revocation of a person's  
12 driver's license, [OR] nonresident privilege to drive, or privilege to  
13 obtain a driver's license, and an administrative refusal to issue a  
14 original license, when designated as a hearing officer by the commis-  
15 sioner of public safety and with the consent of the administrative  
16 director of the state court system.

17 \* Sec. 2. AS 28.15.061(b) is amended to read:

18 (b) An application under (a) of this section shall

19 (1) contain the applicant's full name, date and place of  
20 birth, sex, and mailing and residence addresses;

21 (2) state whether the applicant has been previously li-  
22 censed as a driver and, if so, when and by what jurisdiction;

23 (3) state whether any previous driver's license issued to  
24 the applicant has ever been suspended or revoked, [OR] whether an  
25 application for a driver's license has ever been refused, or whether  
26 the applicant's privilege to obtain a driver's license has ever been  
27 revoked by a court or the department or a similar agency in another  
28 state and, if so, the date of and reason for the suspension, revoca-  
29 tion, or refusal; and

1           (4) contain other information which the department may  
2 reasonably require to determine the applicant's identity, competency,  
3 and eligibility.

4 \* Sec. 3. AS 28.15.165(a) is amended to read:

5           (a) If a chemical test administered under AS 28.35.031(a) to a  
6 person driving a motor vehicle for which a driver's license is re-  
7 quired produces a result described in AS 28.35.030(a)(2) or if a  
8 person under arrest for driving a motor vehicle for which a driver's  
9 license is required refuses to submit to a chemical test under AS 28.-  
10 35.031(a), a law enforcement officer shall read a notice and deliver a  
11 copy to the person. The notice shall advise that

12           (1) the department intends to revoke the person's driver's  
13 license or nonresident privilege to drive, or refuse to issue an  
14 original license to the person;

15           (2) the person has the right to administrative review of  
16 the revocation or determination not to issue an original license;

17           (3) the notice itself is a temporary driver's license, for  
18 persons then holding a valid license, that expires seven days after it  
19 is delivered to the person;

20           (4) revocation of the person's driver's license or nonresi-  
21 dent privilege to drive, or a determination not to issue an original  
22 license shall take effect upon expiration of the temporary driver's  
23 license unless the person within seven days requests an administrative  
24 review.

25 \* Sec. 4. AS 28.15 is amended by adding a new section to read:

26           Sec. 28.15.176. SUSPENSION OR REVOCATION OF PRIVILEGE TO OBTAIN  
27 A LICENSE. (a) A court or the department may suspend or revoke a  
28 person's privilege to obtain a driver's license in the same manner and  
29 for the same reasons as a driver's license issued under this chapter.

1 (b) If a court or the department is required by statute or  
2 regulation to suspend or revoke a person's driver's license, then the  
3 privilege to obtain a driver's license shall be suspended or revoked  
4 if the person does not have a driver's license.

5 (c) Procedures and references in AS 28 relating to the suspen-  
6 sion or revocation of a driver's license are equally applicable to the  
7 suspension or revocation of the privilege to obtain a driver's li-  
8 cense.

9 \* Sec. 5. AS 28.15.291 is amended to read:

10 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A  
11 LICENSE CANCELLED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

12 (a) A person may not drive a motor vehicle on a highway or vehicular  
13 way or area at a time when that person's driver's license, privilege  
14 to obtain a driver's license, or privilege to drive has been canceled,  
15 suspended or revoked in this or another jurisdiction, or when driving  
16 in violation of a limitation placed upon that person's license or  
17 privilege to drive in this or another jurisdiction. Except as provid-  
18 ed in (c) of this section, upon conviction of a violation of this  
19 section, the court shall impose a sentence of imprisonment of not less  
20 than 10 days. The execution of sentence may not be suspended nor may  
21 probation or parole be granted until the minimum imprisonment provided  
22 in this section has been served; nor may imposition of sentence be  
23 suspended. In addition, the person's license, privilege to obtain a  
24 license, or privilege to drive shall be revoked, and the person may  
25 not be issued a new license nor may the privilege to drive be restored  
26 for an additional period of not less than one year after the date that  
27 the person would have been entitled to restoration of driving privi-  
28 leges or issuance of a license.

29 (b) When a person's license or privilege to obtain a license is

1 canceled, limited, suspended or revoked, that person shall be informed  
2 by the department or the court that takes the action at the time of  
3 the action that, upon a conviction of driving on a highway or vehicu-  
4 lar way or area in this state at a time when that person's driver's  
5 license, [OR] privilege to drive or privilege to obtain a driver's  
6 license in this state has been canceled, suspended or revoked, or upon  
7 a conviction of driving in violation of a limitation of the license,  
8 that person will be subject to the mandatory minimum sentence of  
9 imprisonment under this section.

10 (c) The court shall impose a sentence of imprisonment of not  
11 less than 30 days and a fine of not less than \$500 upon conviction of  
12 a violation of this section if the person's driver's license or privi-  
13 lege to obtain a driver's license was revoked under circumstances  
14 described in AS 28.15.181(c)(1). The court shall impose a sentence of  
15 imprisonment of not less than 90 days and a fine of not less than  
16 \$1,000 upon conviction of a violation of this section if the person's  
17 driver's license or privilege to obtain a driver's license was revoked  
18 under circumstances described in AS 28.15.181(c)(2) or (3). The  
19 execution of sentence may not be suspended nor may probation or parole  
20 be granted until the minimum imprisonment provided in this subsection  
21 has been served. Imposition of sentence may not be suspended. In  
22 addition, the person's privilege to drive and to obtain a driver's  
23 license shall be revoked for an additional period of not less than one  
24 year after the date that the person would have been entitled to resto-  
25 ration of driving privileges or to obtain a driver's license if the  
26 person had not been convicted under this section.

27 (d) A person convicted of a violation of this section is guilty  
28 of a class A misdemeanor.

Offered: 2/11/85  
Referred: Judiciary

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 76 (Stat. Affairs)  
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 rights of prisoners; and amending  
7 Rule 5(b) of the Alaska Rules of Criminal Procedure."

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

9 \* Section 1. AS 12.25.150(b) is amended to read:

10 (b) Immediately after an arrest, but after law enforcement  
11 officers have conducted any tests necessary to preserve dissipating  
12 physical evidence of intoxication, a prisoner shall have the right to  
13 telephone or otherwise communicate with the prisoner's attorney and  
14 any relative or friend. Any [, AND ANY] attorney at law entitled to  
15 practice in the courts of Alaska shall, at the request of the prisoner  
16 or any relative or friend [FRIENDS] of the prisoner, have the right to  
17 [IMMEDIATELY] visit the prisoner immediately after the testing [PERSON  
18 ARRESTED].

19 \* Sec. 2. Rule 5(b), Alaska Rules of Criminal Procedure, is amended to  
20 read:

21 (b) Rights of Prisoner to Communicate with Attorney or Other  
22 Person. Immediately after [HIS] arrest, but after law enforcement  
23 officers have conducted any tests necessary to preserve dissipating  
24 physical evidence of intoxication; a [THE] prisoner shall have the  
25 right [FORTHWITH] to telephone or otherwise [TO] communicate with the  
26 prisoner's [BOTH HIS] attorney and any relative or friend. Any  
27 attorney at law entitled to practice in the courts of Alaska shall, at  
28 the request of [EITHER] the prisoner or any relative or friend of the  
29 prisoner, [SHALL] have the right [FORTHWITH] to visit the prisoner in

1        private immediately after the testing.

2        \* Sec. 3. Section 2 amends Rule 5(b) of the Alaska Rules of Criminal  
3 Procedure by delaying the right to contact an attorney until after dis-  
4 sipating physical evidence of intoxication can be obtained.

# The Capital REPORTER

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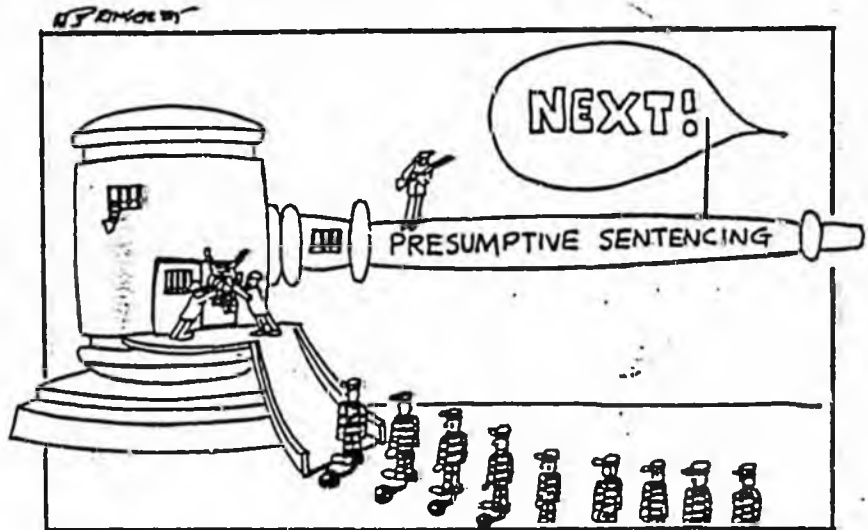
## Lawmakers Focus on Presumptive Sentencing

Representatives of the state's criminal justice system spoke before a joint meeting of the House and Senate Judiciary committees on February 13 and offered differing opinions on the effects and success of presumptive sentencing in Alaska.

Testimony split along predictable lines, with representatives of the Departments of Law, Public Safety and Corrections generally lauding the adoption of presumptive sentencing, and representatives of the Judiciary, Public Defender and Public Advocate's Offices opposing it.

Presumptive sentencing was enacted in 1978 as part of a comprehensive revision of the state's criminal code. Under presumptive sentencing, judicial discretion in sentencing repeat felons is channelled by the legislature, which sets a specific prison term "presumed" to be appropriate for the average offender in the absence of specific aggravating or mitigating factors. These factors can be applied to increase or reduce the presumptive sentence within a specified range.

Chief Prosecutor Dan Hickey from the Criminal Division of the Dept. of Law cited a mid-70's study by the Alaska Judicial Council which studied several hundred felony sentences in Alaska and concluded that the two most important factors influencing the sentence a person received were the race of the defendant and the identity of the judge.



Before 1980, when presumptive sentencing went into effect, judges had sole discretion in handing down sentences, subject only to a statutory maximum. In adopting presumptive sentencing, the legislature hoped to eliminate the disparities in sentencing that occurred under the system of unlimited discretion.

Rep. Robin Taylor (F-Wrangell), a former judge, took exception to the citing of the 1977 study by Hickey. He said he was "offended" that Hickey would bring it up "as some sort of excuse for why we should continue presumptive sentencing." In an angry statement at the conclusion of the hearing, Taylor said that "95% of all the cases which were cited to you by Mr. Hickey today were the result of plea bargains between district attorneys' offices and defense counsels -- a plea bargain over which the judge

has no control." Taylor claimed that the 1978 ban on plea bargaining by then-Attorney General Avrum Gross was the primary reason for the elimination of disparities in sentencing. A follow-up study by the Judicial Council performed two years ago would seem to confirm this, since it showed that by 1980 racial disparities had been eliminated, and that they were low in the years 1978 to 1979.

Judge Alex Brenner of the Alaska Court of Appeals stated that in general judges don't like presumptive sentencing, although they have scrupulously applied the law since 1980. He is concerned about the "over-mechanization of the process" that can lead to poor decisions based strictly on mechanical requirements of the law.

Brenner said there was an "undue

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## Sentencing . . .

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limit" on judicial sentencing discretion, since in the absence of aggravating or mitigating factors, a judge has no discretion at all in the awarding of a sentence. In fact, he stated, one effect of presumptive sentencing has been to transfer much of the discretionary power to the prosecution (District Attorney's Office). The D.A. makes crucial decisions on how to charge a defendant that can significantly affect the sentence. He said that the District Attorney's office is not abusing this power, but that the potential for abuse exists.

According to Brenner the most serious negative effect of presumptive sentencing stems from consecutive sentences. With consecutive sentences "you throw uniformity out the window," said Brenner. If there happens to be two charges, you end up with a double sentence.

He also sees a potential for backlash when sentences are perceived as too harsh. Given the eight-year automatic presumptive sentence for first degree sexual assault and child abuse, he feels there would be less inclination on the part of abused women and children to report interfamilial cases.

Dept. of Public Safety Commissioner Robert Sundberg testified in support of the system. He says it has increased public credibility in the state's criminal justice system. "We haven't heard anyone say lower anything," said Sundberg, who added, "no one has complained about Hansen," (referring to the stiff sentence received by Anchorage serial murderer Robert Hansen).

Public Defender Dana Fabe outlined what she feels are some of the problems with the system. She questions whether presumptive sentencing is an equitable or fair system since individual differences or problems (such as alcohol/drug addiction, youth, and background) cannot be taken into consideration. She feels that if a person has no record whatsoever, it should be considered a mitigating factor. Under presumptive sentencing, a person with a long string of misdemeanor convictions is treated exactly the same as a person with no record at all. She also pointed out that there is no

mitigating factor for turning oneself in or for consideration of a good likelihood of rehabilitation.

Addressing the question of racial imbalances in sentencing, Fabe said she thought that the disparities were eliminated in part because judges became more sensitive to the problem, not because presumptive sentencing was adopted.

She also questioned the increasing use of presumptive sentencing for first time offenders. The law was amended in 1982 to mandate an eight-year automatic sentence for first time offenders convicted of first degree sexual assault. In 1983 the law was further amended to include first degree sexual abuse of a minor. First-time offenders are also sentenced presumptively for class A felonies (robbery, arson, serious assault and manslaughter) and assaults on peace officers and other emergency service providers.

Fabe said one effect of the law is that it encourages more trials. Before 1980, she said, she would often advise clients to "put together a sentencing package," plead guilty perhaps to a lesser charge, and hope for a lenient sentence, rather than taking a weak case all the way. Now, with presumptive sentencing, there is no benefit in pleading guilty if the sentence is automatic.

Fabe recommended that the legislature carefully analyze the existing aggravating and mitigating factors. She also recommended that even if the target sentence is found to be appropriate, the legislature should grant judges the latitude to suspend sentences under certain circumstances and to allow for probation for some prisoners. She said that prisoners sentenced presumptively (no possibility of parole) often leave jail "penniless and unsupervised," increasing the likelihood that they will get into trouble again.

Public Advocate Brant McGee labeled the system a "blind and mechanical process" and offered five reasons for his opposition to it. He feels presumptive sentencing is unfair, that it distorts the criminal justice process, that it removes discretion from the judge to the District Attorney, that it has no deterrent value, and that reduces the likelihood that sexual assault cases within the family will be reported due to the

reiterated Ms. Fabe's points on the unfairness of the system: that no consideration is given to individual differences, that sentences are far too severe, and that the system is "widely perceived as unfair."

He claimed it distorts the system in that it promotes trials over ridiculous issues, such as whether an aggravating or mitigating factor applies. McGee said there was no benefit to avoiding trial, and that defendants often go to trial hoping for a procedural error which would invalidate the proceedings.

McGee said that the three-panel judge procedure is inherently biased and unfair since it depends completely on the composition of the panel. The panel reviews cases that a judge determines would be "manifestly unjust" to sentence presumptively.

He said presumptive sentencing has no deterrent value because people don't understand the system or know the penalties. He said that it "has not alleviated public concern over crime."

Most that testified advised the legislators to study the system as a whole, then to examine the specific components of it such as aggravating and mitigating factors, the specific presumptive sentences, and whether to allow judges the option of granting parole or probation.

## Oil & Gas . . .

(Continued from page 6)

Legislative counsel, Randall Mullen, testified that the legislation was written to apply in general to anyone, not to one particular person so it does not violate the law.

Mike Kelly, general manager for GVEA, said that no other contracts will fall under the category listed in Sec. 1 of the bill. Kelly added that if GVEA suspends its oil take, which has been continuous since 1981, a loss of \$130,000 in revenue to consumers will result. GVEA is a co-operative electric association. Unless SB 152 passes, Kelly stated, GVEA will experience a gap in oil flow, a gap he termed a "paperwork gap" and he requested the committee's approval of the bill to continue GVEA's royalty oil flow. "I'd just as soon get this thing moving while you fine tune the