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Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: HB 114

Sponsor: GOVERNOR

Date referred to committee: 5/7

Synopsis completed:

Fiscal note:

Further referrals: JUDICIARY, FINANCE

propose 11/13/85. Will prepare position paper (support of 3 technical amendments) & fiscal note (zero).

CONTACTS:

Madine Winters, Corrections 3376 Anch 501-4426

Mike Stark, A.G. 3460

Public Safety (Joe Reeves) 4349 request update fiscal note 1-10-86
phoned 1/13/87 - no change from '86

Rep Miller, Hayden Kadyrn 4990

Karla Forsythe, Ct. System 264-8228 (will not attend)

Don Rouleau, District Council Laborers 6-3707

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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May, 1988

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

Mary Van Nimwegen

HESS	3-27-86	1:38 PM
	3-18-86	1:38 PM
	3-11-86	1:37 PM

SECTIONAL ANALYSIS

Distributed by
Sen. Fahrenkamp

- SEC. 1 TOLL STATUTE OF LIMITATIONS
- SEC. 2 SERVICE OF FELONS AS JURORS
- SEC. 3-4 FAILURE TO RETURN FROM FURLOUGH
- SEC. 5 FURLOUGH OF GUILTY-BUT-MENTALLY-ILL PERSONS
- SEC. 6 COMMISSIONER'S DUTIES:
- 33.30.011 MEDICAL AND PSYCHIATRIC SERVICES
 - 33.30.021 REGULATIONS
 - 33.30.031 CONTRACTING FOR CONFINEMENT
 - 33.30.041 LEASE OF FACILITY TO MUNICIPALITY
 - 33.30.051-.061 OUT-OF-STATE FACILITIES
 - 33.30.071 PUBLIC SAFETY'S ROLE
 - 33.30.081 TRANSPORTATION OF PRISONERS
 - 33.30.091 TREATMENT PROGRAMS
 - 33.30.101-.041 FURLOUGHS
 - 33.30.151 CORRECTIONAL RESTITUTION CENTERS
-.181
 - 33.30.191 PRISONER EMPLOYMENT
 - 33.30.201 PRISONER PAY
 - 33.30.211-.221 DOCUMENTS AND OATHS
 - 33.30.231 TELEPHONE
 - 33.30.241 CIVIL RIGHTS
 - 33.30.251 ABANDONED PERSONAL PROPERTY
 - 33.30.261 CONTRABAND
 - 33.30.271 FORFEITURE OF PROPERTY
 - 33.30.281 CRIME AGAINST SENTENCED PRISONER
 - 33.30.291 TREATIES
 - 33.30.901 DEFINITIONS

Continued →

continued

SEC. 7-9 FREE VENTURE INDUSTRIES

SEC. 10 CREDITED SERVICE

SEC. 11 CONSTRUCTION OF CORRECTIONAL FACILITIES/INMATE LABOR

SEC. 12 REPEALERS (ALL EXISTING CORRECTIONS STATUTES THAT ARE
REWRITTEN IN THIS BILL).

SEC. 13 EXISTING REGULATIONS

COMMITTEE REPORT
SENATE

FURTHER:

JUDICIARY
FINANCE

5/7/85

Date

3 27 85

Mr. President

The Committee on HESS considered CSBE 114 (Jud) am

correctional facilities, and the imprisonment and rehabilitation of offenders.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for CSBE 114 (Jud) am
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

Distributed by
Sen. Fahrenkamp

DEPARTMENT OF CORRECTIONS
May 8, 1986

Major Points of Senate CS for CS fo: HB 114 (Jud.)

1. First comprehensive update of Alaska's laws on correctional facilities and the imprisonment and rehabilitation of offenders since statehood.
2. Repeals tolling of statute of limitations for prisoners who sue. Treats prisoners same as citizens and prisoners no longer have an advantage.
3. Codifies standard of medical care from Supreme Court decision.
4. Requires determination that rehabilitation will not be impaired before designating an out-of-state facility for a prisoner.
5. Clarifies responsibility for confinement and care of prisoners pending commitment to a state correctional facility.
6. Delineates authority of court and commissioner in transportation of prisoners. Limits court's authority to order transportation only for purposes related to court actions.
7. Sets out criteria consistent with court decisions which should be considered in assigning a prisoner to a treatment or rehabilitative program.
8. Establishes more comprehensive furlough system with specific criteria for eligibility and mandatory safeguards for the public.
9. Incorporates restitution center bill (SLA 1985 ch. 72) into statutory scheme in a more cohesive fashion.
10. Expands work opportunities for prisoners, thus reducing idleness, and enhancing rehabilitation, while protecting existing industry and labor from competition with prisoners.
11. Limits access to telephones for high risk prisoners; permits monitoring of prisoner telephone calls (except to attorneys) to preserve security and to protect the public.
12. Clarifies effect of criminal conviction on civil rights of a prisoner.
13. Provides much needed authorization to dispose of abandoned personal property.

14. Provides authority to forfeit excess money; will deter gambling and sale and use of drugs.
15. Makes Alaska a signatory to prisoner transfer treaties between the United States and foreign governments.
16. Permits commissioner to enter into a joint cooperative venture with private industry for the employment of prisoners (Free Venture Correctional Industry) as long as it does not compete with an existing industry or labor force in the state. A free venture industry is subject to competitive bidding requirements.
17. Permits Department of Corrections and Department of Transportation and Public Facilities to enter into agreements whereby DOTPF may delegate responsibility for construction, renovation or repair of a state correctional facility to DOC up to an estimated \$100,000 per project. Considerable cost savings to the state.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



Sandra

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Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, March 11, 1986

DATE: March 10, 1986

On Tuesday, March 11, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear:

CSHB 114(Jud) am Relating to correctional facilities and the imprisonment and rehabilitation of offenders

A sectional analysis prepared by the Attorney General's office is attached. The following areas are addressed:

Section 1 Service of felons as jurors allowed once discharged from supervision.

Sections 2-3 Failure to return from furlough is crime of unlawful evasion.

Section 4 Furlough of guilty but mentally ill prisoners allowed for treatment purposes.

Section 5 Specifies commissioner's duties in regard to:

- AS 33.30.011 Medical and psychiatric services
- AS 33.30.031 Contracting for confinement of misdemeanants and furloughed felons
- AS 33.30.061 Incarceration in out-of-state facilities
- AS 33.30.081 Transportation of prisoners
- AS 33.30.091 Treatment programs
- AS 33.30.111 Furloughs

AS 33.30.151 Employment of prisoners
AS 33.30.181 Telephone access
AS 33.30.191 Suspension of civil rights
AS 33.30.211 Confiscation of contraband

Sections 6-8 "Free Venture" correctional industries in which the private sector provides tools, training and marketing and Corrections provides the labor force.

Section 10 Construction and renovation of correctional facilities with inmate labor.

Two amendments proposed by the Department are attached:

1. Make the statute of limitations for prisoners the same as for other citizens, and allow the commissioner to determine whether a prisoner should be transported for purposes unrelated to court action.
2. Incorporate language enacted last year in SB 4, relating to correctional restitution centers.

In addition, as follow-up to the Committee's earlier hearing on prison population growth, Commissioner Endell will discuss the Department's proposed budget amendment (attached) which would fund operation of an additional 362 beds and 10 probation officers.

The hearing will be teleconferenced to Anchorage and Fairbanks.

Changes: p. 1, line 24
p. 2, line 7
p. 3, line 29
p. 4, line 3, 5, 9-11
Offered: 4/25/85
Referred: Finance

p. 7, line 18
p. 10, line 8
p. 11, lines 9, 18
p. 12, line 25
p. 13, line 10
p. 14, lines 2, 3, 4, 10, 23, 29
p. 15, lines 8, 20, 29
p. 16, lines 7, 26, 29
p. 20, line 6
p. 21, lines 1, 4

HB 114

Plus see attached language. Changes at: p. 7, line 16
p. 12, line 23
p. 17, lines 2, 4

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SCS CS FOR HOUSE BILL NO. 114 (Judiciary) am (Hess)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

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

9

* Section 1. AS 09.20.020 is amended to read:

10

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

11

12

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

13

14

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

15

16

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

17

18

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

19

20

(1) the person fails to return to official detention within the time authorized following temporary leave granted for a specific purpose or limited period, including privileges granted under AS 33.30.181 or

21

22

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

23

24

(b) Unlawful evasion in the first degree is a class A misdemeanor.

25

or.

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

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

5 (1) the person fails to return to official detention within
6 the time authorized following temporary leave granted for a specific
7 including privileges granted under AS 33.30.181
8 purpose or limited period, or

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

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

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

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

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

19 (2) on parole.

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

21 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

27 (2) classify prisoners;

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

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

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

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

- 16 (A) a prisoner exhibits symptoms of a serious disease
- 17 or injury that is curable or may be substantially alleviated; and
- 18 (B) the potential for harm to the prisoner by reason
- 19 of delay or denial of care is substantial.

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

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

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

29 provided through agreement with a public agency
Correctional facilities provided through agreement with a private agency
must be located in this state. - CSHB 114(Jud) am

(c) Notwithstanding AS 37.05.230 (1)(B), an agreement with a private agency to provide necessary facilities under (a) of this section must be based on competitive bids.

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

4 (b) Unless the purpose is to involve prisoners in a program
5 established under AS 33.30.091 - 33.30.131^{or AS 33.30.151-33.30.181} or to confine prisoners
6 convicted of a misdemeanor, the commissioner may not enter into an
7 agreement with a privately operated correctional facility under (a) of
8 this section.

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

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

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

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

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

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

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

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

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

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

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

17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

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

3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
5 safety shall provide for the custody, care, and discipline of prison-
6 ers pending arraignment, commitment by a court to the custody of the
7 commissioner of corrections, or admission to a state correctional
8 facility. Except as provided in (c) of this section, the responsibil-
9 ity for providing necessary medical services for prisoners remains
10 with the commissioner of corrections under AS 33.30.011(4). The
11 commissioner of corrections and the commissioner of public safety are
12 not responsible for providing custody, care, and discipline for a
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person
14 is admitted into a state correctional facility.

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

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

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

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

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

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

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

*See attached
language
on transportation
(e)-(h)* →

17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
18 and AS 33.30.161 AS 33.30.111, the commissioner may assign a prisoner committed to the
19 commissioner's custody to a program established under AS 33.30.011(3)
20 considering

- 21 (1) safeguards to the public;
22 (2) the prospects for the prisoner's rehabilitation;
23 (3) the availability of program and facility space;
24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;
26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;
28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

1 court;

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

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

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

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

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

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

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

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

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

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

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

29 (1) the factors in AS 33.30.091;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) a prisoner who is denied discretionary parole under
8 AS 33.15.080 ^{AS 33.16.130} may not be granted a prerelease furlough for a period of
9 at least one year following the denial unless the board of parole
10 expressly waives this provision.

11 (e) A prisoner may request a prerelease furlough under proce-
12 dures adopted by the commissioner. If the commissioner denies a
13 request for a prerelease furlough, the commissioner shall provide the
14 prisoner with a written explanation of the reasons for the denial.

15 (f) Upon request of the victim, in the case of a prisoner con-
16 victed of a crime against a person, notice of the commissioner's
17 intent to consider the prisoner for a prerelease furlough shall be
18 sent to the victim. The victim may comment in writing on the intent
19 of the commissioner to release the prisoner on prerelease furlough
20 status. The commissioner shall consider the comments of the victim
21 before making a final decision to release a prisoner on a prerelease
22 furlough. If the victim requests notification, the commissioner shall
23 make every reasonable effort to notify the victim of an intent to
24 release the prisoner on a prerelease furlough. The notice must con-
25 tain the expected date of the prisoner's release, the geographic area
26 in which the prisoner will reside and other pertinent information
27 concerning the prisoner's release that may affect the victim.

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

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

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

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

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

9 OR CORRECTIONAL RESTITUTION CENTER PLACEMENT
10 Sec. 33.30.131. PRERELEASE OR SHORT-DURATION FURLOUGH INVOLVING

11 EMPLOYMENT. (a) The commissioner may grant a prerelease or short-
12 duration furlough to permit a prisoner to participate in suitable
13 employment under conditions and at wages that represent the prevailing
14 standard for the area. A prisoner may not participate in employment
15 where an organized labor dispute is in progress.

16 (b) Unless alternative arrangements are expressly approved by
17 the commissioner, when a prisoner is employed outside a correctional
18 facility as part of a prerelease or short-duration furlough program,
19 or as part of serving time in a correctional restitution center under AS 33.30.151 - 33.30.181.

20 the earnings of the prisoner shall be delivered to the commissioner.

21 If an employer transmits the earnings to the commissioner, the em-
22 ployer has no liability to the prisoner for the earnings. The commis-
23 sioner shall disburse the earnings of the prisoner, in an order deter-
24 mined appropriate, under procedures adopted by the commissioner to

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

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

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

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

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

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

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

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

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

24 ARTICLE 3. GENERAL PROVISIONS.

25 Sec. 33.30.¹⁹¹151 EMPLOYMENT OF PRISON INMATES. (a) It is the
26 policy of the state that prisoners be productively employed for as
27 many hours each day as feasible, not to exceed 40 hours a week unless
28 overtime has been specifically approved by the commissioner.

29 (b) The commissioner may enter into contracts or cooperative

see attached
language re 29
correct to file
29
23
24
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26
27
28
29
3.30.151
181

1 agreements with any public agency for the performance of conservation
2 projects. The commissioner may enter into a contract with an indi-
3 vidual or agency for the employment of prisoners if the work to be
4 performed will have minimal negative impact on an existing private
5 industry or labor force in the state as determined by the Correctional
6 Industries Commission under AS 33.32.015.

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

13 (d) In this section "productively employed" includes the follow-
14 ing kinds of employment:

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

17 (2) education including both academic and vocational;

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

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

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

27 (6) other work performed inside or outside of a correction-
28 al facility if the work has minimal negative impact on an existing
29 private industry or labor force in the state as determined by the

1 Correctional Industries Commission under AS 33.32.015.

(2) Sec. 33.30.²⁰¹~~156~~ PAY OF PRISON INMATES. Each prisoner who is
(3) productively employed, as defined in AS 33.30.¹⁹¹~~151~~(d)(1) or 33.30.-
(4) ¹⁹¹~~151~~(d)(3) - (6), may receive for that work compensation at a rate
5 determined by the commissioner under AS 33.32.050 if the money is
6 available from legislative appropriations. The provisions of AS 33.-
7 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-
8 tional industries program and to prisoners productively employed in
9 activities outside that program.

(10) Sec. 33.30.²¹¹~~161~~ TRANSMISSION OF DOCUMENTS. (a) When a prisoner
11 is admitted to a correctional facility, a copy of the commitment shall
12 be delivered with the prisoner as evidence of the authority of the
13 correctional facility to hold the prisoner.

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

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

(23) Sec. 33.30.²²¹~~171~~ SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
24 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-
25 tional facility or the superintendent's assistant may administer oaths
26 to and take acknowledgments from a prisoner, but may not request or
27 accept compensation from a prisoner for acts performed under this
28 section.

(29) Sec. 33.30.²³¹~~181~~ TELEPHONE ACCESS AND MONITORING INSIDE

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

3 (b) A prisoner who is classified maximum custody, is placed in
4 segregation as punishment for a rule infraction, or is placed in
5 segregation because the prisoner poses a threat to others or to the
6 security of a correctional facility may not have access to a telephone
7 except to communicate with an attorney, to otherwise communicate as
8 provided in ^{AS 12.25.150.} ~~Rule 5(b) of the Alaska Rules of Criminal Procedure~~ or in
9 an emergency as determined appropriate by the commissioner.

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

20 ²⁴¹
Sec. 33.30. ~~(19)~~ EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
21 RIGHTS. (a) A person who is convicted of a felony involving moral
22 turpitude as defined in AS 15.60.010 is disqualified from voting in a
23 state or municipal election until the person's unconditional dis-
24 charge.

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

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

29 ²⁵¹
Sec. 33.30. ~~(20)~~ DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

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

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

10 (c) A prisoner's personal property that remains at a correction-
11 al facility after 90 days from the date of the prisoner's release or
12 transfer is considered abandoned, and shall be delivered to the De-
13 partment of Administration for disposal under AS 44.71.010.

14 (d) The state is not liable for any loss or damage to personal
15 property properly determined to be abandoned under (c) of this sec-
16 tion.

17 Sec. 33.30 ²⁶¹~~(211)~~ EXCESS MONEY AS CONTRABAND. (a) A prisoner who
18 possesses money in an amount greater than that permitted by the com-
19 missioner is subject to disciplinary sanctions under regulations
20 adopted by the commissioner.

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

26 Sec. 33.30 ²⁷¹~~(221)~~ FORFEITURE OF PROPERTY. A conviction of a
27 person for a crime does not work a forfeiture of property, except in
28 cases where a forfeiture is expressly provided by law.

29 Sec. 33.30 ²⁸¹~~(231)~~ CRIME AGAINST SENTENCED PRISONER. A person who

See attached language on treaties 33.30.301
See attached language on definitions (1), (3) and renumber

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

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

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

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

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

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

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

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

(7) "health care provider" means

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

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

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

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

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

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

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

12 (b) The commissioner of corrections may

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

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

22 (3) if the Correctional Industries Commission established
23 in AS 33.32.070 approves, employ prisoners to provide services or
24 products as needed by private industry if the services or products
25 have potential for contributing to the economy of the state and will
26 have minimal negative impact on an existing private industry or labor
27 force in the state;

28 (4) authorize a prisoner to engage in productive employment
29 within or outside a correctional facility or enter into a contract

1 under AS 33.30.151 for the employment of a prisoner if the Correction-
2 al Industries Commission determines that the employment will have
3 minimal negative impact on an existing private industry or labor force
4 in the state; and

5 (5) subject to the provisions of AS 37.05, enter into joint
6 cooperative ventures with private industry for the establishment and
7 operation of "Free Venture" industries under AS 33.32.017, if the
8 Correctional Industries Commission determines that the "Free Venture"
9 industry will have minimal negative impact on an existing private
10 industry or labor force in the state.

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

12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)
13 Upon recommendation of the Correctional Industries Commission estab-
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-
15 ture" correctional industries for the sale of goods or services to the
16 public or private sector. A "Free Venture" correctional industry is a
17 correctional industry that is operated and managed in total or in part
18 by a private industry or organization within a correctional facility
19 under an agreement entered into under AS 33.32.015(b)(5).

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

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

26 (d) In exchange for the space, utilities, and inmate workers
27 provided to it, the private industry or organization shall pay to the
28 commissioner a weekly payment in an amount not less than the sum of
29 the existing minimum hourly wage, established under AS 23.10.065,

1 multiplied by the total number of hours worked during that week by
2 inmates employed in the "Free Venture" correctional industry.

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

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

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

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

12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.-
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.

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

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

29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, ^{33.30.062} 33.30.070, 33.30.080, 33.30.-
2 090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.150,
3 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225, 33.30.-
4 227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
5 33.30.900. 33.30.282, 33.30.283, 33.30.284, 33.30.286, 33.30.288

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

①

I(e). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 2 and before line 3: Add a section which reads as follows:

Sec. 33.30.301. TREATIES. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of prisoners sentenced to serve a term of incarceration to the country where they are citizens or nationals, the commissioner may, on behalf of the state and subject to the terms of the treaty, consent to the transfer or exchange of prisoners and take any other action necessary to initiate the participation of the state in the treaty.

Explanation - This section is necessary for Alaska to be able to participate in prisoner transfer programs entered into by treaty between the United States and foreign countries.

2a

I(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, after line 16 and before line 17: Insert the following new subsections.

(e) Except as provided in (f) of this section, a court may not order the transportation of a prisoner.

(f) A court may order a prisoner who is a party or witness to a civil action or a witness to a criminal action to appear at a place other than within a correctional facility, only if the court determines, after providing a reasonable opportunity for the commissioner to comment, that the prisoner's personal appearance is essential to the just disposition of the action. In making its determination, the court shall consider available alternatives to the prisoner's personal appearance including deposition and telephone testimony.

(g) Except as provided in (h) of this section, the expenses associated with the transportation of a prisoner ordered under (f) of this section, including but not limited to the costs of travel for the prisoner and escorting officers and the salary and per diem costs of the escorting officers, must be borne by the party who has requested the prisoner's appearance, and must be paid to

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the commissioner of public safety before the prisoner is transported.

(h) A prisoner who is a party to a civil action is not required to bear the full costs of the prisoner's own transportation under (g) of this section if the court determines that the prisoner is indigent. In such cases, the court may require the prisoner to bear a portion of the costs, and the commissioner of public safety shall bear the remaining costs of transporting the prisoner. If an indigent prisoner recovers a money judgment, the court may require the prisoner to bear all or part of the expenses required under (g) of this section.

Explanation - These proposed subsections are intended to help resolve two longstanding problems related to prisoner transportation. The first problem is the involvement of the courts in ordering prisoners transported to various locations for such occasions as funerals, births, hospitals to visit sick relatives, etc. These orders have frequently required state troopers to drop more important work, tied up critical manpower, and failed to consider risks to the public presented by some very dangerous prisoners. The first subsection will leave it to the discretion of the commissioner whether a prisoner may be transported for a purpose unrelated to a court action.

3a

II(e). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 12, after line 23 and before line 24: Add four new sections (taking the numbers .151 -- .161) as follows:

Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS.

(a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain nonviolent offenders with rehabilitation through community service and employment while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

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

(1) requirements that the centers be secure and in compliance with state and local safety laws;

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

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

(4) standards for classifying prisoners to centers;

(5) standards for mandatory employment and participation in community service programs in each center; and

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

Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to serve time in a correctional restitution center unless the commissioner specifically finds that the prisoner meets the eligibility requirements imposed by this section.

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

(1) must be employable or eligible to work on community service projects approved by the commissioner and agree to secure employment or participate in community service projects and obey the rules of the center;

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

(3) may not have been convicted of an offense under AS 11.41.410 -- 11.41.470 or an offense in the state or another jurisdiction having elements substantially identical to an offense under AS 11.41.410 -- 11.41.470.

3c

(c) Unless the commissioner determines otherwise for good cause shown, a person sentenced to less than five days who is serving time in a correctional restitution center is required to participate in a community service project when available.

Sec. 33.30.171. COMMUNITY ADVISORY COMMITTEES. The commissioner shall appoint a community advisory committee for each center, to consist of five members of the community in which the center is located. The committee shall act as a liaison between the community and the department regarding community concerns with the center.

Sec. 33.30.181. CONFINEMENT TO THE CENTER. (a) A prisoner shall be confined to the center at all times except while

- (1) at work and traveling to and from work;
- (2) at and traveling to and from a community service project approved by the commissioner;
- (3) on emergency absence;
- (4) at and traveling to and from a job interview; or
- (5) on a furlough approved by the commissioner.

(b) Except for an emergency absence or furlough, a prisoner may not be absent from a center under this section for more than 12 hours in a 24-hour period.

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II(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 4: Add two new definitions as follows and renumber remaining definitions alphabetically:

(1) "center" means a correctional restitution center;

and

(3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit.

Explanation - These two definitions became existing law as part of SLA 1985 ch. 72 (SB 4 - Restitution Center bill). This amendment simply inserts these definitions in the appropriate place.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



Senate Committee on Health, Education and Social Services

LETTER OF INTENT

SCS FOR CS FOR HOUSE BILL 114 (HESS)

In passing SCS for CS for House Bill 114 (HESS), an act relating to correctional facilities, and the imprisonment and rehabilitation of offenders, the legislature intends that the phrase "minimal negative impact on an existing private industry or labor force in the state," located in various sections of the bill (relating to work programs and correctional industries), be interpreted so as to prevent competition by prison work programs with private sector employment.

The standard of "minimal negative impact on an existing private industry or labor force in the state" has been utilized by the Correctional Industries Commission in its evaluation of proposed industries under AS 33.32.015(b) (3) and AS 33.32.080(c) since the creation of the Commission in 1982. The legislature intends that the Commission continue to apply this standard in such a way as to prohibit competition with private industry.

*- adopted by HESS
- not adopted by
Senate,
'cause
concept
embodied
in Jud. CS.*

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I(a). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 1, line 9: Add new section to read as follows:

* Section 1. AS 09.10.140 is amended to read:

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

2. Renumber all remaining sections accordingly.

Explanation - This amendment would reinstate a section which was in an earlier version of this bill, but which was removed by the House Judiciary Committee.

This ^{stops} ~~amends~~ ^{stops} ~~tolls~~ would repeal the provision in AS 09.10.140 which ~~tolls~~, for the period of imprisonment, the running of the period of time (statute of limitations) in which a prisoner may commence a lawsuit for an action which accrues

during imprisonment. This statute was originally enacted as a counterpart to AS 33.30.310, which suspended the civil rights of a prisoner during incarceration, including the right to file an action in court.

Since the right to access to the courts is no longer precluded for prisoners (under both section 33.30.191 of this Act and the great weight of court decisions), it would give a prisoner an unequal advantage over a normal citizen to retain the tolling of the statute of limitations for prisoners.

I(b). Proposed Amendment to CS for HF 114 (Judiciary)

Page 4, line 3: Take out words "and regulations".

Explanation - These two words are unnecessary as regulations in Alaska have the force and effect of law.

I(c). Proposed Amendment to CS for HB 114 (Judiciary)

Page 10, line 8: Delete AS 33.15.180 and insert AS 33.16.130
in its place.

Explanation - This is a housekeeping amendment necessitated by
changes in the parole statutes in 1985 SLA ch. 88.

I(d). Proposed Amendment to CS for HB 114 (Judiciary)

Page 15, line 8: Insert AS 12.25.150 after "in" and delete "Rule 5(b) of the Alaska Rules of Criminal Procedure".

Explanation - The suggested change is the correct citation and will result in no substantive change. In addition this will avoid a potential problem that might occur if the Supreme Court were to change Criminal Rule 5(b).

I(e). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 2 and before line 3: Add a section which reads as follows:

Sec. 33.30.301. TREATIES. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of prisoners sentenced to serve a term of incarceration to the country where they are citizens or nationals, the commissioner may, on behalf of the state and subject to the terms of the treaty, consent to the transfer or exchange of prisoners and take any other action necessary to initiate the participation of the state in the treaty.

Explanation - This section is necessary for Alaska to be able to participate in prisoner transfer programs entered into by treaty between the United States and foreign countries.

Josephson will review.

I(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, after line 16 and before line 17: Insert the following new subsections.

(e) Except as provided in (f) of this section, a court may not order the transportation of a prisoner.

(f) A court may order a prisoner who is a party or witness to a civil action or a witness to a criminal action to appear at a place other than within a correctional facility, only if the court determines, after providing a reasonable opportunity for the commissioner to comment, that the prisoner's personal appearance is essential to the just disposition of the action. In making its determination, the court shall consider available alternatives to the prisoner's personal appearance including deposition and telephone testimony.

(g) Except as provided in (h) of this section, the expenses associated with the transportation of a prisoner ordered under (f) of this section, including but not limited to the costs of travel for the prisoner and escorting officers and the salary and per diem costs of the escorting officers, must be borne by the party who has requested the prisoner's appearance, and must be paid to

*Josephson
amendment rule
in fair rights
parties? (litigant)
desires whose
testimony desired
in court
stark - could still
be deposed or testify
by phone*

the commissioner of public safety before the prisoner is transported.

(h) A prisoner who is a party to a civil action is not required to bear the full costs of the prisoner's own transportation under (g) of this section if the court determines that the prisoner is indigent. In such cases, the court may require the prisoner to bear a portion of the costs, and the commissioner of public safety shall bear the remaining costs of transporting the prisoner. If an indigent prisoner recovers a money judgment, the court may require the prisoner to bear all or part of the expenses required under (g) of this section.

Explanation - These proposed subsections are intended to help resolve two longstanding problems related to prisoner transportation. The first problem is the involvement of the courts in ordering prisoners transported to various locations for such occasions as funerals, births, hospitals to visit sick relatives, etc. These orders have frequently required state troopers to drop more important work, tied up critical manpower, and failed to consider risks to the public presented by some very dangerous prisoners. The first subsection will leave it to the discretion of the commissioner whether a prisoner may be transported for a purpose unrelated to a court action.

The next subsection sets out the standard under which a judge may order the personal appearance of a prisoner to testify in court -- i.e., the prisoner's personal appearance is essential to a just determination of a court action. This is a recognition of a prisoner's right to access to the courts, but not necessarily to personally appear in court either as a witness or a party to a lawsuit. Frequently, telephone or deposition testimony will suffice; however the court before whom any action is pending will make the final decision. This is an approach taken by several states (e.g., Minnesota and New York) in recognition of the risk to the public in the possible escape of prisoners and the fact that prisoners often times file actions just to get out of a correctional facility. It is also an attempt to maximize the time of state troopers in law enforcement related activities as opposed to prisoner transportation.

Additionally, the last two subsections address a serious concern of the department of public safety -- namely the cost of transporting, escorting and guarding prisoners who testify in civil actions. These amendments will relieve the state from subsidizing private civil litigants by requiring the litigants to pay for the transportation costs of prisoners who testify in the case. This is especially critical in a time of declining revenues.

Dept. Corrections #2

II(a). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 1, line 24: After "period" insert ", including privileges granted under AS 33.30.181".
2. Page 2, line 7: After "period" insert ", including privileges granted under AS 33.30.181".

Explanation - The sections of this bill will have to be renumbered so that the various provisions of 1985 SLA ch. 72 (SB 4 - Correctional Restitution Center bill) can be inserted in the appropriate place. Under this proposed amendment (and others accompanying it), 33.30.181 will become what is presently AS 33.30.288, which allows prisoners to be absent from a correctional restitution center only for carefully delineated purposes.

Mark - ^{risk factors} ^{liability concerns} ^{training of staff} ~~pure~~ confinement of felons - state responsibility
contract of felons for rehab. OK
This 1st yr for misdemeanants per SB 4 last yr.

*No state contracts
contracts have held
harmless clause
to protect state
from liability.*

II(b). Proposed Amendment to CS for HB 114 (Judiciary)

- Page 3, line 29: After "agreement" insert "with a public agency".
2. Page 3, after line 29: Insert "Correctional facilities provided through agreement with a private agency must be located in this state."
3. Page 4, line 5: After "AS 33.30.091 -- 33.30.131" add "or AS 33.30.151 -- 33.30.181".
4. Page 4, lines 9-11: Remove existing subsection (c) and replace it with the following language:
- "(c) Notwithstanding AS 37.05.230(1)(B), an agreement with a private agency to provide necessary facilities under (a) of this section must be based on competitive bids."

Explanation - All of these amendments reflect present law (AS 33.30.060 and .062) as a result of the passage of SLA 1985 ch. 72 (SB 4 - the Restitution Center bill) last session. They make clear that any private agency which the commissioner contracts with for the placement of inmates must be located in the state, and must be secured through competitive bids. Further, the commissioner may only contract with a private

agency to confine persons convicted of a misdemeanor, to house prisoners on a furlough or for placement in a restitution center.

II(c). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, line 18: After "AS 33.30.111" add "and AS 33.30.161".

Explanation - Under the renumbered sections suggested with this and other accompanying proposed amendments, the new sec. 33.30.161 will be what is presently 33.30.283, which discusses eligibility criteria to serve time in a correctional restitution center.

This proposed amendment makes clear that the commissioner may assign a prisoner to any program as long as it does not conflict with eligibility criteria for placement in a restitution center or on a pre-release furlough.

II(d). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 11, line 9: After "FURLOUGH" insert "OR CORRECTIONAL RESTITUTION CENTER PLACEMENT".

2. Page 11, line 18: At the beginning of the line insert the words "or as part of serving time in a correctional restitution center under AS 33.30.151 -- 33.30.181".

Explanation - This amendment makes no substantive change to existing law, but rather inserts the requirements of AS 33.30.-286 into this section such that the earnings of prisoners who are working while serving time in a correctional restitution center are treated the same as prisoners who are working while out on furlough.

II(e). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 12, after line 23 and before line 24: Add four new sections (taking the numbers .151 -- .161) as follows:

Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS.

(a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain nonviolent offenders with rehabilitation through community service and employment while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

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

(1) requirements that the centers be secure and in compliance with state and local safety laws;

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

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

(4) standards for classifying prisoners to centers;

(5) standards for mandatory employment and participation in community service programs in each center; and

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

Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to serve time in a correctional restitution center unless the commissioner specifically finds that the prisoner meets the eligibility requirements imposed by this section.

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

(1) must be employable or eligible to work on community service projects approved by the commissioner and agree to secure employment or participate in community service projects and obey the rules of the center;

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

(3) may not have been convicted of an offense under AS 11.41.410 -- 11.41.470 or an offense in the state or another jurisdiction having elements substantially identical to an offense under AS 11.41.410 -- 11.41.470.

(c) Unless the commissioner determines otherwise for good cause shown, a person sentenced to less than five days who is serving time in a correctional restitution center is required to participate in a community service project when available.

Sec. 33.30.171. COMMUNITY ADVISORY COMMITTEES. The commissioner shall appoint a community advisory committee for each center, to consist of five members of the community in which the center is located. The committee shall act as a liaison between the community and the department regarding community concerns with the center.

Sec. 33.30.181. CONFINEMENT TO THE CENTER. (a) A prisoner shall be confined to the center at all times except while

- (1) at work and traveling to and from work;
- (2) at and traveling to and from a community service project approved by the commissioner;
- (3) on emergency absence;
- (4) at and traveling to and from a job interview; or
- (5) on a furlough approved by the commissioner.

(b) Except for an emergency absence or furlough, a prisoner may not be absent from a center under this section for more than 12 hours in a 24-hour period.

2. Pages 12-16: Renumber sections 33.30.151 -- 33.30.231 to 33.30.191 -- 33.30.281.
3. Page 14 lines 3 and 4: Change the references to "33.30.-151" to "33.30.191".

Explanation - These proposed amendments simply insert a number of the provisions of SLA 1985 ch. 72 (SB 4 - Correctional Restitution Center bill) into the appropriate place (i.e., at the end of Article II, which includes programs), thus necessitating the renumbering of the four provisions which have been displaced. Thus under these amendments, AS 33.30.282 becomes 33.30.151; AS 33.30.283 becomes 33.30.161; AS 33.30.284 becomes 33.30.171; and AS 33.30.288 becomes 33.30.181. Consequently, existing proposed 33.30.151 becomes 33.30.191 and the remaining sections in this Article are renumbered accordingly.

The third amendment is a housekeeping one to maintain internal consistency.

II(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 4: Add two new definitions as follows and renumber remaining definitions alphabetically:

(1) "center" means a correctional restitution center;

and

(3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit.

Explanation - These two definitions became existing law as part of SLA 1985 ch. 72 (SB 4 - Restitution Center bill). This amendment simply inserts these definitions in the appropriate place.

II(g). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 21, line 1: Between "33.30.060," and "33.30.070" add "33.30.062,".
2. Page 21, line 4: Between "33.30.260," and "33.30.290" add "33.30.282, 33.30.283, 33.30.284, 33.30.286, 33.30.288,".

Explanation - This is a housekeeping amendment. Since all the provisions of SLA 1985 ch. 72 (SB 4 - Restitution Center bill) have been incorporated into this bill, it is necessary to repeal the existing provisions.

Comparison of CS HB 114 (Jud) am to existing law.

Superseded

Offered: 4/25/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 114 (Judiciary) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to correctional facilities, and the
7 imprisonment and rehabilitation of offenders."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 09.20.020 is amended to read:
10 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-
11 qualified from serving [TO ACT] as a juror if the person
12 (1) has served as a juror in the state within one year of
13 the time of examination for service; or
14 (2) has been convicted of a felony for which the person has
15 not been unconditionally discharged. Unconditional discharge has the
16 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE
17 PERSON HAVE NOT BEEN RESTORED].
18 * Sec. 2. AS 11.56.340 is repealed and reenacted to read:
19 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. A
20 person commits the crime of unlawful evasion in the first degree if,
21 while charged with or convicted of a felony,
22 (1) the person fails to return to official detention within
23 the time authorized following temporary leave granted for a specific
24 purpose or limited period; or
25 (2) while on furlough under AS 33.30.101 - 33.30.111 the
26 person fails to return to the place of confinement or residence within
27 the time authorized by those having direct supervision.
28 (b) Unlawful evasion in the first degree is a class A misdemean-
29 or.

Existing 09.20.020.

Existing AS 33.30.150 makes
no distinction between
felonies + misdemeanors.

Existing 33.30.150 makes no distinction between felonies & misdemeanors

Existing 12.47.050(d)

(1) existing 33.30.010 and 33.30.040

(2) existing 33.30.020

(3) existing 33.30.020 requires Dept to establish rehabilitation & treatment programs. Adds furlough programs, & adds goals for the treatment programs.

1 * Sec. 3. AS 11.56.350 is repealed and reenacted to read:
2 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A
3 person commits the crime of unlawful evasion in the second degree if,
4 while charged with or convicted of a misdemeanor,

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

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

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

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

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

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

18 (2) on parole.

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

20 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

26 (2) classify prisoners;

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

(4) existing AS 33.30.050 - provide services either directly or under contract

(5) new provision under the standard articulated by the AK Supreme Ct. in Rust vs. State.

existing AS 33.30.030

existing 33.30.060 limits the Dept.'s contracting authority to public agencies.

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

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

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

- (A) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and
- (B) the potential for harm to the prisoner by reason of delay or denial of care is substantial.

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

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

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

(b) Existing 33.30.062.

(c) Existing 33.30.62

(d) New provision. See Section
33.30.131 of this bill.

(e) Existing 33.30.070.
Agreements with other states
are currently under Interstate
Compacts

Existing 33.30.080

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

Existing 33.30.090

Existing 33.30.100 and 33.30.110

New provision.

Existing 33.30.130, but it doesn't address, who's responsible for medical care if the arrest is because of intoxication (47.37.170) or for an emergency mental evaluation (47.30.705).

New provision.. Codifies practice based on 1977 AG opinion.

New provision. Codifies practice based on 1977 AG opinion.

Existing 33.30.130(b) & 33.30.160

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

3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
5 safety shall provide for the custody, care, and discipline of prison-
6 ers pending arraignment, commitment by a court to the custody of the
7 commissioner of corrections, or admission to a state correctional
8 facility. Except as provided in (c) of this section, the responsibil-
9 ity for providing necessary medical services for prisoners remains
10 with the commissioner of corrections under AS 33.30.011(4). The
11 commissioner of corrections and the commissioner of public safety are
12 not responsible for providing custody, care, and discipline for a
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person
14 is admitted into a state correctional facility.

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

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

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

(b) New provision. Codifies current practice.

(c) New provision. Codifies current practice.

(d) Existing 33.30.160.

New provision. Based on case law.

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

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

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

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

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

21 (1) safeguards to the public;

22 (2) the prospects for the prisoner's rehabilitation;

23 (3) the availability of program and facility space;

24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;

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

28 (6) the needs of the prisoner as determined by a class-
29 ification committee and any recommendations made by the sentencing

New provision.
Existing law does not state purpose of furlough.

New provision. Existing law does not specify standards for determining who is furlough-eligible. 33.30.250 merely directs the Dept. to determine "if the person is a fit subject for a furlough."

1 court;
2 (7) the record of convictions of the prisoner with particu-
3 lar emphasis on crimes specified in AS 11.41;
4 (8) the use of drugs or alcohol by the prisoner;
5 (9) the length of the prisoner's sentence; and
6 (10) other criteria considered appropriate by the commis-
7 sioner, including experimental evaluation of correctional programs
8 that are consistent with protection of the public and reformation of
9 the prisoner.
10 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt
11 regulations governing the granting of prerelease and short-duration
12 furloughs to prisoners to
13 (1) obtain counseling and treatment for alcohol or drug
14 abuse;
15 (2) secure or attend vocational training;
16 (3) obtain medical or psychiatric treatment;
17 (4) secure or engage in employment;
18 (5) attend educational institutions;
19 (6) secure a residence or make other preparation for re-
20 lease;
21 (7) appear before a group whose purpose is a better under-
22 standing of crime or corrections; or
23 (8) for any other rehabilitative purpose the commissioner
24 determines to be in the interests of the prisoner and the public.
25 (b) If the commissioner determines with reasonable probability
26 that a prisoner can live under reduced supervision without violating
27 the law or the conditions established for the conduct of the prisoner,
28 the commissioner may grant a furlough after considering
29 (1) the factors in AS 33.30.091;

New provision. Existing statute does not state purpose of furlough.

(b) Existing 33.30.250(c) limits housing of a furloughed prisoner to a prison facility (which includes a halfway house).

(c) New provision. Minimum safeguards not addressed in current statute.

(d) New provision. Eligibility criteria for furlough not addressed in current statute.

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

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

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

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

11 (e) A prisoner may request a prerelease furlough under proce-
12 dures adopted by the commissioner. If the commissioner denies a
13 request for a prerelease furlough, the commissioner shall provide the
14 prisoner with a written explanation of the reasons for the denial.

15 (f) Upon request of the victim, in the case of a prisoner con-
16 victed of a crime against a person, notice of the commissioner's
17 intent to consider the prisoner for a prerelease furlough shall be
18 sent to the victim. The victim may comment in writing on the intent
19 of the commissioner to release the prisoner on prerelease furlough
20 status. The commissioner shall consider the comments of the victim
21 before making a final decision to release a prisoner on a prerelease
22 furlough. If the victim requests notification, the commissioner shall
23 make every reasonable effort to notify the victim of an intent to
24 release the prisoner on a prerelease furlough. The notice must con-
25 tain the expected date of the prisoner's release, the geographic area
26 in which the prisoner will reside and other pertinent information
27 concerning the prisoner's release that may affect the victim.

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

(e) New provision.

(f) Existing 33.30.250^(h) & 260^(b)

[The victim shall keep the Dept. apprised of the victim's address.]

(see next page)

(1) existing AS 33.30.150

(2) New provision. Currently within Dept.'s general powers.

(a) existing AS 33.30.250 (b)

Existing AS 33.30.250(d) limits use of prisoner's wages to room & board, dependent support.

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

3 (1) family visitations, that may not exceed one week or
4 occur more frequently than once in each 6-month period; or

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

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

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

15 (b) Unless alternative arrangements are expressly approved by
16 the commissioner, when a prisoner is employed outside a correctional
17 facility as part of a prerelease or short-duration furlough program,
18 the earnings of the prisoner shall be delivered to the commissioner.
19 If an employer transmits the earnings to the commissioner, the em-
20 ployer has no liability to the prisoner for the earnings. The commis-
21 sioner shall disburse the earnings of the prisoner, in an order deter-
22 mined appropriate, under procedures adopted by the commissioner to

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

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

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

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

3 (5) support the dependents of the prisoner, and to provide
4 child support payments as required by AS 09.65.112.

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

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

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

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

24 ARTICLE 3. GENERAL PROVISIONS.

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

29 (b) The commissioner may enter into contracts or cooperative

(c) Existing AS 33.30.250(d).

(d) Existing AS 33.30.250(d)

Existing AS 33.30.250(e).

Existing AS 33.30.250 (f)

Existing 33.30.225 (a)

Existing 33.30.225 (b)

1 agreements with any public agency for the performance of conservation
2 projects. The commissioner may enter into a contract with an indi-
3 vidual or agency for the employment of prisoners if the work to be
4 performed will have minimal negative impact on an existing state
5 industry or labor force in the state as determined by the Correctional
6 Industries Commission under AS 33.32.015.

(c) Existing 33.30.225(c)

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

(d) Existing 33.30.225(a)

13 (d) In this section "productively employed" includes the follow-
14 ing kinds of employment:

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

17 (2) education including both academic and vocational;

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

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

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

27 (6) other work performed inside or outside of a correction-
28 al facility if the work has minimal negative impact on an existing
29 private industry or labor force in the state as determined by the

Existing 33.30.227

(a) Existing 33.30.185(a)

(b) Existing 33.30.185(a)

(c) Existing 33.30.185(b)

Existing 33.30.190

New provision. Existing statute does not address use of telephone.

[Commissioner]

1 Correctional Industries Commission under AS 33.32.015.

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

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

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

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

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

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

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

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

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

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

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

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

29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. a,

Existing 33.30.310 and 33.30.320
suspend all civil rights during the
term of imprisonment.

New provision. Existing law does not
address abandoned personal property.

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

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

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

14 (d) The state is not liable for any loss or damage to personal
15 property properly determined to be abandoned under (c) of this sec-
16 tion.

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

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

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

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

New provision. Existing statute does not address the confiscation and forfeiture of excess money. Practice was to place it in the prisoner's account upon discovery.

Existing 33.30.290. Also provides for a lien against all a felon's property for the purpose of satisfying a judgment. Existing 33.30.300.

Existing 33.30.900 also defines
"center", "community service",
"political subdivision."

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

3 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
4 text requires otherwise,

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

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

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

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

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

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

24 (7) "health care provider" means

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

28 (B) a mental health professional as defined in AS 47.-
29 30.915;

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

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

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

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

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

12 (b) The commissioner of corrections may

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

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

22 (3) if the Correctional Industries Commission established
23 in AS 33.32.070 approves, employ prisoners to provide services or
24 products as needed by private industry if the services or products
25 have potential for contributing to the economy of the state and will
26 have minimal negative impact on an existing private industry or labor
27 force in the state;

28 (4) authorize a prisoner to engage in productive employment
29 within or outside a correctional facility or enter into a contract

Existing 33.32.015(b)

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

5 (5) subject to the provisions of AS 37.05, enter into joint
6 cooperative ventures with private industry for the establishment and
7 operation of "Free Venture" industries under AS 33.32.017, if the
8 Correctional Industries Commission determines that the "Free Venture"
9 industry will have minimal negative impact on an existing private
10 industry or labor force in the state.

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

12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)

13 Upon recommendation of the Correctional Industries Commission estab-
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-
15 ture" correctional industries for the sale of goods or services to the
16 public or private sector. A "Free Venture" correctional industry is a
17 correctional industry that is operated and managed in total or in part
18 by a private industry or organization within a correctional facility
19 under an agreement entered into under AS 33.32.015(b)(5).

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

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

26 (d) In exchange for the space, utilities, and inmate workers
27 provided to it, the private industry or organization shall pay to the
28 commissioner a weekly payment in an amount not less than the sum of
29 the existing minimum hourly wage, established under AS 23.10.265.

New provision.

1 multiplied by the total number of hours worked during that week by
2 inmates employed in the "Free Venture" correctional industry.

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

New provision.

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

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

Existing 39.35.360(e).

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

12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.

New provision.

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

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

New provision. Repeals old citations
per renumbering of chapter.

29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020.

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080, 33.30.090,
2 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.150,
3 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225, 33.30.227,
4 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
5 33.30.900.

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

New provision.

1

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

BILL SHEFFIELD, GOVERNOR

REPLY TO

POUCH T
JUNEAU, ALASKA 99811
PHONE (907) 465-3376

March 18, 1986

The Honorable Bettye Fahrenkamp
Chairman, Senate HESS Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I've prepared a packet of information for the Committee's review that will hopefully answer the questions that were raised at yesterday's work session on HB 114.

On classification, enclosed is a general overview of Alaska's prisoner classification system. It is followed by excerpts from our policy and procedures manual that provide more specific information. I would be happy to provide you with the entire classification manual; however, it is in excess of one hundred pages. I've also included a copy of a recently prepared memorandum that was provided to members of the Senate Finance Committee. It is on the subject of prisoner transfers, but may prove helpful.

Also enclosed is a chart showing community residential centers and restitution centers by type and location. Information is also provided on the sliding fee scale used in the contracts with the private sector. In answer to the question of how many of these beds are filled, I've provided copies of our count sheets over the last several months. As you will note, the beds are filled with minor fluctuations. Kila House in Fairbanks is not filled to capacity. By way of explanation, a breakdown of the population at Fairbanks Correctional Center is provided.

If you wish further information, please let me know and I will provide it as soon as possible.

Sincerely,



Nadine Winters
Special Assistant

NW:cc
Enclosures
cc: Roger V. Endell

Alaska's Classification System

The Classification System is an organized and systematic approach to placing each prisoner in the situation that will best provide an optimal level of reformatory services, at the same time that there is maintained an appropriate level of security to assure that there is neither escape nor internal disorder.

The development of Alaska's present prisoner classification system was begun in June 1982 via a contractual agreement or technical assistance from the American Correctional Association. The principal ACA advisor was Dr. Robert Levinson, the same person who earlier had developed the prisoner classification system that is presently used by the U.S. Bureau of Prisons. Alaska's system was developed and operationalized over a period of approximately three years, and was ultimately approved by Superior Court Judge Douglas Serdahely in conjunction with the Cleary-Bierne class action lawsuit.

The day-to-day management of the system is under the direction of the Chief Classification Officer, a central office position that reports to the Deputy Commissioner for Operations. There is also an Assistant Classification Officer. Classification committees composed of institutional staff meet regularly at the various facilities across the state and it is at the committee hearings that the prisoner is afforded the opportunity to participate in the classification process. Some of the classification actions, for example the custody level at which the prisoner is maintained, are subject to the approval of the institutional Superintendent. Others, such as transfer between institutions, must be approved by the Chief Classification Officer.

Generally speaking, the prisoner population is broken down into three target groups, each of which is subject to its own variation of the overall classification policy and procedure. Those three groups are the pre-trial prisoners, those who have not been convicted; the short-term prisoners, those who have sentences of such length that they come to Corrections with no more than 60 days to serve; and long-term prisoners, those who do have more than 60 days. A long-term prisoner reverts to short-term status when within 60 days of a firm release date.

The single most important classification consideration that transcends a person's status as a pre-trial or sentenced prisoner, etc., is that of custody level, the degree of relative freedom that the prisoner is to be allowed while confined within the correctional system. There are five such custody levels as follows, in descending order of the degree of restraint imposed:

1. Maximum
2. Close
3. Medium
4. Minimum
5. Community

At maximum custody a prisoner is allowed out of a cell only under escort of two correctional officers, with physical restraints optional within the

institutions secure perimeter, and mandatory outside that perimeter. A prisoner with community custody may be allowed to leave the institution to travel unescorted in the community. The other custody levels are graduated between these two extremes.

We shall now briefly examine prisoner classification as it relates to each of the three target sub-populations. Time constraints necessarily limit our scope to generalized observations. More specific detail can be extracted from the relevant portions of the Policy and Procedure Manual.

Pre-Trial Prisoners

At time of intake a prisoner is given a custody level that is commensurate with the seriousness of the criminal charges, as well as the prisoner's demeanor. Ordinarily that custody level would be no less than medium, but could possibly be as low as minimum if the charges are minor and the prisoner is known to staff due to prior incarceration.

Within 15 working days following admission a pre-trial prisoner is classified as to custody level and program involvement. This is accomplished via a review of all available records by a single staff person to assess such factors as nature of offense, amount of bail that has been set, medical needs and prior criminal history. That staff person makes recommendations to the Superintendent, who will render a final decision.

At intervals of approximately sixty days, and for as long as the prisoner remains in pre-trial status, a hearing is held before an institutional classification committee comprised of three staff persons. The committee recommendations go to the Superintendent for final decision. That decision is allowed one level of appeal to the Regional Director.

Short-Term Sentenced Prisoners

A short-term prisoner is designated to an appropriate facility within 15 days after sentencing. The term "designation" is used to clearly identify what is really nothing more than a sub-process of classification, namely the initial decision regarding institutional placement. This is accomplished by a single staff person who considers such common-sense factors as severity of offense, time to a firm release date, type of prior convictions, and history of escape and/or violent behavior. Each factor is quantified via a numerical score, and the resultant total used to aid the Superintendent in making a final decision. That decision is appealable to the Regional Director.

Prisoners sentenced for a misdemeanor will be designated within 5 working days after sentencing except for prisoner sentenced to five days or less; these very short-term prisoners will be designated as soon as possible after arrival at the receiving institution and may be designated directly to a restitution center if they meet eligibility criteria.

The Superintendent may classify a short-term prisoner (60 days or less) to community custody and may designate a minimum or community custody prisoner for placement in contract misdemeanor housing; or restitution center in accordance with eligibility criteria outlined in 818.04, Community Programs, section VI. D., Restitution Center Placement.

Unlike pre-trial or long-term prisoners, a short-term prisoner may be designated to community custody, and may be immediately placed on furlough or assigned to a restitution center.


Long-Term Sentenced Prisoners

A long-term sentenced prisoner is designated to an appropriate program facility within 15 working days following sentencing. This is accomplished by an institutional staff person who completes a numerically scored designation form which is forwarded, along with all available supporting documentation, to the Chief Classification Officer. The latter makes the non-appealable decision regarding initial institutional placement and arranges for transportation of the prisoner at such time as appropriate bedspace becomes available. A long-term prisoner is not eligible for designation to community custody, therefore is not eligible for furlough or restitution center placement at the outset.

Within 30 days of transfer or within 60 days following sentencing, whichever comes first, the prisoner is entitled to a classification hearing before a committee of three staff members. If the subject is only custody level or program involvement, the decision is made by the Superintendent, with appeal to the Regional Director. If transfer to another institution is considered, relevant material is forwarded to the Chief Classification Officer for a decision. In that event, appeal is to the Deputy Commissioner for Operations. Subsequent classification hearings are held at intervals of not more than a year to address the prisoner's custody level and program needs, if the prisoner has two years or more remaining to serve. When the prisoner is within two years of release the mandatory classification interval decreases to a year.

The prisoner classification system was designed and operationalized on the basis of an assumption that it would function within an environment conducive to implementation of the various steps necessary to achieve its goals. Insofar as that has been the case the system has worked quite.

By far the most significant impediment to efficacious operation of our prisoner classification system is the very simple basic fact that there is inadequate appropriate bedspace to accommodate the product of that system. The end result is that although the classification of "paper" proceeds reasonably well, what actually happens to the prisoner tends to lag far behind while we wait for the appropriate bedspace to become available.

State of Alaska Department of Corrections Policies and Procedures		Index #: 705.01 Page 1 of 4
		Effective Date: 85-4-22
Approved by: Roger V. Endell		Distribution: A, B, C
Supersedes: 760.03 (83-10-11)		Related ACA Standards: 2-4401 and 2-4407
Chapter: CLASSIFICATION		Subject: CLASSIFICATION OF UNSENTENCED PRISONERS

I. AUTHORITY:

In accordance with AS 44.28.030, AS 33.30.030, and 22 AAC 05.155, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. PURPOSE:

To establish uniform procedures for determining an unsentenced prisoner's custody level, security level, and program needs.

III. APPLICATION:

To all employees.

IV. DEFINITIONS:

As used in this document, the following definitions shall apply:

A. Classification:

The process that systematically subdivides a prisoner population into prisoner groups based on security, custody and program needs.

B. Classification Committee:

A group of individuals convened to review and assess a prisoner's security, custody, and program needs.

C. Custody Level:

The custody status assigned to a prisoner. Such status establishes the degree of staff supervision needed to monitor and control each prisoner's behavior; as defined and applied in 735.01, Designation Process for Long-Term Sentenced Prisoners.

D. Exception Case:

A prisoner whose offense or subsequent conduct involves: a notorious crime, (i.e., one which has attracted substantial attention in the news media, which is particularly violent, or which is a serious sex offense); threats against government officials; or an escape risk, (i.e., attempted escape in the last five years or actual escape in the last 10 years).

Subject: CLASSIFICATION OF UNSENTENCED PRISONERS

E. Security Level:

The degree of security assigned to an institution based upon its constraint features; as defined and applied in 703.01, Institution Security Classification, and 735.01, Designation Process for Long-Term Sentenced Prisoners.

F. Unsentenced Prisoner:

A prisoner who is awaiting trial, sentencing, or probation/parole revocation.

V. POLICY:

- A. A prisoner who is awaiting trial, sentencing or probation/parole revocation must be classified with regard to security level, custody status, and program involvement.
- B. Prisoners will be placed in the least restrictive levels of security and custody, consistent with good correctional management.
- C. A classification Form for Unsentenced Prisoners; (form 20-705.01 and Instructions), which provides specific guidelines for decision making and serves as official documentation for the classification action, will be utilized.

VI. PROCEDURES:

- A. Classification Process for Unsentenced Prisoners Within 15 Working Days of Admission:
 1. Each unsentenced prisoner will be classified with regard to custody level, security level and program involvement by the holding institution within 15 working days after incarceration. All relevant information should be acquired prior to making any determination of placement within a given institution;
 2. The Superintendent will appoint a staff member to review the prisoner's permanent institution case file and records, interview the prisoner, and complete the Classification Form for Unsentenced Prisoners (form 20-705.01);
 3. The appointed staff member shall make appropriate recommendations to the Superintendent based on the following factors which are contained in the form:
 - a. Pending charges or detainers;
 - b. Nature of the current offense;
 - c. Amount of bail;
 - d. Medical and psychiatric needs;
 - e. Prior criminal history;
 - f. Escape histories;
 - g. Program needs; and

Subject: CLASSIFICATION OF UNSENTENCED PRISONERS

- h. Administrative needs, (e.g., orders or recommendations of the Court, bed space availability).
 4. The Superintendent shall make the final classification decision. If the Superintendent approves a recommendation for transfer, the recommendation and any supporting information must be forwarded to the Chief Classification Officer, who, if the recommendation is affirmed by the Chief Classification Officer, will select the receiving institution and coordinate the transfer of the prisoner; and
 5. The prisoner must be provided a written copy of the Superintendent's decision within three working days of completion. This decision is not subject to appeal.
- B. Reclassification Process for Unsentenced Prisoners Within 60 Days of Superintendent's Decision:
1. Classification Schedule:

Within 60 days of the Superintendent's classification decision, and each 60 days thereafter as described in section VI.A. above, the unsentenced prisoner must be given a hearing before the Classification Committee to review the prisoner's security and custody status and program involvement.
 2. Advance Notice of Hearing:

A prisoner is entitled to at least 48 hours advance written notice of a classification hearing (form 20-735.03P) which must inform the prisoner of:

 - a. Time and place of the hearing;
 - b. Purpose of the hearing;
 - c. That if the action of the Classification Committee may result in assignment of the prisoner to administrative segregation under 22 AAC 05.485 - .495, the prisoner is entitled to choose a staff advocate from an advocate pool, who will meet with the prisoner at least 36 hours prior to the hearing to actively assist the prisoner and help coordinate the prisoner's presentation at the hearing. In all other cases, a staff member assigned by the Superintendent shall meet with the prisoner prior to the hearing to explain the classification process and discuss possible classification action;
 - d. If the purpose of the hearing is consideration of assignment to administrative segregation, the hearing will be tape recorded and kept in transcribable form for 12 months if the classification action is appealed; or 30 days if the classification action is not appealed;

Subject: CLASSIFICATION OF UNSENTENCED PRISONERS

- e. The agenda for the hearing and what procedural opportunities are available to the prisoner, see Form 20-735.03B, Notice of Appearance, Agenda and Procedural Opportunities Afforded a Prisoner at a Classification Hearing and Instructions;
- f. That prior to the hearing the prisoner may prepare testimony, solicit statements, or compile other evidence when such action would not create a substantial risk of reprisal or undermine security of the institution;
- g. A prisoner may waive the opportunity to appear at the classification hearing;
- h. That the committee shall make written factual findings, indicate the evidence relied upon in it's recommendation, and submit its recommendations to the Superintendent for approval; and
- i. That the decision of the Superintendent may be appealed as set out in Policy 760.01, Appeal Procedures.

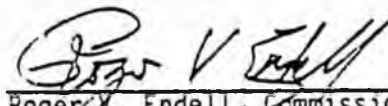
3. Classification Committee Recommendations referred to Superintendent:

- a. The committee must complete the Classification Form for Unsentenced Prisoners and make it's recommendations to the Superintendent within three working days of the hearing. The recommendations must be based on the factors contained in the form;
- b. The Superintendent has five working days to approve, disapprove or modify the decision of the committee. If the decision is disapproved or modified, the Superintendent must state the reasons;
- c. If the Superintendent approves a recommendation for transfer, the recommendation and the prisoner's classification packet must be forwarded to the Chief Classification Officer, who, if the recommendation is affirmed by the Chief Classification Officer, will select the receiving institution and coordinate the transfer of the prisoner; and
- d. A copy of the decision must be furnished to the prisoner within one working day of it's completion and must include a description of the appeal process set out in Policy 760.01, Appeal Procedures, and the forms to facilitate an appeal.

VII. IMPLEMENTATION:

This policy and procedure is effective as of the date signed by the Deputy Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Deputy Commissioner or designee.

DATE

April 22, 1985

Roger V. Endell, Commissioner
Department of Corrections

Forms applicable to this Policy.
INDEX = 705.01
FORM/Classification Form for Unsentenced Prisoners

Classification Form for Unsentenced Prisoners

Name: (1) _____ Date of Birth: (4) _____

Offense(s): (2) _____ Court Case #: (5) _____

(3) _____ City _____ State _____ Federal

Factors to be considered in establishing security and custody levels:

- 1. Pending charges/detainers: (6) _____
- 2. Nature of the Offense(s): (7) _____
 - a. Violent. _____
 - b. Non-violent. _____
 - c. Felony. _____
 - d. Misdemeanor. _____
- 3. Amount of bail. (8) _____
- 4. Medical/Psychiatric needs. (9) _____
- 5. Prior criminal history. (10) _____
- 6. Escape history. (11) _____
- 7. Program needs. (12) _____
- 8. Administrative needs, (13) _____
(e.g., order or recommendations of the Court, bed space availability, etc.)

SECURITY LEVEL:

(14) _____ Minimum _____ Medium _____ Maximum

CUSTODY LEVEL:

(15) _____ Community _____ Minimum _____ Medium _____ Close _____ Maximum

Staff Recommendations and Supporting Reasons: (16)


(17) _____
Superintendent's Signature

(18) _____
Date

Superintendent's Comments: (19) _____

Classification Form for Unsentenced Prisoners instructions

1. Name Enter prisoner's name.
2. Offense(s): Enter current offense(s).
3. City, State, Federal: Check appropriate space for type of offense.
4. Date of Birth: Enter prisoner's date of birth numerically, month, day, year, e.g., 03/03/52.
5. Court Case Number: Enter court case number(s) of current offense(s).
6. Pending Charges/Detainers: Note if there are pending charges or active detainers.
7. Nature of Current Offense: Check appropriate spaces provided.
8. Amount of Bail: Enter the amount of bail.
9. Medical/Psychiatric Needs: Note known problems, if any.
10. Prior Criminal History: Note previous offense(s). Attach extra sheet or computer print-out, if needed.
11. Escape History: Note any escapes or attempted escapes from any open or closed facility or program.
12. Program Needs: Note treatment or rehabilitative issues which may need to be addressed, i.e., court ordered alcohol treatment during incarceration.
13. Administrative Needs: Note any administrative issues which may need to be addressed, i.e., separatee, overcrowding, etc.
14. Security Level: Check appropriate space provided.
15. Custody Level: Check appropriate space provided.
16. Staff Recommendations and Supporting Reasons: Enter the name of institution most appropriate for the prisoner, and any program recommendations, based on the considerations addressed by this form. Institutional conduct of the prisoner should be considered when making any recommendations.
17. Superintendent's Signature: Superintendent signs after review of the form.
18. Date: Date of Superintendent's signature.
19. Superintendent's Comments: Indicate approve or disapprove. State any modification and the supporting reasons.

State of Alaska Department of Corrections Policies and Procedures		Index #: 735.02 Page 1 of 3
		Effective Date: 85-4-22
Approved by: Roger V. Endell		Distribution: A, B, C
Supersedes: 750.02 (83-10-11)		Related ACA Standards: 2-4400, 2-4401, and 2-4403
Chapter: CLASSIFICATION		Subject: DESIGNATION PROCESS FOR SHORT-TERM SENTENCED PRISONERS

I. AUTHORITY:

In accordance with AS 44.28.030, AS 33.30.030, and 22 AAC 05.155, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. PURPOSE:

To establish uniform procedures within the Department for designating the initial institutional placement for short-term sentenced prisoners with 60 days or less remaining to a release date.

III. APPLICATION:

To all employees.

IV. DEFINITIONS:

As used in this policy, the following definitions shall apply:

A. Custody Level:

The custody status assigned to a prisoner. Such status establishes the degree of staff supervision needed to monitor and control each prisoner's behavior; as defined and applied in 735.01, Designation Process for Long-Term Sentenced Prisoners.

B. Designation Custody Level:

A prisoner's interim custody level determined at the initial designation on the basis of the prisoner's total security score on the Security Designation Form; the custody level in effect until the prisoner receives an initial classification at the receiving institution.

C. Exception Case:

A prisoner whose offense or subsequent conduct involves; a notorious crime (i.e., a crime which has attracted substantial news media attention, which is particularly violent, or which is a serious sex offense); threats against government officials; or an escape risk, (i.e., attempted escape in the last five years or actual escape in the last ten years).

Subject: DESIGNATION PROCESS FOR SHORT-TERM SENTENCED PRISONERS

D. Security Level:

The degree of security assigned to an institution based upon its constraint features; as defined and applied in 703.01, Institution Security Classification, and 735.01, Designation Process for Long-Term Sentenced Prisoners.

E. Short-Term Prisoner:

A sentenced prisoner with 60 days or less remaining to a firm release date.

V. POLICY:

A short-term prisoner will be designated to the least restrictive institution appropriate for that prisoner's security and custody needs, consistent with good correctional management.

VI. PROCEDURES:

A. Designation Schedule and Documentation:

Each prisoner will be designated by the holding institution within 15 working days after sentencing. The community corrections probation staff shall provide the holding institution a copy of the Presentence Investigation Report (PSI), if any, at the time of sentencing when the prisoner is incarcerated or within three working days when the prisoner is sentenced to time to serve but not immediately incarcerated.

B. Process:

1. The Superintendent will appoint a staff member to review the prisoner's permanent institutional case file and records and to complete the Security Designation Form for Short-Term Sentenced Prisoners (form 20-735.02 and Instructions);
2. The appointed staff member will interview the prisoner and then submit to the Superintendent the completed Security Designation Form for Short-Term Sentenced Prisoners and a Need Assessment Form;
3. After consultation with the Superintendent of an appropriate receiving institution, the Superintendent of the holding facility shall designate the institution for placement and notify the Chief Classification Officer; and

NOTE: The designation of a short-term prisoner will not ordinarily result in a transfer. When the designation results in a transfer requiring the assistance of the Alaska State Troopers, the Chief Classification Officer shall coordinate the transfer.

Subject: DESIGNATION PROCESS FOR SHORT-TERM SENTENCED PRISONERS

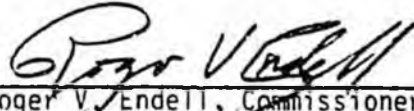
4. A copy of the completed Security Designation for Short-Term Sentenced Prisoners (form 20-735.02) shall be included in the prisoner's permanent institution file.

VII. IMPLEMENTATION:

This policy and procedure is effective as of the date signed by the Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Commissioner or designee.

DATE

April 22, 1985



Roger V. Endell, Commissioner
Department of Corrections

Forms Applicable to this Policy:

INDEX #735.02

FORM/Security Designation for Short-Term Sentenced Prisoners and Instructions.

8. Designated Custody Level:

Minimum = 0-6 Medium = 7-13 Close = 14-25 Maximum = 26-36

SECTION C

MANAGEMENT CONSIDERATION

- | | | |
|------------------|-------------------------------------|----------------------------|
| 1. Release Plans | 4. Education | 7. Overcrowding |
| 2. Medical | 5. Special Treatment | 8. Judicial Recommendation |
| 3. Psychiatric | 6. Ethnic/Cultural
Consideration | 9. Residence |

(1) Designation based on: Matrix Score _____ Override _____

(2) Designation: _____

(3) Staff Comments: _____

(4) Approved _____ Disapproved _____ (5) _____ (6) _____
Superintendent's Signature Date

(7) Superintendent's Comments: _____

<u>Points</u>	<u>Severity of Detainer</u>
0	None
1	Misdemeanor and Violations
3	Class C Felony or Immigration Detainer
5	Class B Felony
7	Unclassified and Class A Felony

Example:

Prisoner has two detainers for Bad Checks (less than \$500.00), which is a misdemeanor, and one for Theft I, which is a Class B Felony. Enter "5", for Class B, in the box in the right hand column.

2. Severity of Current Offense:

Enter the appropriate number of points in the box in the right hand column to reflect the severity of the documented offense behavior of the most severe of the offense(s) for which the prisoner was sentenced during this period of incarceration. This should not include the same information used to assign points on the "history" items. (See Severity Scale, form 20-735.01S).

<u>Points</u>	<u>Severity of Offense</u>
1	Misdemeanor and Violations
3	Class C Felony or Immigration Detainer
5	Class B Felony
7	Unclassified and Class A Felony

Example:

According to the Presentence Investigation Report, if the prisoner was involved in Kidnapping (Class A Felony), but pleads guilty to Assault II (Class B Felony), assign points on the basis of the more severe documented behavior, 7 points. This same information should not be included in assigning points on the "history" items.

NOTE: Any prisoner scoring seven (7) points initially will be designated to an institution for medium or higher security prisoners.

3. Firm Release Date:

Enter the appropriate number of points reflecting the prisoner's time to a firm release date, which includes prior service and good time in the box in the right hand column. If concurrent sentences were imposed, use the longest one, if consecutive sentences were imposed, aggregate (sum total) them.

<u>Points</u>	<u>Sentence Length (Excluding any suspended portion)</u>
0	0-12 months
1	13-59 months
3	60-83 months
5	84 plus months

SECURITY DESIGNATION FOR SHORT-TERM SENTENCED PRISONERS

(1) _____
Institution

(3) _____
Designation Staff Member

(2) _____
Date

(4) _____
Supt. Signature (Exception case only)

SECTION A

IDENTIFYING DATA

(1) Prisoner's Name: (Last) _____ (First) _____ (M.I.) _____ (2) _____
D.O.B.

(3) Type of Case: Regular _____ Exception _____ (4) OBSC Number: _____

(5) Separates: _____

SECTION B

SECURITY SCORING

1. Type of Detainer:

0 = None	3 = Class C Felony	7 = Unclassified or	<input type="text"/>
1 = Misdemeanor	5 = Class B Felony	Class A Felony	

2. Severity of Current Offense:

1 = Misdemeanor	3 = Class C Felony	7 = Unclassified or	<input type="text"/>
	5 = Class B Felony	Class A Felony	

3. Time to Firm Release Date:

0 = 1-12 months	3 = 60-83 months	Firm Release Date	<input type="text"/>
1 = 13-59 months	5 = 84 + months		

4. Type of Prior Commitments:

0 = None	1 = Misdemeanor	3 = Felony	<input type="text"/>
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5. History of Escapes or Attempted Escapes:

	<u>None</u>	<u>+15 Years</u>	<u>10-15 Years</u>	<u>5-10 Years</u>	<u>-5 Years</u>	<input type="text"/>
Minor	0	1	1	2	3	
Serious	0	4	5	6	7	

6. History of Violent Behavior:

	<u>None</u>	<u>+15 Years</u>	<u>10-15 Years</u>	<u>5-10 Years</u>	<u>-5 Years</u>	<input type="text"/>
Minor	0	1	1	1	3	
Serious	0	4	5	6	7	

7. Security Level: (Total of Security Scoring)

Minimum = 0-6 Points Medium = 7-13 Points Maximum = 14-36 Points

E. Designated Custody Level:

Minimum = 0-6 Medium = 7-13 Close = 14-25 Maximum = 26-36

SECTION C

MANAGEMENT CONSIDERATION

- | | | |
|------------------|-------------------------------------|----------------------------|
| 1. Release Plans | 4. Education | 7. Overcrowding |
| 2. Medical | 5. Special Treatment | 8. Judicial Recommendation |
| 3. Psychiatric | 6. Ethnic/Cultural
Consideration | 9. Residence |

(1) Designation based on: Matrix Score _____ Override _____

(2) Designation: _____

(3) Staff Comments: _____

(4) Approved _____ Disapproved _____ (5) _____ (6) _____
Superintendent's Signature Date

(7) Superintendent's Comments: _____

Security Designation for Short-Term Sentenced Prisoners Form InstructionsA. Data Identification:

1. Institution: Enter name of institution.
2. Date: Enter the numerical month, day and year, e.g., 8/08/82.
3. Designation Staff Member: Enter name of prisoner's staff designator.
4. Superintendent's Signature: For exception case confirmation only.

B. Section A: Identifying Data:

1. Prisoner's Name: Enter last, first, middle initial. Name is entered as it appears on the Court Commitment.
2. Date of Birth: Enter numerical month, day and year of birth, e.g., 3/03/61.
3. Type of Case: Check appropriate space, regular or exception.
4. OBSCIS Number: Enter prisoner's OBSCIS Number.
5. Separatees: Enter the name(s) of individual(s) from whom the prisoner is to be separated.

The completed Security Designation Form for Short-Term Sentenced Prisoners will be placed in the prisoner's permanent institutional file. The prisoner will not be permitted access to information concerning separatees.

C. Section B: Security Scoring:

Only ONE Numerical score may be selected in each category, i.e., numbers may not be aggregated within a category. Enter the appropriate number of points in the box on the right hand side of the form. (Refer to Security Scale, form 20-735.01S).

1. Type of Detainer:

Enter the appropriate number of points to reflect detainer status in the box in the right hand column. Assign the highest number of points based on the nature of the charge of the most serious detainer.

- a. If it is a pending charge, points based on documented behavior are assigned to the Detainer Item only.
- b. If it is an adjudicated sentence AND that sentence is concurrent and absorbed within the sentence for which the prisoner is currently incarcerated, the documented information is used in the appropriate "history" item, either History of Escapes or History of Violence.
- c. If it is adjudicated sentence AND that sentence is not absorbed within the sentence for which the prisoner is currently incarcerated, this material should be considered as a detainer and treated as described above in Section C.1.a. This does not include consecutive sentence (see length of sentence, Section C.3).

If law enforcement officials indicate a firm intent to lodge a detainer, treat it as lodged. Treat a federal sentence as a detainer only if that sentence is expected to exceed the Alaska sentence. Otherwise, treat the federal sentence as a "history" item (as indicated in Section C.1.b.). Handle other states' sentences (non-Alaskan) in this same manner.

<u>Points</u>	<u>Severity of Detainer</u>
0	None
1	Misdemeanor and Violations
3	Class C Felony or Immigration Detainer
5	Class B Felony
7	Unclassified and Class A Felony

Example:

Prisoner has two detainers for Bad Checks (less than \$500.00), which is a misdemeanor, and one for Theft I, which is a Class B Felony. Enter "5", for Class B, in the box in the right hand column.

2. Severity of Current Offense:

Enter the appropriate number of points in the box in the right hand column to reflect the severity of the documented offense behavior of the most severe of the offense(s) for which the prisoner was sentenced during this period of incarceration. This should not include the same information used to assign points on the "history" items. (See Severity Scale, form 20-735.01S).

<u>Points</u>	<u>Severity of Offense</u>
1	Misdemeanor and Violations
3	Class C Felony or Immigration Detainer
5	Class B Felony
7	Unclassified and Class A Felony

Example:

According to the Presentence Investigation Report, if the prisoner was involved in Kidnapping (Class A Felony), but pleads guilty to Assault II (Class B Felony), assign points on the basis of the more severe documented behavior, 7 points. This same information should not be included in assigning points on the "history" items.

NOTE: Any prisoner scoring seven (7) points initially will be designated to an institution for medium or higher security prisoners.

3. Firm Release Date:

Enter the appropriate number of points reflecting the prisoner's time to a firm release date, which includes prior service and good time in the box in the right hand column. If concurrent sentences were imposed, use the longest one, if consecutive sentences were imposed, aggregate (sum total) them.

<u>Points</u>	<u>Sentence Length (Excluding any suspended portion)</u>
0	0-12 months
1	13-59 months
3	60-83 months
5	84 plus months

Example:

The prisoner was convicted of Breaking and Entry and was sentenced to three to five years. Use five years and multiply by 12 equaling 60 months. Enter three (3) in the box in the right hand column.

4. Type of Prior Convictions:

In the box in the right hand column, enter the appropriate number of points reflecting the most severe offense for which the prisoner was previously convicted and served a period of incarceration.

<u>Points</u>	<u>Type</u>
0	None
1	Misdemeanors and Violations
2	Felonies and Unclassified

Example:

The prisoner has a previous incarceration for Bribery (Class B Felony), which would be considered serious, equaling three (3) points. Enter number in the box in the right hand column.

5. History of Escapes or Attempted Escapes:

Enter the appropriate number of points that reflect the prisoner's escape history in the box in the right hand column. History refers to the prisoner's entire background of escapes or attempted escapes from confinement, excluding the current offense. If there is more than one escape attempt, use the most severe. Include institution disciplinary committee findings of guilt if the prisoner committed the prohibited act (disciplinary report) of escape or attempted escape regardless of the prosecution or conviction status of the case. Also, consider behavior relating to a prior offense. Failure to appear for traffic (automobile) violations, AWOL(s), and runaways from foster homes are not considered. The length of time begins with the date of conviction.

NOTE: This item and the following one, History of Violence, use the same point scale, but each item is scored separately.

<u>Points</u>	<u>History</u>	<u>Definition</u>
0	None	No escapes or attempted escapes.
1	+15 = Minor	An escape or attempt more than 15 years ago from an open institution or program, not involving any actual or threat of violence. Also includes flight to avoid pending charges, if documented.
1	10-15 = Minor	An escape or attempted escape more than 10 but less than 15 years ago, from an open institution or program.

<u>Points</u>	<u>History</u>	<u>Definition</u>
2	5-10 = Minor	An escape or attempted escape more than five, but less than 10 years ago from an open institution or program not involving an actual or threat of violence. Also includes flight to avoid pending charges, if documented.
3	-5 = Minor	An escape or attempted escape within the last five years from an open institution or program.
4	+15 = Serious	An escape or attempted escape more than 15 years ago from closed confinement (medium or maximum), with or without threat of violence. Also includes escape or attempted escape from open facilities or programs with actual or threat of violence.
5	10-15 = Serious	An escape or attempted escape more than ten years, but less than 15 years ago from closed confinement or an open facility or program.
6	5-10 = Serious	An escape or attempted escape more than five, but less than ten years ago from closed confinement or open facility or program.
7	-5 = Serious	An escape or attempted escape within the last five years from closed confinement or an open facility or program.

Example:

The prisoner jumped bail on the current offense, (-5 = Minor), and six years ago escaped from an institution by sawing through the bars (5-10 = Serious). Use the latter, or most serious, and enter "6" in the box in the right hand column.

6. History of Violent Behavior:

Enter the appropriate number of points in the box in the right hand column that reflect the prisoner's entire background of criminal violence, excluding the current offense. However, institution disciplinary committee findings that the prisoner was guilty of committing a violent prohibited act (disciplinary report) are to be considered regardless of prosecution and conviction status, if known. DO NOT use behavior related to the current offense for this item. Severity of violence is defined according to the degree of seriousness of the act that resulted in a conviction or finding of guilt. If there is more than one incident of violence, severity is determined by the most serious one. The length of time begins with the date of conviction.

NOTE: This item and the previous one, History of Escapes, uses the same point scale, but each item is scored separately.

Security Designation for Short-Term Sentenced Prisoners Form Instructions Continued

<u>Points</u>	<u>History</u>	<u>Definition</u>
0	None	No history of violence.
1	+15 = Minor	Acts occurring more than 15 years ago involving individuals or property that resulted in misdemeanor convictions.
1	10-15 = Minor	Acts occurring more than 10, but less than 15 years ago, that resulted in misdemeanor convictions.
2	5-10 = Minor	Acts occurring more than five but less than 10 years ago, that resulted in misdemeanor convictions.
3	-5 = Minor	Acts occurring within the last five years that resulted in misdemeanor convictions.
4	+15 = Serious	Acts occurring more than 15 years ago involving individuals or property that resulted in a felony conviction.
5	10-15 = Serious	Acts occurring more than 10 but less than 15 years ago that resulted in a felony conviction.
6	5-10 = Serious	Acts occurring more than five but less than 10 years ago that resulted in a felony conviction.
7	-5 = Serious	Acts occurring within the last five years that resulted in a felony conviction.

NOTE: "Aggravated Assault" is intentionally inflicting, threatening or attempting serious bodily injury without a dangerous weapon.

Example:

If the prisoner has a history of being fined for drunken fights 12 years ago, this would rate as a +10 = Minor and a "1" would be entered in the box in the right hand column.

Security Level:

The severity level total, Item #7, is used to determine the prisoner's appropriate security level institution, according to the following table:

<u>Points</u>	=	<u>Prisoner's Security Level</u>
0 - 6	=	Minimum
7 - 13	=	Medium
14 - 36	=	Maximum

NOTE: Based on these point ranges, circle the appropriate security level on the form.

8. Designated Custody Level:

Designated custody level is determined from the following table:

<u>Security Score</u>	=	<u>Custody Level</u>
0 - 6	=	Minimum
7 - 13	=	Medium
14 - 25	=	Close
26 - 36	=	Maximum

NOTE: Designated custody level shall be in effect until the prisoner receives a classification at the receiving institution.

D. Section C: Management Consideration:

Circle the appropriate management factor(s) that should be considered in making the final designation decision.

Release Plans	Education	Overcrowding
Medical	Special Treatment	Judicial Recommendation
Psychiatric	Ethnic/Cultural Consideration	Other

1. Designation Based on: Matrix Score or Override:

When designation is based upon the numeric matrix score, place check in Matrix Score space. If designation is based upon Management Considerations, place check in Override space and justify decision in the Staff Comments section.

2. Designation:

Enter institution most appropriate for the prisoner based on the considerations addressed by this form. Institutional conduct of the prisoner should be considered when making this designation.

3. Staff Comments:

Enter any relevant information not already recorded that may have an impact on the designation process, including justification of use of override and/or Management Considerations.


4. Approved/Disapproved:

The Superintendent will indicate approval or disapproval of indicated designation. If indicated designation is disapproved, Superintendents action is entered in comments section.

5. Superintendent's Signature: Superintendent signs after review of form.

6. Date: Date of Superintendent's Signature.

7. Superintendent's Comments: Considerations and comments entered by the Superintendent; indication of final designation action if different than staff recommendations.

State of Alaska Department of Corrections Policies and Procedures		Index #: 735.03 Page 1 of 5
		Effective Date: 85-4-22 85-7
Approved by: Roger V. Endell		Distribution: A, B, C
Supersedes: 760.01 (83-10-11)		Related ACA Standards: 2-4401, 2-4403 and 2-4405
Chapter: CLASSIFICATION		Subject: INITIAL CLASSIFICATION

I. AUTHORITY:

In accordance with AS 44.28.030, AS 33.30.030, and 22 AAC 05.155, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. PURPOSE:

To establish uniform procedures for determining a prisoner's custody level, security level and program needs, in accordance with 22 AAC 05.216.

III. APPLICATION:

To all employees.

IV. DEFINITIONS:

As used in this document, the following definitions shall apply:

A. Classification:

A process that systematically subdivides a prisoner population into groups based on security, custody and program needs.

B. Classification Committee:

A group of individuals convened in order to review and assess a prisoner's security, custody and program needs.

C. Classification Packet:

A prisoner's file forwarded to the Chief Classification Officer for effecting a classification action and which contains, where applicable, the following:

1. Final Judgement and Commitment:
2. Presentence Investigation Report:
3. Recent Psychiatric/Psychological Reports:
4. Time Accounting Records:
5. Any Security Designation Forms, or Classification Forms:
6. Needs Assessment Survey Forms;
7. Health Care Record Extract; and
8. The taped proceedings of a classification action recommending or resulting in a transfer to an institution outside of Alaska.

Subject: INITIAL CLASSIFICATION

D. Custody Level:

The custody status assigned to a prisoner. Such status establishes the degree of staff supervision needed to monitor and control each prisoner's behavior; as defined and applied in 735.01, Designation Process for Long-Term Sentenced Prisoners.

E. Exception Case:

A prisoner whose offense or subsequent conduct involves: a notorious crime, (i.e., one which has attracted substantial attention in the new media, which is particularly violent, or which is a serious sex offense); threats against government officials; or an escape risk, (i.e., attempted escape in the last five years or actual escape in the last ten years).

F. Initial Classification:

The first classification hearing the prisoner receives at the designated institution.

G. Security Designation Form:

The form that provides the basic criteria for initial institutional placement; form 20-735.01A or 20-735.02.

H. Security Level:

The degree of security assigned to an institution based upon its constraint features; as defined and applied in 703.01, Institution Security Classification, and 735.01, Designation Process for Long-Term Sentenced Prisoners.

V. POLICY:

- A. Subsequent to designation, each prisoner's custody status and program needs will be reviewed and assessed on a scheduled basis.
- B. Prisoners will be placed in the least restrictive levels of security and custody consistent with good correctional management.
- C. The Classification Committee will complete a Classification Form for Sentenced Prisoners (form 20-735.03A and Instructions) for decision making and which will serve as official documentation for the classification hearing.

VI. PROCEDURES:

A. Time Frame for Classification Hearing:

Within 30 days of the sentenced prisoner's arrival at the designated institution or within 60 days after sentencing; whichever occurs

Subject: INITIAL CLASSIFICATION

first, the prisoner must be given a hearing before a Classification Committee to determine the prisoner's security and custody status and program needs.

B. Composition of the Classification Committee:

The Superintendent will appoint a committee of three voting members, with one member to serve as a Chairperson. Where possible, the committee should include the Institutional Probation Officer. An individual may not serve on a Classification Committee if the individual:

1. Requested or recommended the classification action;
2. Served on a disciplinary committee which was convened due to any conduct of the prisoner which is related to the subject of the classification hearing; or
3. Would have been disqualified from serving on a disciplinary committee which may have been convened due to any conduct of the prisoner which is related to the subject of the classification hearing.

C. Documentation:

1. In order to complete a classification action, the Classification Committee will have (as a minimum) previous Security Designation Forms (form 20-735.01A or 20-735.02) and any institutional progress reports which include; program involvement, disciplinary reports, family/community assessment, and prisoner attitude and responsibility assessments. Other available documents will be used, (e.g., Health Care Record Extract (form 20-807.14B) relevant psychiatric/psychological reports, and completed Needs Assessment Survey (form 20-735.03C)).
2. Proceedings will be tape recorded if the purpose of the hearing is consideration of assignment to administrative segregation, termination of a furlough, or transfer to an institution outside of Alaska. All taped documentation will be kept in a transcribable form for: a. 12 months, if the classification action is appealed; b. 30 days, if the classification action is not appealed; and c. 3 years if the classification action is appealed to the Superior Court or the classification action resulted in a transfer to an institution outside of Alaska.

D. Process:

1. Advance Notice of Hearing:

The prisoner is entitled to at least 48 hours advance written Notice of Appearance (form 20-735.03B) before a classification hearing, which must inform the prisoner of each of the following points:

Subject: INITIAL CLASSIFICATION

- a. Time and place of hearing;
- b. Purpose of the hearing;
- c. That if the action of the Classification Committee may result in the assignment of the prisoner to administrative segregation, under 22 AAC 05.485 - .495, or the termination of a furlough under 22 AAC 05.335, the prisoner is entitled to choose a staff advocate from an advocate pool, who will meet with the prisoner at least 36 hours prior to the hearing to actively assist the prisoner and help coordinate the prisoner's presentation at the hearing;
- d. That in all cases, except those in section c. above, a staff member assigned by the Superintendent shall meet with the prisoner prior to the hearing to explain the classification process, discuss possible classification action and gather information to complete a Needs Assessment Survey (form 20-735.03C);
- e. That if the purpose of the hearing is consideration of assignment to administrative segregation or termination of a furlough, the hearing will be tape recorded and kept in transcribable form for 12 months if the classification action is appealed; or, 30 days if the classification action is not appealed;
- f. If the purpose of the hearing is consideration for transfer outside the state or the classification action is appealed to the Superior Court, the hearing will be tape recorded and kept in transcribable form for three years;
- g. The agenda of the hearing and the procedural opportunities are available on the Notice of Appearance (form 20-735.03B);
- h. That prior to the hearing, the prisoner may prepare testimony, solicit statements, or compile other evidence when such action would not create a substantial risk of reprisal or undermine the security of the institution;
- i. The prisoner may waive the opportunity to have a hearing;
- j. The Classification Committee will make written factual findings and indicate the evidence relied upon in its decision; and
- k. That the decision of the Classification Committee may be appealed per 760.01, Appeal Procedures.

2. Classification Factors:

The Classification Committee must complete the Classification Form for Sentenced Prisoners (form 20-735.03A) and issue its decision within three working days. The decision regarding the custody and security status must be based on the following factors as listed on the form:

- a. Outstanding detainers;
- b. Severity of the current offense;
- c. Time remaining to a firm release date;
- d. Prior convictions;
- e. History of escape or attempted escapes;
- f. History of violent behavior;
- g. Involvement with drugs or alcohol;

Subject: INITIAL CLASSIFICATION

- h. Mental stability;
- i. History of disciplinary infractions, according to severity scale;
- j. Responsibility demonstrated by the prisoner;
- k. Location and status of the prisoner's family and community ties; and
- l. Administrative/Program Considerations.

3. Committee Decisions Which Must be Referred to Superintendent:

- a. Decisions of the Classification Committee which recommend a transfer, a change in security or custody status, grant or deny a furlough, assignment to segregation, or which relate to an exception case must be referred to the Superintendent. The Superintendent has five working days to approve, disapprove or modify the decision of the Classification Committee. When the decision is disapproved or modified, the Superintendent must state the reasons;
- b. If the Superintendent approves a recommendation for transfer, the recommendation and the prisoner's classification packet must be referred to the Chief Classification Officer. If the transfer is approved, the Chief Classification Officer or designee will select the receiving institution, determine the security and custody levels at which the prisoner will be transferred, and coordinate arrangements for the transfer;
- c. The Chief Classification Officer will inform the sending and receiving institutions of the decision using Classification Notice of Transfer (form 20-735.03D); and
- d. A copy of the Chief Classification Officer's decision must be furnished to the prisoner within one working day of its completion and must include a description of the appeal process and forms to facilitate an appeal.

E. Appeal Procedures:

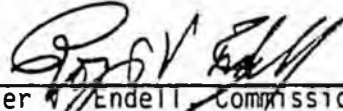
All classification actions are subject to appeal (see 760.01, Appeal Procedures).

VII. IMPLEMENTATION:

This policy and procedure is effective as of the date signed by the Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Commissioner or designee.

DATE

April 22, 1985


 Roger Endell, Commissioner
 Department of Corrections

Forms Applicable to this Policy.

INDEX # 735.03A, B, C, & D

- FORM/A - Classification Form for Sentenced Prisoners and Instructions
 B - Notice of Appearance, Agenda and Procedural Opportunities Afforded a Prisoner at a Classification Hearing and Instructions
 C - Needs Assessment Survey Form
 D - Classification Notice of Transfer and Instructions

Classification Form for Sentenced Prisoners

(1) _____
Institution

(2) _____
Prisoner Name

(3) _____
Date

(4) _____
Date of Birth

(5) _____
Type of Case: Regular or Exception

(6) _____
OBSCIS Number

SECTION A

SECURITY SCORING

1. Type of Detainer:

0 = None 3 = Class C Felony 7 = Unclassified or
1 = Misdemeanor 5 = Class B Felony Class A Felony

1

2. Severity of Current Offense:

1 = Misdemeanor 3 = Class C Felony 7 = Unclassified or
5 = Class B Felony Class A Felony

2

3. Time to Firm Release Date:

0 = 0-12 months 3 = 60-83 months
1 = 13-59 months 5 = 84 + months Firm Release Date

3

4. Type of Prior Convictions:

0 = None 1 = Misdemeanor 3 = Felony

4

5. History of Escapes or Attempted Escapes:

	<u>Non</u>	<u>+15 Years</u>	<u>10-15 Years</u>	<u>5-10 Years</u>	<u>-5 Years</u>
Minor	0	1	1	2	3
Serious	0	4	5	6	7

5

6. History of Violent Behavior:

	<u>None</u>	<u>+15 Years</u>	<u>10-15 Years</u>	<u>5-10 Years</u>	<u>-5 Years</u>
Minor	0	1	1	2	3
Serious	0	4	5	6	7

6

7. SECURITY TOTAL

7

8. Security Level:

Minimum = 0-6 points Medium = 7-13 points Maximum = 14-36 points

Classification Form for Sentenced Prisoners (Cont.)

SECTION F

CUSTODY SCORING

1. Percent of Time Served:

3 = 0 thru 25% 5 = 76 thru 90 %
 4 = 26 thru 75% 6 = 91 plus %

1

2. Involvement with Drugs and/or Alcohol:

2 = Current 3 = Past 4 = Never

2

3. Mental/Psychological Stability:

2 = Unfavorable 4 = No referral or Favorable

3

4. Type Most Serious Disciplinary Report:

1 = Major 3 = Low Moderate 5 = None
 2 = High Moderate 4 = Minor

4

5. Frequency of Disciplinary Reports:

0 = 5+ Reports 2 = 1 Report
 1 = 2 - 4 Reports 3 = None

5

6. Responsibility Prisoner has Demonstrated:

0 = Poor 2 = Average 4 = Good

6

7. Family/Community:

3 = None or Minimal 4 = Average or Good

7

8. CUSTODY TOTAL:

8

9. Custody Change Scale:

Prisoner's Present Security Level	Consider Custody Increase if Points	Continue Present Custody if Points	Consider Custody Decrease if Points
Minimum	11 - 19 Points	20 - 22 Points	23 - 30 Points
Medium	11 - 19 Points	20 - 24 Points	25 - 30 Points
Maximum	11 - 19 Points	20 - 27 Points	28 - 30 Points

10.

PRESENT CUSTODY

RECOMMENDED CUSTODY

Classification Form for Sentenced Prisoners (Cont.)

11. Administrative/Program Considerations:

- | | | |
|------------------|-------------------------------------|----------------------------|
| 1. Release Plans | 4. Education | 7. Overcrowding |
| 2. Medical | 5. Special Treatment | 8. Judicial Recommendation |
| 3. Psychiatric | 6. Ethnic/Cultural
Consideration | 9. Residence |

12. Explanation:

SECTION C INSTITUTION ACTION

1. Recommendation/Justification: _____

2. Recommendation based on: _____ Points Total _____ Management Override
3. Community Custody Provisions (if applicable): _____

4. Date of Next Review: _____
5. Chair Person: _____
Member: _____
Member: _____
6. Superintendent's Action (if applicable): _____ Approve _____ Disapprove
- Comments: _____

COPY RECEIVED

PRISONER SIGNATURE _____

DATE _____

(Staff initial and date if prisoner unable or unwilling to sign receipt.)

Classification Form for Sentenced Prisoners InstructionsForm InstructionsA. Data Identification:

1. Institution: Enter name of institution.
2. Prisoner Name: Enter last, first, middle initial. Name is entered exactly the same as when committed, e.g., Doe, John D.
3. Date: Enter the current month, day and year numerically, e.g., 03/11/82.
4. Date of Birth: Self Explanatory.
5. Type of Case: Enter regular or exception.
6. OBSCIS Number: Enter prisoner's OBSCIS number.

B. Section A: Security Scoring:

Only ONE number can be assigned for these items; points cannot be added. For every item, enter the appropriate number of points in the box on the right hand side of the form. (Refer to Severity Scale, form 20-735.01S).

i. Type of Detainer:

Assign points based upon the detainer which reflects the most serious criminal charge.

- a. If the detainer is based upon a pending charge, score only the detainer category. Do not enter a score in any other category.
- b. If there is an adjudicated sentence from another jurisdiction and that sentence is not absorbed within the sentence for which the prisoner is currently incarcerated, that sentence should be considered a detainer.

<u>Points</u>	<u>Severity of Detainer</u>
1	Misdemeanor and Violations
3	Class C Felony or Immigration Detainer
5	Class B Felony
7	Unclassified and Class A Felony

Example:

A prisoner is convicted of Sexual Assault I (an unclassified felony) and Assault II (a class B felony). Assign points for Severity of Current Offense on the basis of the Sexual Assault I. The Assault II is scored in the History of Violent Behavior Section.

Classification Form for Sentenced Prisoners Instructions (Cont.)

2. Severity of Current Offense:

Enter the appropriate number of points in the box in the right hand column to reflect the severity of the documented offense(s). If multiple sentences are imposed, the most serious is scored in Severity of Current Offense and the other is scored in the appropriate history section, if applicable.

<u>Points</u>	<u>Severity of Detainer</u>
1	Misdemeanor and Violations
3	Class C Felony
5	Class B Felony
7	Unclassified and Class A Felony

Example: A prisoner is convicted of Sexual Assault I (an unclassified felony) and Assault II (a Class B Felony). Assign points for Severity of Current Offense on the basis of the Sexual Assault I. The Assault II is scored in the History of Violent Behavior Section.

3. Time to Firm Release Date:

Enter the appropriate number of points reflecting the prisoner's time to a firm release date, giving consideration to both prior service and good time, in the box in the right hand column.

<u>Points</u>	<u>Sentence Length (Excluding any suspended portion.)</u>
0	0 - 12 months
1	13 - 59 months
3	60 - 83 months
5	84 plus months

Enter the actual firm release date in the indicated space.

4. Type of Prior Convictions:

In the box in the right hand column, enter the appropriate number of points reflecting the most severe offense for which the prisoner was previously convicted. Juvenile adjudications are included.

<u>Points</u>	<u>Type</u>
0	None
1	Misdemeanors and Violations
3	Felonies and Unclassified

Example:

The prisoner has a previous incarceration for Bribery (Class B Felony). Enter "3" in the box in the right hand column.

Classification Form for Sentenced Prisoners Instructions (Cont.)

5. History of Escapes or Attempted Escapes:

Enter in the box in the right hand column the highest number that is obtained from the matrix by reviewing the prisoner's entire background of escapes and attempted escapes. If the most serious present offense is an escape or attempted escape, it is scored in accordance with the instructions of Section 2. above; it is not scored in the escape history section. Disciplinary reports relating to escape or attempted escape, and for which there was a finding of guilt, are to be considered.

a. Escape-oriented behavior that is well documented is to be scored even if there was no formal conviction or disciplinary finding of guilt. Some common examples are:

- (1) Absconding felony probation or parole supervision.
- (2) Flight to avoid prosecution on felony charges.
- (3) A pattern of runaways from home or foster homes.

b. Some examples of behavior that should not be scored are:

- (1) Failure to appear on traffic or misdemeanor charges.
- (2) Military Absent Without Leave (AWOL).
- (3) Fleeing a police officer (if there was no prosecution for the flight).

NOTE: The rating of behavior as "Minor" or "Serious" is discretionary when scoring escape-oriented behavior for which there was no conviction or disciplinary finding of guilt. A major disciplinary finding of guilt is to be scored as "Serious"; all others will be scored as "Minor".

<u>Points</u>	<u>History</u>	<u>Definition</u>
0	None	No escapes or attempted escapes.
1	+15 = Minor	An escape or attempted escape more than 15 years ago from an open institution or program, not involving any actual or threat of violence. Also, includes flight to avoid pending charges, if documented.
1	10-15 = Minor	An escape or attempted escape more than 10, but less than 15 years ago, from an open institution or program not involving any actual or threat of violence. Also, includes flight to avoid pending charges if documented.
2	5-10 = Minor	An escape or attempted escape more than five, but less than 10 years ago from an open institution or program not involving any actual or threat of violence. Also includes flight to avoid pending charges, if documented.

Classification Form for Sentenced Prisoners Instructions (Cont.)

<u>Points</u>	<u>History</u>	<u>Definition</u>
3	-5 = Minor	An escape or attempted escape within the last five years from an open institution or program not involving any actual or threat of violence. Also, includes flight to avoid pending charges, if documented.
4	+15 = Serious	An escape or attempted escape more than 15 years ago from closed confinement (medium or maximum), with or without threat of violence. Also, includes escape or attempted escapes from open facilities or programs with actual or threat of violence.
5	10-15 = Serious	An escape or attempted escape more than 10 years, but less than 15 years ago from closed confinement or an open facility or program if actual or threat of violence is involved.
6	5-10 = Serious	An escape or attempted escape more than five but less than 10 years ago from closed confinement or an open facility or program if actual or threat of violence is involved.
7	-5 = Serious	An escape or attempted escape within the last five years from closed confinement or an open facility or program if actual or threat of violence is involved.

Example: The prisoner stopped reporting to his probation officer six years ago, and an "Abscond" warrant was issued. He was arrested on the warrant four months later; however, it was subsequently determined that he had never left the jurisdiction, he had only stopped reporting (a discretionary scoring of "Minor"). Later he was convicted of a new offense and sentenced to incarceration. Three years ago he escaped from closed confinement (a mandatory scoring of "Serious"). The abscond behavior gives a score of "2"; the escape behavior gives a score of "7". Only the most serious behavior is scored by entering a "7" in the box in the right hand column.

6. History of Violent Behavior:

Enter the appropriate number of points in the box in the right hand column which reflect the prisoner's entire background of violence and threatened violence, excluding the most serious current offense. If the prisoner has multiple sentences, at least one of which is for a violent offense, the most serious is scored in the Severity of Current Offense section and the other is scored in the History of Violent Behavior Section, if applicable. If there is more than one incident of violent behavior, use the most severe. Include institution disciplinary committee findings of guilt if the prisoner committed a prohibited act (disciplinary report) of a violent nature, regardless of the prosecution or conviction status of the case. The length of time begins with the date of conviction.

Classification Form for Sentenced Prisoners Instructions (Cont.)

NOTE: Utilize the following list of violent crimes from the Alaska Criminal Code, or the equivalent or similar from prior Alaska codes or codes from other jurisdictions in determining the severity of violence. Attempt or solicitation to commit is scored as the offense.

Felony

Assault I, II, & III
 Arson I
 Kidnapping
 Murder I, & II
 Robbery I, & II
 Sexual Assault I, II, & III
 Manslaughter
 Homicide, Criminal Negligent
 Incest, involving injury or threat of injury
 Riot
 Sexual Abuse of a Minor I, II, & III
 Involving injury or threat of injury.
 Terroristic Threatening
 Burglary I, if prisoner had a firearm
 or threatened physical injury
 Extortion or Coercion involving
 threat of violence
 Interference with Constitutional
 Rights involving injury or threat of
 violence.

Misdemeanor

Assault IV
 Disorderly Conduct Involving Fight-
 ing or Challenge to a Fight.
 Sexual Abuse of a Minor IV
 Involving injury or threat of
 injury.

<u>Points</u>	<u>History</u>	<u>Definition</u>
0	None	No history of violence.
1	+15 = Minor	Acts occurring more than 15 years ago involving individuals or property that resulted in misdemeanor convictions.
1	10-15 = Minor	Acts occurring more than 10, but less than 15 years ago that resulted in misdemeanor convictions.
2	5-10 = Minor	Acts occurring more than five, but less than 10 years ago that resulted in misdemeanor convictions.
3	-5 = Minor	Acts occurring within the last five years that resulted in misdemeanor convictions.
4	+15 = Serious	Acts occurring more than 15 years ago involving individuals or property that resulted in a felony conviction.
5	10-15 = Serious	Acts occurring more than 10 but less than 15 years ago that resulted in a felony conviction.

Classification Form for Sentenced Prisoners Instructions (Cont.)

6 5-10 = Serious Acts occurring more than five but less than 10 years ago that resulted in a felony conviction.

7 -5 = Serious Acts occurring within the last five years that resulted in a felony conviction.

7. Security Total:

Add the points entered for Items 1. through 6., and enter the total in the right hand column.

8. Security Level:

The security total, Item #7, is used to determine the prisoner's appropriate security level institution, according to the following table:

<u>Points</u>	<u>Prisoner's Security Level</u>
0 - 6	Minimum
7 - 13	Medium
14 - 36	Maximum

NOTE: Based on these points ranges, circle the appropriate security level on the form.

C. Section B: Custody Scoring:

1. Percent of Time Served:

Enter in the box in the right hand column the number of points that reflect the percentage of the sentence the prisoner has already served (at the time of this review). To determine the percentage, divide the number of months the prisoner has already served by the number of months that will have been served as of the firm release date.

<u>Points</u>	<u>Percent of Time Served</u>
3	0 thru 25%
4	26 thru 75%
5	76 thru 90%
6	91 plus %

2. Involvement with Drugs and/or Alcohol:

Enter in the box in the right hand column the appropriate number of points reflecting the prisoner's drug and/or alcohol abuse. This includes any documented abuse, including trafficking. "Current" refers to any documented use within the last five years, including this period of incarceration. "Past" means any documented history more than five years ago.

<u>Points</u>	<u>Involvement</u>
2	Current or within the last five years
3	Past, more than five years ago
4	Never

Classification Form for Sentenced Prisoners Instructions (Cont.)

Example: Prisoner was found guilty by the institution disciplinary committee of "being intoxicated" two years ago. Enter "2" reflecting "current use".

3. Mental/Psychological Stability:

In the box in the right hand column, enter the appropriate number of points reflecting the prisoner's status in this category. Determination is based on the most recent available psychological/psychiatric report. The conclusion should be stated clearly in the report, and is to be interpreted in light of whether this prisoner can handle lower custody/security status.

<u>Points</u>	<u>Stability</u>
2	Unfavorable
4	No referral or favorable

Prior to a reclassification hearing, a prisoner should, if deemed necessary, be referred for an up-dated psychological/psychiatric report if the most current report is unfavorable and over one year old. If the report is over five years old, the prisoner should be referred for an updated evaluation.

4. Type Most Serious Disciplinary Report:

Enter the number of points that reflect the most serious disciplinary report. This is determined by using the Severity Scale of Prohibited Acts, (form 20-735.015). Points are assigned on the basis of the single most severe disciplinary report for which the prisoner was found guilty by an institutional disciplinary committee during the past 12 months:

NOTE: When the prisoner is found guilty by the institutional disciplinary committee, that information becomes part of the prisoner's history and may be used when scoring "history" items, #5 and #6.

<u>Points</u>	<u>Type of Disciplinary Report</u>
1	Major
2	High Moderate
3	Low Moderate
4	Minor
5	None

Example: In addition to being found guilty of Being in an Unauthorized (Low Moderate), the prisoner was also found guilty of Extortion (Moderate). Use the High Moderate as the one most serious disciplinary report, and record "2" in the right hand column box.

5. Frequency of Disciplinary Reports:

Enter in the right hand column the appropriate number of points that the frequency of disciplinary reports. This is determined by assigning based on the number of disciplinary reports for which the prisoner found guilty by an institutional disciplinary committee during the months.

Classification Form for Sentenced Prisoners Instructions (Cont.)

<u>Points</u>	<u>Frequency within the last 12 months</u>
0	5 plus
1	2 thru 4
2	1
3	None

6. Responsibility Prisoner has Demonstrated:

Enter the appropriate number of points reflecting the level of responsibility the prisoner has shown during the past 12 months. This is based upon the prisoner's general demeanor as reflected in peer group associates, attitude, degree of program involvement, level of dependability, and nature of interactions with staff and other prisoners. Ratings of Poor, Average and Good reflect the Classification Committee's judgement.

<u>Points</u>	<u>Responsibility Within the Last 12 Months</u>
0	Poor
2	Average
4	Good

7. Family/Community Ties:

Enter in the right hand column the number of points that reflects the prisoner's level of family and/or community ties. This is determined by assigning points based on established and continuing family and/or community ties, which include a consideration of: current marital status or nature of common-law relationships; nature of family support; regularity of visits/mail; degree of family stability in the community; stable community relationship with non-family individuals.

<u>Points</u>	<u>Type of Ties</u>
3	None or Minimal
4	Average or Good

8. Custody Total:

Add the points assigned for Items 1. through 7. and enter the sum in the right hand column box.

9. Custody Change Scale:

To determine eligibility for a custody change, the following scale is used along side the guidelines contained in 818.05, Graduated Release Through a Systematic Decrease in Supervision:

<u>Prisoner's Present Security Level</u>	<u>Consider Custody Increase if Points</u>	<u>Continue Present Custody if Points</u>	<u>Consider Custody Decrease if Points</u>
Minimum	11 - 19 Points	20 - 22 Points	23 - 30 Points
Medium	11 - 19 Points	20 - 24 Points	25 - 30 Points
Maximum	11 - 19 Points	20 - 27 Points	28 - 30 Points

NOTE: To be eligible for community custody, a prisoner must be within one year of a firm release date.

Example #1: A prisoner with a Security Total of 18 points qualifies for a Maximum level institution and would require a Custody Change Total of at least 28 points to qualify for a possible custody DECREASE. Likewise, a Medium security prisoner would require a Custody Change Total of at least 25 points to qualify for a possible custody DECREASE.

Example #2: A Custody Change Total of 19 points or less indicates that the prisoner should be considered for INCREASE. For example; a Minimum security prisoner with a Custody Change Total of 18 should be considered for the next higher custody level.

Example #3: A Custody Change Total between 20 and 22 points indicates that custody should be CONTINUED at the current level for Minimum security prisoners. For Medium security prisoners a Custody Change Total between 20 and 24 points indicates no change or CONTINUE at present custody.

NOTE: Based on the prisoner's present security level, circle the point range reflecting the prisoner's Custody Change Total.

10. Present/Recommended Custody:

Enter present custody level, custody at time of hearing; and recommended custody level on the basis of custody change scale scoring and guidelines per 818.05, Graduated Release Through a Systematic Decrease in Supervision.

11. Administrative/Program Consideration:

Utilizing the completed Needs Assessment Survey, circle the appropriate factor(s) considered at this hearing. Any factor or combination of factors may be the basis for the hearing, and may result in a transfer to another institution or may simply be the basis for program changes within the holding institution.

12. Explanation:

Utilizing the completed Needs Assessment Survey, enter recommended program plan and explanation thereof. (Enter prisoner's placement preference and reasons, if any.)

D. Section C: Institution Action:

1. Recommendations/Justifications:

The Chairperson will indicate the recommendations of the committee and the facts supporting the decision. Reasons for management override decision must be documented here.

2. Recommendation based on:

Indicate if the recommendations are consistent with the points total or are a result of a management override decision.

Classification Form for Sentenced Prisoners Instructions (Cont.)

3. Community Custody Provisions: The Chairperson will indicate the stipulations and parameters for community custody such as "furlough" eligible within six months of release with specific conditions and/or other limits, eligibilities or time parameters for community custody classification. If not applicable, enter "N/A"
4. Date of Next Review: Enter date of next review.
5. Chairperson/Member: Signature of the Committee's Chairperson and members.
6. Superintendent's Action: Superintendent will indicate approval or disapproval and enter comments supporting the reasons for any modification or override decision. If the matter is not referred to the Superintendent the Chairperson will enter N/A or not applicable.

Notice of AppearanceAgenda and Procedural Opportunities Afforded a Prisoner
at a Classification Hearing

1. Prisoner's Name: _____
2. _____ Sentenced 3. _____ Unsentedenced 4. _____ Classification
5. _____ Reclassification
6. You are scheduled to appear before the Classification Committee at
_____, on _____, _____, _____.M.
(Institution) (Date) (Time)

The purpose of the hearing is:

- a. _____ Initial Classification (determination of custody and security levels and program involvement).
- b. _____ Possible transfer to an institution outside Alaska.
- c. _____ Possible assignment to administrative segregation.
- d. _____ Possible termination of furlough.
- e. _____ Program.
- f. _____ Scheduled review.
- g. _____ Other: _____

Procedural Opportunities are afforded you as follows:

1. You will receive at least 48 hours advance written notice of the hearing.
2. If the purpose of the hearing is c. or d. above, you are entitled to request the assistance of a staff advocate as provided from the institution's pool. You may select one of the following individuals:
- _____
- _____
3. If the purpose of the hearing is a., b., e., f., or g. above, a staff member assigned by the Superintendent will meet with you prior to the hearing to explain the classification process and discuss possible classification action.
4. Prior to the hearing, you may prepare testimony, solicit statements or compile evidence if your actions do not create a substantial risk of reprisal or undermine the security of the institution.
5. Prior to the hearing or at the hearing, you may request additional time to gather information, testimony or evidence relating to proposed actions. The Chairperson may grant additional time and postpone the hearing.
6. You will have a reasonable opportunity to challenge the factual basis or rationale advanced in support of the proposed classification.

Notice of Appearance

Agenda and Procedural Opportunities Afforded a Prisoner
at a Classification Hearing (Cont.)

7. You may confront and cross-examine witnesses, and present evidence in your own behalf subject to limitations based on considerations of repetition, relevancy, risk of reprisal, and security of the institution.
8. You may be required by the Chairperson to direct your questions through your staff advocate, probation officer, or the Chairperson.
9. If the purpose of the hearing is c., or d., the hearing will be tape recorded and kept in transcribable form for 12 months if the classification action is appealed; or, 30 days if the action is not appealed. If the purpose of the hearing is by consideration for transfer outside the State, or the classification action is appealed to the Superior Court, the hearing will be tape recorded and kept in transcribable form for three years.
10. You will be advised in writing of the factual findings of the committee and the evidence relied upon in its decision. A copy of a final decision by the committee will be provided to you within four working days of the hearing. A copy of a decision referred to the Superintendent will be provided you within 10 working days of the hearing.
11. You may appeal any action taken as a result of a hearing.
12. I select as my staff advocate: _____
13. I waive this opportunity for a hearing: YES NO
14. I have read and understand the contents in this notice.

Prisoner's Signature (Note if the prisoner refuses to sign.)

15. DATE: _____ TIME: _____, _____ M.

16. _____
Officer's Signature

Instructions

The classification staff will complete the top portion of the front page of the Notice of Appeal form through Item 2. under Procedural Opportunities. The completed form will be presented to the prisoner at least 48 hours prior to the hearing.

The prisoner will complete items 12., 13., and 14. of Procedural Opportunities. A Correctional Officer will enter item 15. upon receipt of the form back from the prisoner with items 12., 13., and 14. completed.

Select best description and enter number at right:

A. HEALTH:

- 1. Sound physical health, seldom ill.
- 2. Handicap or illness which interferes with functioning on a recurring basis.
- 3. Serious handicap or chronic illness, needs frequent medical care.

B. INTELLECTUAL ABILITY:

- 1. Normal intellectual ability, able to function independently.
- 2. Mild retardation, some need for assistance.
- 3. Moderate retardation, independent functioning severely limited.

C. BEHAVIORAL/EMOTIONAL PROBLEMS:

- 1. Exhibits appropriate emotional responses.
- 2. Symptoms limit adequate functioning, requires counseling, may require medication.
- 3. Symptoms prohibit adequate functioning, requires significant intervention may require medication or separate housing.

NOTE: If number 2. or 3. is most appropriate for this prisoner for A., B. or C. above, obtain a Health Care Record Extract (form 20-807.14R) as supplement to this form.

D. ALCOHOL ABUSE:

- 1. No alcohol problem.
- 2. Occasional abuse, some disruption of functioning.
- 3. Frequent abuse, serious disruption, needs treatment.

E. DRUG ABUSE:

- 1. No drug problem.
- 2. Occasional abuse, some disruption of functioning.
- 3. Frequent abuse, serious disruption, needs treatment.

F. EDUCATIONAL STATUS:

- 1. Has high school diploma or GED
- 2. Some deficits, but potential for high school diploma or GED
- 3. Major deficits in math and/or reading, needs remedial programs.

G. VOCATIONAL STATUS:

- 1. Has sufficient skills to obtain and hold satisfactory employment.
- 2. Minimal skill level, needs enhancement.
- 3. Virtually unemployable needs training.

List Skills:

List Skills:

List possible skills to acquire:

NEEDS ASSESSMENT SURVEY (Cont.)

PROGRAM RECOMMENDATION

1. Housing: _____

2. Work assignment: _____

3. Program assignments: _____

4. Other: _____

Classification
Notice of Transfer

- 1. TO: _____ Institution: _____
(Superintendent)
- 2. FROM: _____, Chief Classification Officer
- 3. PRISONER NAME: _____
- 4. TRANSFER TO: _____
- 5. SECURITY: _____
- 6. CUSTODY: _____

As classification action that results in a prisoner's being transferred to another institution may be appealed only to the Deputy Commissioner for Operations. The appeal must be submitted through the institutional probation officer within five working days after the prisoner receives written notice of the decision. Upon a showing of good cause by the prisoner, this time limit may be extended by an institutional Superintendent. With the exception of a transfer to an institution outside Alaska, any classification action may be commenced pending an appeal.

I hereby acknowledge receipt of written notification of the above transfer action, as well as notification of my appeal rights.

- 7. _____ 8. _____ 9. _____ .M
Prisoner Signature Date Time

(Staff initials if prisoner unable or unwilling to sign)

DISTRIBUTION: Holding Superintendent
Receiving Superintendent
Classification File
Prisoner File
Prisoner

Classification Notice of Transfer Instructions

Item 1. thru 6. are completed by the Chief Classification Officer or designee.

1. TO: Superintendent of holding institution.
2. FROM: Chief Classification Officer or designee.
3. Prisoner Name: Self explanatory.
4. Transfer to: Enter name of receiving institution to which prisoner is being transferred.
5. Security: Enter prisoner's security level.
6. Custody: Enter prisoner's custody level.
7. Prisoner's Signature: Confirmation signature of prisoner receiving this notice of transfer. Staff initial if prisoner is unable or unwilling to sign.
8. Date: Enter date that prisoner received this notice of designation.
9. Time: Enter time of day that prisoner received this notice of designation.

MEMORANDUM

State of Alaska

DEPARTMENT OF CORRECTIONS

to: Art Schmidt
Deputy Commissioner for Operations

DATE: March 11, 1986

FILE NO:

PHONE NO: 561-4426 ext. 132/165

SUBJECT: Prisoner Transfers
Between Institutions

FROM: Robert P. Spinde
Chief Classification Officer

MAR 12 1986

From: Sergeant George
Transportation Unit

DEPARTMENT OF CORRECTIONS
CENTRAL OFFICE-JUNEAU

This is in response to your request for information regarding the movement of prisoners between institutions within the Alaska Corrections system. I understand that there has been legislative inquiry that focuses upon the question of whether there may be more movement of prisoners than is necessary or appropriate.

To prepare a statistical compilation of move records would be rather time consuming, and I believe that such a compilation would be considerably less informative for present purposes than would a rhetorical explanation of the reasons for prisoner movement. That is, if there is an understanding of the various reasons that prisoners are moved, reasons that perhaps did not occur to those who have posed the question, I believe that concern over the number of moves that are made will be greatly diminished.

Probably the single most important point that can be made relative to prisoner movement is that modern day Corrections is exceedingly complex. A defendant does not just go to prison to serve a prescribed sentence and then be released. There is an intertwining matrix of legal requirements, reformatory expectations, prisoner rights, administrative efficacy and humanitarian concerns, all of which either singly or in combination cause movement of prisoners. This is particularly so in a system that is geographically far flung as is Alaska Corrections, and in which a full range of services cannot possibly be provided at each of our relatively small facilities. A synopsis of the most common situations that can result in movement of a prisoner from one institution to another follows:

Designation

This is the process by which it is determined where a prisoner will begin serving the sentence. Designation is normally done at an intake facility such as Cook Inlet Pre-trial Facility in Anchorage, or a multi-purpose institution such as Juneau or Fairbanks, and transfer to another facility is a normal expectation that inheres in this initial effort to place a prisoner in a facility that is most appropriate to the prisoner's program and custody needs.

Classification

This refers to the periodic review process by which a prisoner's institutional placement is considered for the purpose of adjusting it to meet changing program and/or custody requirements. For example, a prisoner who is initially designated to Juneau because close custody is necessary, may later be classified to Wildwood when he has reached eligibility for medium custody. Still later he may be moved to Goose Bay when he achieves minimum custody, and perhaps ultimately placed at a restitution center at community custody. One of the most common moves that is made for program purposes is to Hiland Mountain for sex offender treatment. Because of space limitations there a prisoner is normally placed elsewhere until within approximately two years of release. Designation and classification combine to comprise what could be termed the infrastructure of prisoner placement and transfer.

Administrative Moves

Subsumed within this category are the great variety of transfers that are made for a short-term purpose or perhaps to deal with an exigent situation that does not allow sufficient time for the due process that is associated with classification procedures. The list of reasons for administrative moves can be almost endless, however, some of the common ones are:

1. Medical treatment
2. Parole hearings, if it is more economical to take the prisoner to the Parole Board rather than vice versa.
3. To alleviate serious conflict situations that can develop between inmates.
4. Security considerations if a prisoner has new criminal charges or is suspected of serious infraction of institutional rules.
5. Population adjustment. This accounts for a great many prisoner transfers, and is usually manifested in one of two ways. One of these is the mass movement of a number of prisoners out of an institution where they actually belong, but where the population has outstripped bedspace availability. A second type of population adjustment is the so-called interim transfer. A common example is the transfer from CIPT to Hiland Mountain to await bedspace at Palmer or to await bedspace at Kenai Pre-trial to await bedspace at Wildwood CC. The end result is that what would normally be a single transfer develops into a series of interim bedspace juggling moves.

Art Schmidt
March 11, 1986
Page 3

6. Family emergencies. When a prisoner has an appropriate custody level and when otherwise reasonably possible, a temporary transfer may be made to effect visits or family contact in the event of terminal illness or death in the family.

Court Ordered Moves

A very large number of transfers are made by Court Order for the purpose of effecting some sort of legal action in a given case. The Department of Corrections may become involved in expediting such moves, but has no decision-making role regarding whether they are to be carried out.

Attached are the chronological move records of two inmates, showing the dates and reasons that they were transferred. One record was chosen as an example of a prisoner who has moved a great many times; the other shows only a very few moves. There are literally hundreds of move records that would reflect numbers falling between these two extremes.

Also attached are copies of pages taken from a hand-written log book that is maintained in the Classification Office regarding administrative moves. The period covered is 7-1-85 through 10-31-85, and the brief notes in the "Reason" column will show the variety of reasons for short-term or expedited prisoner movement.

It is hoped that the information provided here is adequate for your purposes. Please advise if we may be of further assistance.

TRANSFER RECORD OF ARTHUR TRUDEAU

9-23-83	Remanded Ketchikan	
9-26-83	Ketchikan to Sitka	Court Order
11-25-83	Sitka to Juneau	Court Order
12-09-83	Juneau to Sitka	Court Order
12-15-83	Sitka to Ketchikan	Court Order
12-16-83	Ketchikan to Sitka	Court Order
12-20-83	Sitka to Juneau	Return from Court
12-30-83	Juneau to Sitka	Court Order
1-09-84	Sitka to Juneau	Court Order
1-11-84	Juneau to Sitka	Court Order
1-26-84	Sitka to CIPT	Court Order (Psych)
4-02-84	CIPT to Juneau	Return from (Psych)
4-10-84	Juneau to Sitka	Court Order
4-23-84	Sitka to Ketchikan	Court Order
5-03-84	Ketchikan to Sitka	Court Order
5-11-84	Sitka to Juneau	Court Order
7-21-84	Juneau to Ketchikan	Court Order
8-11-84	Ketchikan to Sitka	Court Order
8-19-84	Sitka to Juneau	Return from Court
10-03-84	Juneau to Ketchikan	Court Order
10-05-84	Ketchikan to Juneau	Return from Court
11-20-84	Juneau to Wildwood	Designation to Wildwood
11-29-84	Wildwood to Nome	Redesignation to Nome for protective custody
12-16-84	Nome to CIPT	Pending transport to Bethel
12-20-84	CIPT to Bethel	Classification to Bethel for protective custody
11-28-85	Bethel to CIPT	Overnight (Court ordered move to Ketchikan)
11-29-85	CIPT to Ketchikan	

Total transfers 26

Corrections initiated transfers 4

Court related transfers 22

TRANSFER RECORD OF WADE PARKER

4-08-85	Remanded CIPT	
10-17-85	CIPT to Kenai P.T.	Designation to Wildwood (awaiting bedspace)
1-28-85	Kenai P.T. to CIPT	Parole hearing
1-28-85	CIPT to Kenai P.T.	Return from hearing

Total transfers 3

Corrections initiated transfers 3

Court related transfers 0

Community Corrections Beds

	<u>Location</u>	<u>Treatment Speciality</u>	<u>Capacity CRC Restit.</u>	<u>Cost/ Requested FY87</u>
Cordova Center	Anch.	Ed & Work Furlough	75	729.3
Clitheroe	Anch.	Substance Abuse	15	251.5
Akeela	Anch.	Substance Abuse	25	488.7
Glennwood	Anch.	Work Furlough	75	1,074.7
Kila	Fbks.	Ed & Work Furlough	75	810.0
Glacier Manor	Juneau	Ed & Work Furlough	15	will be a few 405.3
Tundra*	Bethel	Ed & Work Furlough	20	489.8*
Mariilaq Soc. Rehab. Camp*	Kotzebue	Cultural Rehabil.	15	500.4

Anchorage Restitution	Anch.	Work Furlough	65/100	849.8*
Kenai Community Resid. Center	Kenai	Ed & Work Furlough	35/50	669.4*

*Requested by Budget Amend for FY 87

(SHR 3/14/86)

Payment to community residential center (CRC) and restitution center contractors is based on a sliding fee scale. When bidding on the contract, the offeror submits a budget based on the total number of beds required. For example, if Department of Corrections (DOC) is requesting 75 CRC beds in Anchorage, the bidders base their budget on the full 75 beds. If the costs are reasonable, the budget then becomes the basis for the sliding fee scale. This system assumes that a certain number of staff are necessary regardless of whether 35 or 75 inmates are in residence. Other costs such as the lease, utilities and equipment are also fairly stable whether or not the CRC or restitution center is full. Only food and supply costs vary significantly based upon the number of inmates. This being the case, the amount needed per month to run the center at capacity become the basis for the sliding fee scale. For example, if Cordova Center needs approximately \$63,500.00 monthly to run the center, the sliding fee scale varies from \$28.24 per inmate per day for a monthly average of 75 residents to \$70.59 per inmate per day if the monthly average of inmates in residence is 30.

It is up to DOC to make the most cost effective use of the community beds by keeping the beds full. We do not feel it is in the best interest of the State to allow the contractors to make additional money based on the number of inmates in residence. This can lead to inmates remaining in the community who should have been returned to prison if the contractor ignores infractions in order to keep the beds filled.

For each community program the lowest and highest per inmate per day cost is as follows:

Akeela House	25 residents	\$ 51.05 per day
	15 residents	\$ 86.41 per day
Clitheroe Center	15 residents	\$ 46.58 per day
	6 residents	\$116.44 per day
Cordova Center	75 residents	\$ 28.24 per day
	30 residents	\$ 70.59 per day
Glacier Manor	15 residents	\$ 75.05 per day
	6 residents	\$187.64 per day
KILA	75 residents	\$ 36.00 per day
	30 residents	\$ 90.00 per day
Tundra Center	20 residents	\$ 59.55 per day
	10 residents	\$119.09 per day
Glennwood Center	75 residents	\$ 29.11 per day
	15 residents	\$145.53 per day

The greater the number of beds, the greater the economy of scale realized.

Received: 3/17/86 3:35 p.m.

DEPARTMENT OF CORRECTIONS

INST. CAP.	MISDEMEANANTS					TOTAL	FELONS					TOTAL	GRAND TOTAL	
	Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough			
CIPT 397	1					1	110		284			394	395	
IANK 116	9		39	6		54	19		5	11		35	89	
HMHC 216	6	2	1			9	198	46	1	4		249	258	
IPME 100	2					2	95					95	97	
IPMI 130	6					6	123					123	129	
GBAY 108	47				1	48	59				1	60	108	
WILD 300	17	4	14	1		36	242	1	15			258	294	
IFAI 232	11	3	14	1		29	163	1	68	2		234	263	
INOM 88	5		10	1		16	41		27			68	84	
IDET 72	7		19	1		27	24		23			47	74	
IJUN 162	13	1	6	4		24	123	5	23	3		154	178	
IKET 63	9		1	1		11	30		11			41	52	
INST. TOTAL 1984	133	10	104	15	1	263	1227	53	457	20	1	1758	2021	
CORD 75	38	4				42	25	2				27	69	
AKEE 25	1					1	19	5				24	25	
KILA 75	26	3				29	11					11	40	
GMNR 15	4	2				6	8	2				10	16	
CROE 15	5					5	12	3				15	20	
GNWD 75	61	5	1	2		69	4					4	73	
TUND 20	4					4	15					15	19	
MANI 15	1					1	2					2	3	
HALFWAY TOTAL 315	140	14	1	2	0	157	96	12	0	0	0	108	265	
JUVENILE TOTAL 1												FEDERAL BUREAU OF PRISONS TOTAL	191	
GRAND TOTAL POPULATION (Does not include Juvenile Total)												Total Daily Count for: 86/03/17		2477

DEPARTMENT OF CORRECTIONS

INST. CAP.	MISDEMEANANTS					TOTAL	FELONS					TOTAL	GRAND TOTAL
	Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		
CIPT 397	2		1			3	111		281			392	395
IANX 116	11		41	6		58	18	1	4	12		35	93
HMMC 216	6	2	1			9	199	46	1	4		250	259
IPME 100	2					2	95					95	97
IPMI 130	6					6	123					123	129
GBAY 108	45				1	46	63				1	64	110
WILD 300	21	4	13	1		39	241	1	16			258	297
IFAI 232	13	1	15	4		33	161	1	69	2		233	266
INOM 88	7		7	2		16	42		27	1		70	86
IBET 72	6		17	2		25	24		23			47	72
IJUN 162	15	1	8	4		28	126	5	23	3		157	185
IKET 63	11		3	1		15	28		12			40	55
INST. TOTAL 1984	145	8	106	20	1	280	1231	54	456	22	1	1764	2044
CORD 75	37	8				45	26	2				28	73
AKEE 25	1					1	19	5				24	25
KILA 75	29	4				33	11					11	44
GMNR 15	4	2	1			7	8	2				10	17
CROE 15	5					5	12	3				15	20
GNWD 75	61	7				68	4					4	72
TUND 20	4					4	16					16	20
MANI 15	1					1	2					2	3
HALFWAY TOTAL 315	142	21	1	0	0	164	98	12	0	0	0	110	274
JUVENILE TOTAL 1	FEDERAL BUREAU OF PRISONS TOTAL											192	
GRAND TOTAL POPULATION (Does not include Juvenile Total)												Total Daily Count for: 86/03/15	2510

DEPARTMENT OF CORRECTIONS

INST. CAP.	MISDEMEANANTS					TOTAL	FELONS					TOTAL	GRAND TOTAL	
	Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough			
CIPT 397	1		1			2	130		257			387	389	
IANX 116	6	3	55	6		70	8	2	5	15		30	100	
IMMC 216	7	5	4			16	193	39	6	9		247	263	
IPME 100	1					1	100					100	101	
IPMI 130	6					6	120					120	126	
GBAY 108	51					51	54					54	105	
WILD 300	20	4	11			35	239		15			254	289	
IFAI 232	18		14	3		35	158	2	60	3		223	258	
INOM 88	8	2	4			14	42		27	3		72	86	
IBET 72	8		20			28	25		25	1		51	79	
IJUN 162	15		6	2		23	125	4	20	2		151	174	
IKET 63	11		1			12	32		13			45	57	
INST. TOTAL 1984	152	14	116	71	0	293	1226	47	428	33	0	1734	2027	
CORD 75	30	3				33	40	1				41	74	
AKEE 25	1					1	21	5				26	27	
KILA 75	25	1				26	24					24	50	
GMNR 15	5					5	8	2				10	15	
CROE 15	5					5	12	3				15	20	
GNWD 75	60	11	4			75	6					6	81	
TUND 20	1		1			2	17					17	19	
MANI 15	1					1	3					3	4	
HALFWAY TOTAL 315	128	15	5	0	0	148	131	11	0	0	0	142	290	
JUVENILE TOTAL 1												FEDERAL BUREAU OF PRISONS TOTAL	191	
GRAND TOTAL POPULATION (Does not include Juvenile Total)												Total Daily Count for: 86/02/23		2508

DEPARTMENT OF CORRECTIONS

INST. CAP.	MISDEMEANANTS					TOTAL	FELONS					TOTAL	GRAND TOTAL
	Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		
CIPT 397			1			1	140		260			400	401
IANK 100	7		50	6		63	3	1	6	16		26	89
IIMC 216	31	5	11			47	189	37	6	8		240	287
IPME 100						0	100					100	100
IPMI 130	4					4	124				1	125	129
CBAY 108	45					45	63					63	108
WILD 300	27	5	5	1		38	239		14			253	291
IFAI 232	9		14	2		25	158	2	67	2		229	254
INOM 88	11		3			14	46		21	1		68	82
IBET 72	8		17			25	25		24			49	74
IJUN 162	16	3	3	2		24	126	5	20	2		153	177
IKET 63	18		2			20	31		17			48	68
INST. TOTAL 1968	176	13	106	11	0	306	1244	45	435	29	1	1754	2060
CORD 75	27	2				29	37	2	2			41	70
AKEE 25	2					2	20	5				25	27
KILA 55	32	1				33	21					21	54
GMNR 15	4	2	1			7	8	2				10	17
CROE 15	5					5	10	3				13	18
GNWD 75	63	6	2			71	6					6	77
TUND 20	2	1				3	15	1				16	19
MANI 15	1					1	2					2	3
HALFWAY TOTAL 295	136	12	3	0	0	151	119	13	2	0	0	134	285
JUVENILE TOTAL 1												FEDERAL BUREAU OF PRISONS TOTAL	190
GRAND TOTAL POPULATION (Does not include Juvenile Total)											Total Daily Count for: 86/02/09		2535

DEPARTMENT OF CORRECTIONS

INST. CAP.	MISDEMEANANTS					TOTAL	FELONS					TOTAL	GRAND TOTAL	
	Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough		Male Sent.	Female Sent.	Male Unsent.	Female Unsent.	Total Furlough			
CIPT 397						0	132		267			399	399	
IANX 100	12	2	48	4		66	4	1	5	15		25	91	
IMHC 216	14	8	7			29	199	36	6	7	1	249	278	
IPHE 100	1					1	98					98	99	
IPMI 130	4					4	122					122	126	
GBAY 108	41					41	64					64	105	
WILD 300	25	4	10			39	228		18	1		247	286	
IFAI 232	21		13	2		36	152	1	59	2		214	250	
INOM 88	9		3			12	47		19			66	78	
IBET 72	4		12			16	22		29	1		52	68	
IJUN 162	9	1	10	2		22	117	5	21	2		145	167	
IKET 63	18		3	1		22	30		14			44	66	
INST. TOTAL 1968	158	15	106	9	0	288	1215	43	438	28	1	1725	2013	
CORD 75	28	3				31	39	2	2			43	74	
AKEE 25	1					1	17	5				22	23	
KILA 55	26	4				30	17					17	47	
GMNR 15	5	1				6	9	2				11	17	
CROE 15	5					5	7	3				10	15	
GNWD 75	58	9	1			68	5					5	73	
TUND 20	4	2				6	13					13	19	
MANI 15	1					1	3					3	4	
HALFWAY TOTAL 295	128	19	1	0	0	148	110	12	2	0	0	124	272	
JUVENILE TOTAL 1												FEDERAL BUREAU OF PRISONS TOTAL	188	
GRAND TOTAL POPULATION (Does not include Juvenile Total)												Total Daily Count for: 86/01/27		2473

FAIRBANKS CORRECTIONAL CENTER
POPULATION BREAKDOWN

March 17, 1986

Unsentenced	90
Sentenced Felons	163
Sentenced Misdemeanants	<u>8</u>
Total Population	261

Sentenced Felons	
Maximum Custody	2
Close Custody	67
Medium Custody	57
Minimum Custody	28
Community Custody	9

Sentenced Misdemeanants	
Medium Custody	1
Minimum Custody	2
Community Custody	4
Not Classified	1

Since only sentenced minimum or community custody inmates are eligible for placement in a community residential center or restitution center, 217 inmates of those incarcerated at Fairbanks are not eligible for placement.

Following is a breakdown of the remaining 44 inmates:

Felons - Sentenced
Community Custody

- 3 currently in sex offender treatment program
- 1 Kila returnee
- 1 failed CCR - arrested due to intoxication
- 1 waiting residential alcohol program
- 1 health-post hospitalization for heart problems
- 1 refused Kila program
- 1 sexual assault history will be considered in July,
- work release date is Jan. 87

Felons - Sentenced

Minimum Custody*

- 22 violent felons
- 2 more than 120 days to serve
- 1 Kila returnee
- 1 refused Kila program
- 1 Kila denied due to prior history of violence
- 1 recent override from medium custody, high custody due to
___ prior record, will observe at minimum prior to Kila

28

Misdemeanants - Sentenced

Not Classified

- 1 verifying prior history

Community Custody

- 1 refused Kila program
- 2 in process, will enter Kila on 3/18/86
- 1 returned, said he had job, staff learned he did not - he
was going out and not working

Minimum Custody

- 1 high moderate infraction 2-7 pruno
- 1 seizures (gran mal), Kila would not accept

7

*Those inmates do not yet have community custody for furlough but may be considered for restitution center if they are non-violent, non sex-offenders.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

April 19, 1985

MEMORANDUM

TU: Representative M. Mike Miller
ATTN: Hayden Kaden
FROM: Katherine Hazard *KH*
Legislative Analyst
RE: Phone Access for Pretrial Detainees
Research Request 85-316

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

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

Summary

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

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

Representative Miller
April 19, 1985
Page 2

California

Sacramento County Correctional Facilities:

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

California State Penitentiaries:

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

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

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

Massachusetts

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

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

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

Massachusetts State Penitentiaries:

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

New York

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

Pretrial Detainees

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

Sentenced prisoners

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

New York State Penitentiaries:

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

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

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

Oregon

Multnomah County Jail:

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

Booking Area

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

Oregon State Penitentiaries:

- An inmate may use the phone every third night.

Representative Miller
April 19, 1985
Page 6

Texas

Jail Division of the Houston Police Department:

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

Texas State Penitentiaries:

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

Washington

Pierce County Jail:

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

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

Representative Miller
April 19, 1985
Page 7

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

Washington State Penitentiaries:

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

Please call if you have further questions.

KH

CSHB 114(Jud)

Amendment No. 1 by Pettyjohn:

Page 11, line 4:

Delete "two" insert "four"

Representative Pettyjohn moved and asked unanimous consent that amendment No. 1 be adopted.

Representative M.M. Miller objected.

The question being: "Shall Amendment No. 1 be adopted?"
The roll was taken with the following result:

CSHB 114(JUD) AM1

Yeas:	21	Boucher, Collins, Cotten, Frank, Furnace, Hanley, Jenkins, Marrou, Martin, Miller, M.W., Navarre, Pearce, Pettyjohn, Phillips, Pignalberi, Rieger, Shultz, Szymanski, Taylor, Thompson, Uehling
Nays:	18	Adams, Binkley, Cato, Clocksin, Davis, Duncan, Fuller, Goll, Gruenberg, Grussendorf, Herrmann, Hurley, Koponen, Larson, Miller, M.M., Pourchot, Ringstad, Wallis
Excused:	1	Sund
Absent:	0	

And so, Amendment No. 1 was adopted.

CSHB 114(Jud)am

Representative Clocksin moved and asked unanimous consent that CSHB 114(Jud)am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 114(Jud)am was read the third time.

CSHB 114(Jud)am

The question being: "Shall CSHB 114(Jud)am pass the House?" The roll was taken with the following result:

CSHB 114(JUD)AM

Yeas:	36	Adams, Binkley, Boucher, Cato, Clocksin, Cotten, Davis, Duncan, Frank, Fuller, Furnace, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Marrou, Miller, M.M., Miller, M.W., Navarre, Pearce, Pettyjohn, Phillips, Pourchot, Rieger, Ringstad, Shultz, Szymanski, Taylor, Thompson, Uehling, Wallis
Nays:	3	Collins, Martin, Pignalberi
Excused:	1	Sund
Absent:	0	

And so, CSHB 114(Jud)am passed the House and was referred to the Chief Clerk for engrossment.

HB 319

HOUSE BILL NO. 319 (physical agents) was read the second time with the Labor & Commerce Committee report (page 923), the Health, Education & Social Services Committee report (page 1135) and the Finance Committee report (page 1351).

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 319 (Labor & Commerce) (same title) be adopted in lieu of the original bill. There being no objection, it was so ordered.

CSHB 319(L&C)

Representative Clocksin moved and asked unanimous consent that CSHB 319(L&C) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 319(L&C) was read the third time.

file HB114

AS 33.32.010(3) DEPARTMENT OF CORRECTIONS MAY NOT
AS 33.32.015(b) CONTRACT WITH PRIVATE ENTITY TO
AS 33.32.020(b) MANAGE/OPERATE MANUFACTURING PROCESS IN
AS 33.32.030 STATE CORRECTIONAL CENTER USING INMATE
LABOR; PRODUCTS/SERVICES OF CORRECTIONAL
INDUSTRIES MUST BE PURCHASED BY STATE.

In response to an inquiry from the commissioner of corrections, the Attorney General stated that existing correctional industries statutes do not permit the commissioner to delegate to a private entity the statutory responsibility to control the operation, marketing and fiscal aspects of correctional industries. The commissioner may contract with a private entity to provide training and technical or managerial services for correctional industries, the Attorney General said. In response to a second question, the Attorney General stated that any products or services resulting from the activities of correctional industries must be purchased by the state because of the requirements of AS 33.32.030(c). While this appears to be a correct reading of that statute, it ignores an apparent conflict with AS 33.32.015(b)(2), which states that correctional industries may provide services or products needed not only by state agencies, but also by boroughs, municipalities, the federal government, other state governments or their political subdivisions, or nonprofit organizations. Op. Atty. Gen. (Alaska, November 9, 1984)

Legislative review of the apparent conflict between

1985

STATE OF ALASKA



thurs 1:30 - Rm 717 Ct Bldg

NRN

DEC 12 1985

DEPARTMENT OF LAW

CRIMINAL DIVISION

December 10, 1985

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

Honorable Bettye Fahrenkamp
Chairperson
Senate Health, Education and
Social Services Committee
515 7th Avenue, Room 130
Fairbanks, Alaska 99701

Re: CS for HB 114 (Judiciary)
(Corrections Omnibus Bill)

Dear Senator Fahrenkamp:

I am writing you on behalf of Attorney General Harold Brown and Commissioner of Corrections Roger Endell regarding CS for HB 114 (Judiciary). As you know, this bill proposes a rewrite of most of Alaska's laws pertaining to corrections (AS 33.30).

This bill passed the House last session and has been referred to the HESS, Judiciary and Finance committees in the Senate. Thus, this bill must first undergo review in your committee before it may work its way to the floor of the Senate.

Attached for your consideration, as well as the other members of your committee, are two sets of proposed amendments to the bill. Each proposed amendment sets out the desired change(s) followed by an explanation of why the amendment is desirable. The first set of amendments (I(a) -- I(f)) includes both substantive changes and housekeeping amendments to the bill. The second set of amendments (II(a) -- II(g)) contains changes which are necessary as a result of the passage last session of SB 4 (Correctional Restitution Centers) (1985 SLA ch. 72), and will not result in any substantive change to the bill or existing law.

The Administration views this bill as extremely important to the effective operation of Alaska's correctional system; and because of the three committee referrals, feels there is some urgency in having the bill addressed early in the session. Accordingly, we look forward to working with you on CS for HB 114 (Judiciary) at your earliest convenience.

If you or your staff have any questions regarding the proposed amendments, please don't hesitate to contact me.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

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

Attachment

cc: Roger Endell (w/attachment)
Commissioner
Department of Corrections

Honorable Arliss Sturgulewski (w/attachment)
Honorable Jalmar Kerttula (w/attachment)
Honorable Richard Fliason (w/attachment)
Honorable Paul Fischer (w/attachment)
Honorable Rick Halford (w/attachment)
Honorable Joe Josephson (w/attachment)

ALASKA DEPARTMENT OF CORRECTIONS

Discussion Paper No. 2
Bed Space Impact FY87 and FY88

	<u>FY87</u>	<u>Beds</u>	<u>Operator</u>	<u>Operating Cost</u>
1. Mat Su Pretrial restitution center		62	State	1,613.0 (total 2,580.7)
2. Anch. contract halfway house		65	Private	849.8
3. Kenai contract		35	Private	669.4
4. Minn. contract		200	Minnesota	4,818.0 (does not include transportation) estimate \$150,000
in Senate Rules 5. HB 104 good time bill				
6. Ten Probation Officers				701.0
4 Fbx, 1 Bethel, 5 Anchorage		362		8,651.2

	<u>FY88</u>	<u>Beds</u>	<u>Operator</u>	<u>Capital Costs</u>
1. Spring Creek Phase II Seward		320	State/ Lease	22,700.0

Notes

1. Mat Su pretrial should open July '86 rather than delayed opening in FY87.
2. Minnesota can offer 200 high security beds at \$66 per man day for up to a two year period. This figure does not include prisoner transportation costs. Utilizing Minnesota space would permit Alaska time to complete construction of new prison beds.
3. HB 104, the statutory good time bill, would create a gain of 22 beds per month or 264 beds per year, at a projected savings of approximately \$8,190.0 in operating costs as the impact of the bill is fully realized.
4. If HB 104 passes in 1986 then the Spring Creek phase II request could be delayed one year to FY88. If HB 104 does not pass in 1986, phase II of Spring Creek must be approved immediately.
5. Ten probation officers would provide intensive supervision for 250 offenders who might otherwise be incarcerated at an average cost of \$85 per day.

Alaska beds
\$85/day

projected savings
\$8M

-pretrial
-cost \$15/day

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

Superseded

Revision Date: _____

REQUEST

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

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		[3,242.6]	210.0	220.5	231.5	243.1
FEDERAL FUNDS						
OTHER						
TOTAL		3,242.6	210.0	220.5	231.5	243.1

POSITIONS:

FULL-TIME		[2.0]				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
 Division: Administrative Services Date: 03/29/85
 Approved by Commissioner: Robert J. Sundberg Date: _____
 Agency: Public Safety

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

7/1/84

COST ANALYSIS

CSHB 114 (HESS)

I. Alaska State Troopers BRU

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

Increased costs to Public Safety:

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

II. DPS Administration BRU

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

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

Funding transferred from Public Safety to Corrections:

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

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

Offered: 4/25/85
Referred: Finance

Original sponsor: Rules/Governor

Superseded Sandra

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 114 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (2) on parole.

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

20 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

26 (2) classify prisoners;

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

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

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

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

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

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

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

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

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

per SB 21, misdemeanors only.
Issue: Do we want to contract out the service?

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

i.e. federal facility

*Send out: our beds are full outside now. 5-
Must have 10 yr sentence, 7 1/2 yrs. to serve.
Special medical needs.
Do not send out most notorious, try not to send out Natives.*

*I arrested on state charge, started obligated.
to pay custody & care even if housed in local jail.
One under contract by Public Safety thru agreement w/ Corrections.*

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

3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
5 safety shall provide for the custody, care, and discipline of prison-
6 ers pending arraignment, commitment by a court to the custody of the
7 commissioner of corrections, or admission to a state correctional
8 facility. Except as provided in (c) of this section, the responsibil-
9 ity for providing necessary medical services for prisoners remains
10 with the commissioner of corrections under AS 33.30.011(4). The
11 commissioner of corrections and the commissioner of public safety are
12 not responsible for providing custody, care, and discipline for a
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person
14 is admitted into a state correctional facility.

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

*In prior, local jails were just sending bill
w/o after the fact! couldn't plan...*

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

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

Public Safety currently legally responsible for transporting
prisoners (cause had been problems & escapes).
Corrections transports 70% - minimum & medium custody
(interagency agreement). Not to & from et, but to
dr. appt, etc.

Corrections employees earn less, but don't have training
to deal w/ high risk prisoners. Resources go to Pub. Safety.

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

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

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

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

17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
18 AS 33.30.111, the commissioner may assign a prisoner committed to the
19 commissioner's custody to a program established under AS 33.30.011(3)
20 considering

- 21 (1) safeguards to the public;
22 (2) the prospects for the prisoner's rehabilitation;
23 (3) the availability of program and facility space;
24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;
26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;
28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

*present law
has no criteria*

*furloughs -
little attention in
existing law. work furloughs
d rehab furloughs treated
differently etc.*

1 court;

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

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

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

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

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

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

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

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

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

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

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

29 (1) the factors in AS 33.30.091;

*work
rehabilitation
family visitation*

*early release to
integrate back into society (community setting)
funerals, etc.*

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

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

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

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

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

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

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

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

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

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

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

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

allows more flexibility
*Less than 1 yr. sentence -
can furlough at anytime -* -9-

ensures some time served in prison

*Currently in reg. clearly said could regulate cases not in statute
said only last 6 mo. sentence*

Dept. policy - must be community custody to get parole. To be comm. custody must be 1 yr from release date, so some incongruity.

Further safeguards (Pettyjohn)

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

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

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

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

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

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

would allow to take college courses in home, where don't have halfway house

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

3 (1) family visitations, that may not exceed one week or *rarely used*
4 occur more frequently than once in each ²four-month period; or

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

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

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

15 (b) Unless alternative arrangements are expressly approved by
16 the commissioner, when a prisoner is employed outside a correctional
17 facility as part of a prerelease or short-duration furlough program,
18 the earnings of the prisoner shall be delivered to the commissioner.
19 If an employer transmits the earnings to the commissioner, the em-
20 ployer has no liability to the prisoner for the earnings. The commis-
21 sioner shall disburse the earnings of the prisoner, in an order deter-
22 mined appropriate, under procedures adopted by the commissioner to

23 (1) pay for the room, board, and personal expenses of the
24 *not if state funded room & board, but if contracting w private facility?*
prisoner in an amount or at a rate determined by the commissioner;

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

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

generally done on percentage basis

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

3 (5) support the dependents of the prisoner, and to provide
4 child support payments as required by AS 09.65.132. *with reference say child support takes precedence over all (except fed taxes).*

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

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

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

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

24 ARTICLE 3. GENERAL PROVISIONS.

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

29 (b) The commissioner may enter into contracts or cooperative

33.32.050 wages - all dealt w/ same way.
"Industry" # earned by prisoner;
used for specific expenses.
Corrections keeps 50%.

determine what
prison industries can
be implemented. ex:
milk - bakery, laundry &
employment. Voluntary
(which while can
be opt. mandated)

existing law

original bill had
Commissioner
deciding
compromise.

1 agreements with any public agency for the performance of conservation
2 projects.) The commissioner may enter into a contract with an indi-
3 vidual or agency for the employment of prisoners if the work to be
performed will have minimal negative impact on an existing private
industry or labor force in the state as determined by the Correctional
Industries Commission under AS 33.32.015.

new language

labor, put business, DAF, Corr
Contract ex - inmate

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

(d) In this section "productively employed" includes the follow-
ing kinds of employment:

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

(2) education including both academic and vocational;

(3) industrial, agricultural, and service activities con-
ducted in accordance with AS 33.32; prison industries voluntary

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

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

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

1 Correctional Industries Commission under AS 33.32.015.

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

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

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

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

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

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

CSHB 114(Jud) am

*Clearly - inmates
entitled to phone
access several hrs/day
at least 3 calls a week
to family, friends;
to attorney, Budden for
state to monitor, so have
phones available 8a-10p.
Take privilege away as
discipline.*

once arrested
call to post bail

Telephone is
rehabilitative tool
but can be abused
so compromise

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

3 (b) A prisoner who is classified maximum custody, is placed in
4 segregation as punishment for a rule infraction, or is placed in
5 segregation because the prisoner poses a threat to others or to the
6 ~~medical, dental, etc.~~ security of a correctional facility may not have access to a telephone
7 except to communicate with an attorney, to otherwise communicate as
8 provided in Rule 5(b) of the Alaska Rules of Criminal Procedure, or in

an emergency as determined appropriate by the commissioner.

9 (c) Notwithstanding ^{govs. private use of telecommunications} AS 42.20.300 and 42.20.310, in order to
10 preserve the security and orderly administration of the institution
11 and to protect the public, the commissioner may authorize the use of
12 monitoring or recording equipment to listen to a telephone conversa-
13 tion of a prisoner who has been convicted of an offense if a warning
14 is posted by the telephone informing the prisoner that a call may be
15 monitored or recorded. A telephone call made by or to a prisoner who
16 has not been convicted or a telephone call between an attorney and a prisoner
17 may not be monitored or recorded except when authorized by a
18 court.

In past, dept had
reg. allowing to
monitor phone calls
was no statutory authority
so stopped practice.

20 Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL

21 RIGHTS. (a) A person who is convicted of a felony involving moral
22 turpitude as defined in AS 15.60.010 is disqualified from voting in a
23 state or municipal election until the person's unconditional dis-
24 charge.

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

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

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

Misdemeanors
can vote

best to
define

Don't interfere
w/ access to
courts.

Statute - civil rights suspended
once convicted. Controversy in courts
all over as to what this means.

tend to construe as
narrowly as possible

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

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

10 (c) A prisoner's personal property that remains at a correction-
11 al facility after 90 days from the date of the prisoner's release or
12 transfer is considered abandoned, and shall be delivered to the De-
13 partment of Administration for disposal under AS 44,71.010.

14 (d) The state is not liable for any loss or damage to personal
15 property properly determined to be abandoned under (c) of this sec-
16 tion.

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

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

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

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

*Claimed at drug problem.
found guy at Cook Inlet w/ \$1000
from selling drugs - security
provided.
Need statutory lang. to deal
w/ forfeiture - courts perform on
drug in case.*

*AG may have
amendment...*

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

3 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
4 text requires otherwise,

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

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

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

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

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

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

24 (7) "health care provider" means

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

28 (B) a mental health professional as defined in AS 47.-
29 30.915;

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

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

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

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

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

12 (b) The commissioner of corrections may

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

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

22 (3) if the Correctional Industries Commission established
23 in AS 33.32.070 approves, employ prisoners to provide services or
24 products as needed by private industry if the services or products
25 have potential for contributing to the economy of the state and will
26 have minimal negative impact on an existing private industry or labor
27 force in the state;

28 (4) authorize a prisoner to engage in productive employment
within or outside a correctional facility or enter into a contract

*cross
reference*

*Labor satisfied
w/ this lang.*

*ex - furniture (Kenai)
no existing furniture
industry in state.*

1 under AS 33.30.151 for the employment of a prisoner if the Correction-
2 al Industries Commission determines that the employment will have
3 minimal negative impact on an existing private industry or labor force
4 in the state; and

*no prison
industries can be
implemented
w/out public hearings.*

5 (5) subject to the provisions of AS 37.05, enter into joint
6 cooperative ventures with private industry for the establishment and
7 operation of "Free Venture" industries under AS 33.32.017, if the
8 Correctional Industries Commission determines that the "Free Venture"
9 industry will have minimal negative impact on an existing private
10 industry or labor force in e state.

*Corrections
provides space, private
industry, more
equipment, training
& capital \$.*

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

*Private organization
pay prison
prison pays laborers*

12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)

13 Upon recommendation of the Correctional Industries Commission estab-
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-
15 ture" correctional industries for the sale of goods or services to the
16 public or private sector. A "Free Venture" correctional industry is a
17 correctional industry that is operated and managed in total or in part
18 by a private industry or organization within a correctional facility
19 under an agreement entered into under AS 33.32.015(b)(5).

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

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

26 (d) In exchange for the space, utilities, and inmate workers
27 provided to it, the private industry or organization shall pay to the
28 commissioner a weekly payment in an amount not less than the sum of
29 the existing minimum hourly wage, established under AS 23.10.065,

Clear philosophy - prisoners should work. Work ethics, rehabilitative.

Statutory preference - agencies must purchase products from correctional if quality & price comparable.

1 multiplied by the total number of hours worked during that week by
2 inmates employed in the "Free Venture" correctional industry.

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

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

9 (f) The provisions of this section do not apply to "Free Ven-
10 ture" industries established under AS 33.32.017. *Don't want to give private sector advantage in selling their products.*

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

12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.-
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.

21 * Sec. 10. AS ^{DPT state} 44.65.050 is amended by adding a new subsection to read:

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

29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,

leaky roofs
greenhouse addition, etc.
cost savings to state
concern - take away work from private sector
So imp't.

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

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

reflect it decisions / 1980s practices

integrated statute - since statehood, piecemeal approach
growth in system

would need addl statutory change to allow operation of prisons to be contracted out to private sector (unless laws only misdemeanants - SB 4 allows)

Am I(a) AR 9:10.140 # Jud took out
by Prisoner suing corrections officer,

Normal statute of limitations: 2 yrs. after act committed to sue -
under existing law 2 yrs. doesn't begin until prisoner released,

Purpose of Statute of Limitation legal controversies resolved while minds fresh, witnesses, available - easier to get at truth

Before, couldn't go to ct. when in jail, so ^(stopped) tolled statute of limitations. HB 114 says can go to ct, so no need to toll statute of limitations.

Clocksin's concern - practical problems of prisoners getting access to courts.

AG - shouldn't treat prisoners different than anyone else - that's why we give them access to the cts.; that's why same statute of limitations should apply.

Am I(f) ~~New provision - not in earlier version of bill.~~
Travel becoming burden. Better for commissioner to decide rather than judge. Handled this way by many other states.
(false labor for common-law wife's pregnancy, security risk judge may not considered.

Alaska State Legislature

file HB 114

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
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Senate Committee on Health, Education and Social Services

DRAFT SCS CSHB 114(HESS), Relating to correctional facilities and the imprisonment and rehabilitation of offenders.

THE FOLLOWING AMENDMENTS HAVE BEEN INCORPORATED:

1. Provides that inmates cannot be required to work outside of a correctional facility (page 16, line 17).
2. Protects the state from liability resulting from injuries sustained as a result of the manufacture, preparation, or use of goods of a free venture industry (page 23, line 27).
3. Makes a number of conforming amendments per passage last year of SB 4, relating to correctional restitution centers.

THE FOLLOWING AMENDMENTS ARE PENDING:

1. Repeals the provision that would toll the statute of limitations during incarceration.
2. Extends the commissioner's authority to monitor telephone calls of pre-trial detainees.
3. Repeals the provision that specifies that a prisoner who is denied parole may not be furloughed for a period of 1 year following the denial.
4. Clarifies the responsibilities of the Department and of private industry in the Free Venture industries program.

A DRAFT LETTER OF INTENT ON THE COMPETITION OF CORRECTIONAL INDUSTRIES WITH THE PRIVATE SECTOR HAS BEEN PREPARED.

Superseded

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

Introduction

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

Section 1. AS 09.20.020, Disqualification of Jurors.

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

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

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

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

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

Prior to amendment, AS 12.47.050(d) prohibited a prisoner found guilty but mentally ill who is receiving treatment from being released on furlough under AS 33.30.150, 33.30.250, or 33.30.260, or on parole. This section makes technical changes to reflect the new statutes pertaining to furlough

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

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

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

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

ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

Section 33.30.011. Duties of Commissioner.

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

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

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

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

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

Section 33.30.021. Regulations.

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

Section 33.30.031. Contract for Care and Confinement of Prisoners.

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

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

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

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

Subsection (d) makes clear that a prisoner on furlough, a probationer, or a parolee who is housed in a privately operated correctional facility and who is working will be required to pay for all or part of the prisoner's living expenses, as well as contribute to court ordered fines and restitution, awards made to victims which arose out of the prisoner's criminal conduct, and to support the prisoner's dependents. A judgment, court order, or order of the child support enforcement agency to make child support payments has priority over other financial obligations as set out in AS 09.65.132. These requirements are fully set out in AS 33.30..11.

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

Section 33.30.041. Lease of Correctional Facility to Municipality.

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

ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

Section 33.30.051. Commitment to Commissioner.

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

Section 33.30.061. Commissioner to Designate Facility.

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

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

Section 33.30.071. Responsibility for Prisoners Pending Commitment.

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

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

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

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

Section 33.30.081. Transportation of Prisoners.

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

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

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

Section 33.30.091. Designation of Programs.

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

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

The Alaska Supreme Court has held that where a prisoner has a serious particular identifiable medically-related problem associated with the prisoner's criminal behavior (i.e., alcohol, psychological or drugs), then the prisoner must be provided access to some program reasonably related to addressing the causes of these problems. See, Good v. State, 590 P.2d 420 (Alaska 1979); Abraham v. State, 585 P.2d 526 (Alaska 1978); Rust v. State, supra.

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

As long as a decision as to what type of program and when that program is provided is neither arbitrary nor vindictive, these decisions are left solely to the discretion of the commissioner. La Barbera v. State, 598 P.2d 947, 949 (Alaska 1979); Good v. State, supra, Brandon v. State, 581 P.2d 1116,

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

This section is consistent with these principles.

Section 33.30.101. Furloughs.

This section sets out the purposes for which a prisoner may be granted a furlough and the factors which must be considered before a furlough is granted. Former AS 33.30.150, 33.30.250 and 33.30.260 described available furlough programs. This section and AS 33.30.111--33.30.144 address furlough programs in a much more comprehensive fashion. The types of furloughs available to prisoners (prerelease and short-duration) and the particular requirements are addressed in AS 33.30.111 and AS 33.30.121 and the commentary to these sections.

Section 33.30.111. Pre-Release Furloughs.

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

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

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

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

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

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

Section 33.30.121. Short-Duration Furloughs.

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

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

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

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

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

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

ARTICLE 3. GENERAL PROVISIONS

Section 33.30.151. Employment of Prison Inmates.

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

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

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

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

Section 33.30.156. Pay of Prison Inmates.

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

Section 33.30.161. Transmission of Documents.

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

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

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

Section 33.30.181. Telephone Access and Monitoring Inside Correctional Institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 33.30.201. Disposal of Abandoned Personal Property.

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

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

Section 33.30.211. Confiscation of Contraband.

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

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

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

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

Section 33.30.221. Forfeiture of Property.

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

Section 33.30.231. Crime Against Sentenced Prisoner.

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

Section 33.30.301. Definitions.

This section defines the terms used in AS 33.30.

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

Section 6 amends AS 33.32.015 dealing with prisoner employment and correctional industries. AS 33.32.015(b)(4) permits the commissioner to authorize a prisoner to engage in productive employment within or outside a correctional facility

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

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

Section 7 is a new section which permits the commissioner, upon the recommendation of the Correctional Industries Commission, to establish a "Free Venture" correctional industries. A "Free Venture" correctional industry is the form of joint venture referred to AS 33.32.015(b)(5) and in which a private industry operates and manages in total or in part a correctional industry within a correctional facility, and provides all machinery, tools, materials, training and marketing of a product in return for which the commissioner provides inmate workers for which the department is paid an hourly wage.

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

"Free Venture" industries have been successfully implemented in a large number of states. The principal reason for adopting this section is the recognition of the high costs involved in getting the correctional industries program operating effectively. This greatly increases the potential for long term cost savings to the state both in resources generated by the industries program as well as in a hoped for decline in recidivism due to the rehabilitative benefits derived from the program.

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

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

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

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

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

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

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

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

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

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

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

Section 12. Regulations.

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

Changes from HESS C.S.

p. 8, line 3

p. 21, line 27

p. 23, line 5

Offered: 5/2/86
Referred: Finance

Original sponsor: Rules/Governor

FINAL

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 114 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

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

7

8

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

9

* Section 1. AS 09.10.140 is amended to read:

10

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

11

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

12

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

13

under the mjr. of majority, or (2) incompetent by reason of mental

14

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

15

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

16

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

17

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

18

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

19

years after the disability ceases.

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

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

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

23

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

24

the time of examination for service; or

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

26

not been unconditionally discharged. Unconditional discharge has the

27

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

28

PERSON HAVE NOT BEEN RESTORED].

29

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

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

4 (1) the person fails to return to official detention within
5 the time authorized following temporary leave granted for a specific
6 purpose or limited period, including leave granted under AS 33.30.181;
7 or

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

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

13 * Sec. 4. AS 11.56.350 is repealed and reenacted to read:

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

17 (1) the person fails to return to official detention within
18 the time authorized following temporary leave granted for a specific
19 purpose or limited period, including leave granted under AS 33.30.181;
20 or

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

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

26 * Sec. 5. AS 12.47.050(d) is repealed and reenacted to read:

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

29 (1) on furlough under AS 33.30.101 - 33.30.131, except for

1 treatment in a secure setting; or

2 (2) on parole.

3 * Sec. 6. AS 33.30 is amended by adding new sections to read:

4 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

6 (1) establish, maintain, operate, and control correctional
7 facilities suitable for the custody, care, and discipline of persons
8 charged or convicted of offenses against the state or held under
9 authority of state law;

10 (2) classify prisoners;

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

14 (A) protect the public;

15 (B) maintain health;

16 (C) create or improve occupational skills;

17 (D) enhance educational qualifications;

18 (E) support court-ordered restitution; and

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

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

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

29 (A) a prisoner exhibits symptoms of a serious disease

1 or injury that is curable or may be substantially alleviated; and
2 (B) the potential for harm to the prisoner by reason
3 of delay or denial of care is substantial.

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

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

7 (a) The commissioner shall determine the availability of state cor-
8 rectional facilities suitable for the detention and confinement of
9 persons held under authority of state law. If the commissioner deter-
10 mines that suitable state correctional facilities are not available,
11 the commissioner may enter into an agreement with a public or private
12 agency to provide necessary facilities. Correctional facilities
13 provided through agreement with a public agency may be in this state
14 or in another state. Correctional facilities provided through agree-
15 ment with a private agency must be located in this state. The commis-
16 sioner may not enter into an agreement with an agency unable to pro-
17 vide a degree of custody, care, and discipline similar to that re-
18 quired by the laws of this state.

19 (b) Unless the purpose is to involve prisoners in a program
20 established under AS 33.30.091 - 33.30.131 or AS 33.30.151 - 33.30.181
21 or to confine prisoners convicted of a misdemeanor, the commissioner
22 may not enter into an agreement with a privately operated correctional
23 facility under (a) of this section.

24 (c) Notwithstanding AS 37.05.230(1)(B), an agreement with a
25 private agency to provide necessary facilities under (a) of this
26 section must be based on competitive bids.

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

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

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

7 (a) If the commissioner determines that it would be in the best
8 interest of the state, the commissioner may enter into an agreement
9 with a municipality of the state for the lease of a state correctional
10 facility or for the use and operation of a state correctional facility
11 for the joint benefit of the municipality and the state.

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

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

16 (2) the administrator of the correctional facility agrees
17 to implement an order, concerning a prisoner, issued by a court of the
18 state;

19 (3) the administrator of the correctional facility shall
20 comply with the law, and regulations adopted by the commissioner,
21 relating to the custody, care, and discipline of a prisoner detained
22 or confined in the correctional facility; and

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

26 (c) The agreement executed by the commissioner under (a) of this
27 section may require the administrator of the correctional facility to
28 comply with requirements that the commissioner considers necessary for
29 the protection of the public or for the quality of care and programs

1 for prisoners required by this chapter and regulations adopted by the
2 commissioner.

3 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

14 (b) The commissioner may designate an out-of-state facility
15 under this section only if the commissioner determines that rehabili-
16 tation or treatment of the prisoner will not be substantially im-
17 paired.

18 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

19 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
20 safety shall provide for the custody, care, and discipline of prison-
21 ers pending arraignment, commitment by a court to the custody of the
22 commissioner of corrections, or admission to a state correctional
23 facility. Except as provided in (c) of this section, the responsibil-
24 ity for providing necessary medical services for prisoners remains
25 with the commissioner of corrections under AS 33.30.011(4). The
26 commissioner of corrections and the commissioner of public safety are
27 not responsible for providing custody, care, and discipline for a
28 person detained under AS 47.30.705 or AS 47.37.170, unless the person
29 is admitted into a state correctional facility.

1 (b) The responsibility of the commissioner of public safety
2 under (a) of this section does not begin until a prisoner is accepted
3 into the custody of the commissioner of public safety, or admitted
4 into a correctional facility or other facility designed for holding
5 prisoners, and the commissioner of public safety is notified of the
6 acceptance or admission.

7 (c) Medical services for a prisoner who is unconscious or in
8 immediate need of medical attention before admission to a correctional
9 facility or commitment by a court to the custody of the commissioner
10 of corrections shall be provided by the law enforcement agency having
11 custody of the prisoner. The law enforcement agency may require the
12 prisoner to compensate the agency for the cost of medical services
13 provided for a preexisting medical condition not arising out of the
14 prisoner's arrest.

15 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-
16 sioner of public safety is responsible for transporting a prisoner to
17 and from the court having jurisdiction over the prisoner and for
18 delivering a prisoner to a correctional facility upon temporary or
19 final commitment by a court or upon transfer of a prisoner from one
20 correctional facility to another either inside or outside the state.

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

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

28 (d) The commissioner of corrections shall adopt regulations
29 governing the furnishing of transportation, discharge payments, and

1 clothing to prisoners upon release from a state correctional facility
2 at any stage of a criminal proceeding.

3 (e) Except as provided in (f) of this section or as necessary in
4 a criminal action pending against the prisoner, a court may not order
5 the transportation of a prisoner.

6 (f) A court may order a prisoner who is a party or witness to a
7 civil action or a witness to a criminal action to appear at a place
8 other than within a correctional facility only if the court deter-
9 mines, after providing a reasonable opportunity for the commissioner
10 to comment, that the prisoner's personal appearance is essential to
11 the just disposition of the action. In making its determination, the
12 court shall consider available alternatives to the prisoner's personal
13 appearance including deposition and telephone testimony.

14 (g) Except as provided in (h) of this section, the expenses
15 associated with the transportation of a prisoner ordered under (f) of
16 this section, including the costs of travel for the prisoner and
17 escorting officers and the salary and per diem costs of the escorting
18 officers, shall be borne by the party who has requested the prisoner's
19 appearance, and shall be paid to the commissioner of public safety
20 before the prisoner is transported.

21 (h) A prisoner who is a party to a civil action is not required
22 to bear the full costs of the prisoner's own transportation under (g)
23 of this section if the court determines that the prisoner is indigent.
24 In these cases, the court may require the prisoner to bear a portion
25 of the costs, and the commissioner of public safety shall bear the re-
26 maining costs of transporting the prisoner. If an indigent prisoner
27 recovers a money judgment, the court may require the prisoner to bear
28 all or part of the expenses required under (g) of this section.

29 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in

1 AS 33.30.111 and 33.30.161, the commissioner may assign a prisoner
2 committed to the commissioner's custody to a program established under
3 AS 33.30.011(3) considering

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

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

- 25 (1) obtain counseling and treatment for alcohol or drug
26 abuse;
- 27 (2) secure or attend vocational training;
- 28 (3) obtain medical or psychiatric treatment;
- 29 (4) secure or engage in employment;

- 1 (5) attend educational institutions;
2 (6) secure a residence or make other preparation for re-
3 lease;
4 (7) appear before a group whose purpose is a better under-
5 standing of crime or corrections; or
6 (8) for any other rehabilitative purpose the commissioner
7 determines to be in the interests of the prisoner and the public.

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

- 12 (1) the factors in AS 33.30.091;
13 (2) violations, if any, by the prisoner of a condition of a
14 prior furlough;
15 (3) the history, if any, of institutional misconduct by the
16 prisoner; and
17 (4) the best interests of the prisoner and the public.

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

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

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

- 28 (1) frequent contact with the prisoner by persons supervis-
29 ing the prisoner;

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

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

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

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

11 (1) a prisoner sentenced to a definite term of imprisonment
12 of more than one year but less than five years is not eligible for a
13 prerelease furlough until the prisoner has served at least one-third
14 of the sentence; and

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

19 (e) A prisoner may request a prerelease furlough under proce-
20 dures adopted by the commissioner. If the commissioner denies a
21 request for a prerelease furlough, the commissioner shall provide the
22 prisoner with a written explanation of the reasons for the denial.

23 (f) Upon request of the victim, in the case of a prisoner con-
24 victed of a crime against a person, notice of the commissioner's
25 intent to consider the prisoner for a prerelease furlough shall be
26 sent to the victim. The victim may comment in writing on the intent
27 of the commissioner to release the prisoner on prerelease furlough
28 status. The commissioner shall consider the comments of the victim
29 before making a final decision to release a prisoner on a prerelease

1 furlough. If the victim requests notification, the commissioner shall
2 make every reasonable effort to notify the victim of an intent to
3 release the prisoner on a prerelease furlough. The notice must con-
4 tain the expected date of the prisoner's release, the geographic area
5 in which the prisoner will reside and other pertinent information
6 concerning the prisoner's release that may affect the victim.

7 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration
8 furlough is an authorized leave of absence from a correctional facili-
9 ty for a period not to exceed 12 hours at any one time, except for

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

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

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

16 Sec. 33.30.131. PRERELEASE OR SHORT DURATION FURLOUGH OR CORREC-
17 TIONAL RESTITUTION CENTER PLACEMENT INVOLVING EMPLOYMENT. (a) The
18 commissioner may grant a prerelease or short-duration furlough to
19 permit a prisoner to participate in suitable employment under con-
20 ditions and at wages that represent the prevailing standard for the
21 area. A prisoner may not participate in employment where an organized
22 labor dispute is in progress.

23 (b) Unless alternative arrangements are expressly approved by
24 the commissioner, when a prisoner is employed outside a correctional
25 facility as part of a prerelease or short-duration furlough program,
26 or as part of serving time in a correctional restitution center under
27 AS 33.30.151 - 33.30.181, the earnings of the prisoner shall be de-
28 livered to the commissioner. If an employer transmits the earnings to
29 the commissioner, the employer has no liability to the prisoner for

1 the earnings. The commissioner shall disburse the earnings of the
2 prisoner, in an order determined appropriate, under procedures adopted
3 by the commissioner to

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

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

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

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

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

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

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

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

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

5 Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS. (a) The
6 commissioner shall establish correctional restitution centers in the
7 state. The purpose of the centers is to provide certain nonviolent
8 offenders with rehabilitation through community service and employment
9 while protecting the community through partial incarceration of the
10 offender, and to create a means to provide restitution to victims of
11 crimes.

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

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

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

18 (3) standards for the granting of emergency absence to
19 prisoners confined to the centers;

20 (4) standards for classifying prisoners to centers;

21 (5) standards for mandatory employment and participation in
22 community service programs in each center; and

23 (6) standards for periodic review of the performance of
24 prisoners confined to the centers.

25 Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL
26 RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to
27 serve time in a correctional restitution center unless the commission-
28 er specifically finds that the prisoner meets the eligibility require-
29 ments of this section.

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

3 (1) must be employable or eligible to work on community
4 service projects approved by the commissioner and agree to secure
5 employment or participate in community service projects and obey the
6 rules of the center;

7 (2) may not have been convicted of an offense, in the state
8 or another jurisdiction, involving violence or the use of force, as
9 defined in AS 11.81.900; in this section, violence or the use of force
10 includes possession of a firearm, as defined in AS 11.81.900, in the
11 commission of an offense, whether or not the firearm was actually
12 used; and

13 (3) may not have been convicted of an offense under AS 11.-
14 41.410 - 11.41.470 or an offense in the state or another jurisdiction
15 having elements substantially identical to an offense under AS 11.-
16 41.410 - 11.41.470.

17 (c) Unless the commissioner determines otherwise for good cause
18 shown, a person sentenced to less than five days who is serving time
19 in a correctional restitution center shall participate in a community
20 service project when available.

21 Sec. 33.30.171. COMMUNITY ADVISORY COMMITTEES. The commissioner
22 shall appoint a community advisory committee for each center, to
23 consist of five members of the community in which the center is locat-
24 ed. The committee shall act as a liaison between the community and
25 the department regarding community concerns with the center.

26 Sec. 33.30.181. 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) at and traveling to and from a community service

1 project approved by the commissioner;

2 (3) on emergency absence;

3 (4) at and traveling to and from a job interview; or

4 (5) on a furlough approved by the commissioner.

5 (b) Except for an emergency absence or furlough, a prisoner may
6 not be absent from a center under this section for more than 12 hours
7 in a 24-hour period.

8 ARTICLE 3. GENERAL PROVISIONS.

9 Sec. 33.30.191. EMPLOYMENT OF PRISON INMATES. (a) It is the
10 policy of the state that prisoners be productively employed for as
11 many hours each day as feasible, not to exceed 40 hours a week unless
12 overtime has been specifically approved by the commissioner.

13 (b) The commissioner may enter into contracts or cooperative
14 agreements with any public agency for the performance of conservation
15 projects. The commissioner may enter into a contract with an indi-
16 vidual or agency for the employment of prisoners if the work to be
17 performed will have minimal negative impact on an existing private
18 industry or labor force in the state as determined by the Correctional
19 Industries Commission under AS 33.32.015.

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

27 (d) In this section "productively employed" includes the follow-
28 ing kinds of employment:

29 (1) routine maintenance and support services essential to

- 1 the operation of a correctional facility;
- 2 (2) education, including both academic and vocational;
- 3 (3) industrial, agricultural, and service activities con-
4 ducted in accordance with AS 33.32;
- 5 (4) public conservation projects, including forest fire
6 prevention and control, forest and watershed enhancement, recreational
7 area development, construction and maintenance of trails and camp-
8 sites, fish and game enhancement, soil conservation, and forest water-
9 shed revegetation;
- 10 (5) renovation, repair or alteration of existing correc-
11 tional facilities as permitted by AS 44.65.050(d); and
- 12 (6) other work performed inside or outside of a correction-
13 al facility if the work has minimal negative impact on an existing
14 private industry or labor force in the state as determined by the
15 Correctional Industries Commission under AS 33.32.015.

16 Sec. 33.30.201. PAY OF PRISON INMATES. Each prisoner who is
17 productively employed, as defined in AS 33.30.191(d)(1) or 33.30.-
18 191(d)(3) - (6), may receive for that work compensation at a rate
19 determined by the commissioner under AS 33.32.050 if the money is
20 available from legislative appropriations. The provisions of AS 33.-
21 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-
22 tional industries program and to prisoners productively employed in
23 activities outside that program.

24 Sec. 33.30.211. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
25 is admitted to a correctional facility, a copy of the commitment shall
26 be delivered with the prisoner as evidence of the authority of the
27 correctional facility to hold the prisoner.

28 (b) When a person is sentenced to a term of imprisonment, copies
29 of the pre-sentence report, sentencing report prepared under

1 AS 12.55.025, and any other information of the probation office or of
2 the court that may affect the person's rehabilitation shall be trans-
3 mitted to the superintendent of the correctional facility in which the
4 prisoner will be confined.

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

8 Sec. 33.30.221. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
9 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-
10 tional facility or the superintendent's assistant may administer oaths
11 to and take acknowledgments from a prisoner, but may not request or
12 accept compensation from a prisoner for acts performed under this
13 section.

14 Sec. 33.30.231. TELEPHONE ACCESS AND MONITORING INSIDE CORREC-
15 TIONAL INSTITUTIONS. (a) Except as provided in (b) of this section,
16 a prisoner shall have reasonable access to a telephone.

17 (b) A prisoner who is classified maximum custody, is placed in
18 segregation as punishment for a rule infraction, or is placed in
19 segregation because the prisoner poses a threat to others or to the
20 security of a correctional facility may not have access to a telephone
21 except to communicate with an attorney, to otherwise communicate as
22 provided in AS 12.25.150, or in an emergency as determined appropriate
23 by the commissioner.

24 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to
25 preserve the security and orderly administration of the institution
26 and to protect the public, the commissioner may authorize the use of
27 monitoring or recording equipment to listen to a telephone conversa-
28 tion of a prisoner if a warning is posted by the telephone informing
29 the prisoner that a call may be monitored or recorded. A telephone

1 call between an attorney and a prisoner may not be monitored or re-
2 corded except when authorized by a court.

3 Sec. 33.30.241. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
4 RIGHTS. (a) A person who is convicted of a felony involving moral
5 turpitude as defined in AS 15.60.010 is disqualified from voting in a
6 state or municipal election until the person's unconditional dis-
7 charge.

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

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

12 Sec. 33.30.251. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)
13 Except as provided in (b) of this section, it is the obligation of
14 each person committed to the custody of the commissioner to provide
15 for the appropriate disposition of all of the person's property re-
16 maining at a correctional facility within 90 days of the date of the
17 person's release or transfer from the correction facility.

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

22 (c) A prisoner's personal property that remains at a correction-
23 al facility after 90 days from the date of the prisoner's release or
24 transfer is considered abandoned, and shall be delivered to the De-
25 partment of Administration for disposal under AS 44.71.010.

26 (d) The state is not liable for any loss or damage to personal
27 property properly determined to be abandoned under (c) of this sec-
28 tion.

29 Sec. 33.30.261. EXCESS MONEY AS CONTRABAND. (a) A prisoner who

1 possesses money in an amount greater than that permitted by the com-
2 missioner is subject to disciplinary sanctions under regulations
3 adopted by the commissioner.

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

9 Sec. 33.30.271. FORFEITURE OF PROPERTY. A conviction of a
10 person for a crime does not work a forfeiture of property, except in
11 cases where a forfeiture is expressly provided by law.

12 Sec. 33.30.281. CRIME AGAINST SENTENCED PRISONER. A person who
13 commits a crime against a sentenced prisoner is punishable as if the
14 prisoner was not sentenced and incarcerated.

15 Sec. 33.30.291. TREATIES. If a treaty in effect between the
16 United States and a foreign country provides for the transfer or
17 exchange of prisoners sentenced to serve a term of incarceration to
18 the country where they are citizens or nationals, the commissioner
19 may, on behalf of the state and subject to the terms of the treaty,
20 consent to the transfer or exchange of prisoners and take any other
21 action necessary to initiate the participation of the state in the
22 treaty.

23 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
24 text requires otherwise,

25 (1) "center" means a correctional restitution center;

26 (2) "commissioner" means the commissioner of the Department
27 of Corrections;

28 (3) "community service" means work on projects designed to
29 reduce or eliminate environmental damage, protect the public health,

1 or improve public services, lands, forests, parks, roads, highways,
2 facilities, or education; community service may not confer a private
3 benefit on a person except as may be incidental to the public benefit;

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

9 (5) "court" means the supreme court, the court of appeals,
10 the superior court, the district or magistrate court, or a justice or
11 judge of a court;

12 (6) "crime against a person" means a crime as set out in
13 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-
14 330; or a crime against a person in this or another jurisdiction
15 having elements substantially identical to those of a crime as set out
16 in AS 11.41, except custodial interference under AS 11.41.320 and
17 11.41.330;

18 (7) "department" means the Department of Corrections;

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

21 (9) "health care provider" means

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

25 (B) a mental health professional as defined in AS 47.-
26 30.915; *a borough or city in the state, or*

27 (10) "municipality" means *a* municipality, authorized by law
28 to establish a correctional facility; *unified under AS 29.68.240 - .440*

29 (11) "prisoner" means a person, other than a juvenile, held

1 under authority of state law in official detention as defined in
2 AS 11.81.900(b);

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

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

7 * Sec. 7. AS 33.32.015(b) is amended to read:

8 (b) The commissioner of corrections may

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

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

18 (3) if the Correctional Industries Commission established
19 in AS 33.32.070 approves, employ prisoners to provide services or
20 products as needed by private industry if the services or products
21 have potential for contributing to the economy of the state and will
22 have minimal negative impact on an existing private industry or labor
23 force in the state;

24 (4) authorize a prisoner to engage in productive employment
25 within or outside a correctional facility or enter into a contract
26 under AS 33.30.191 for the employment of a prisoner if the Correction-
27 al Industries Commission determines that the employment will have
28 minimal negative impact on an existing private industry or labor force
29 in the state; and

*Hess version read:
"will have minimal
negative impact on"*

1 (5) subject to the provisions of AS 37.05, enter into joint
2 cooperative ventures with private industry for the establishment and
3 operation of "Free Venture" industries under AS 33.32.017, if the
4 Correctional Industries Commission determines at the time of inception
5 that the "Free Venture" industry will not compete with an existing
6 private industry or labor force in the state.

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

8 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)
9 Upon recommendation of the Correctional Industries Commission estab-
10 lished under AS 33.32.070, the commissioner may establish "Free Ven-
11 ture" correctional industries for the sale of goods or services to the
12 public or private sector. A "Free Venture" correctional industry is a
13 correctional industry that is operated and managed in total or in part
14 by a private industry or organization within a correctional facility
15 under an agreement entered into under AS 33.32.015(b)(5).

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

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

25 (d) In exchange for the inmate workers and other services pro-
26 vided to it, the private industry or organization shall pay to the
27 commissioner a weekly payment in an amount not less than the sum of
28 the existing minimum hourly wage, established under AS 23.10.065,
29 multiplied by the total number of hours worked during that week by

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

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

8 * Sec. 9. AS 33.32.030 is amended by adding a new subsection to read:

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

11 * Sec. 10. AS 39.35.360(e) is amended to read:

12 (e) An employee of a detention facility provided by a local
13 government unit to the territorial or state government under AS 33.-
14 30.031 or former AS 33.30.060, who continues in state employment upon
15 transfer of the facility to the state, is entitled to credited service
16 for prior service with the facility if the employee remains in contin-
17 uous employment with the state until July 1, 1976. To obtain credited
18 service the employee is required to make retroactive contributions for
19 the period of service between January 1, 1961, and the effective date
20 of the transfer of the facility to the state.

21 * Sec. 11. AS 44.65.050 is amended by adding a new subsection to read:

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

29 * Sec. 12. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.062, 33.30.070, 33.30.-
2 080, 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,
3 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.-
4 225, 33.30.227, 33.30.250, 33.30.260, 33.30.282, 33.30.283, 33.30.284,
5 33.30.286, 33.30.288, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
6 33.30.900.

7 * Sec. 13. Regulations adopted under a statute amended or repealed by
8 this Act continue in effect until amended or repealed by the commissioner
9 of corrections, except to the extent that a regulation is inconsistent or
10 in conflict with a provision of this Act.

STA. OF ALASKA 1985 LEGISLATIVE SES. N
FISCAL NOTE

Revision Date: _____

REQUEST:

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

FISCAL DETAIL:

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

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

Prepared By: William W. Ladwig
 Division: Deputy Commissioner - Administration

Phone: 465-3376
 Date: April 29, 1985

Approved by Commissioner: [Signature]
 Agency: DEPARTMENT OF CORRECTIONS

Date: April 29, 1985

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency (ies)

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 114 (Jud) and
 Title: "An Act relating to
 correctional facilities..."
 Sponsor: Rules Committee
 Requestor: S. HESS
 Date of Request: 5/8/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie
 Division: Administrative Services

Phone: 465-4349
 Date: 5/8/85

Approved by Commissioner: Robert J. Sundberg
 Agency: Department of Public Safety

Date: 5/9/85

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

7/1/84

COST ANALYSIS

CSHB 114 (Jud) am

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

300 Contractual Services

Medical Costs	\$200.0
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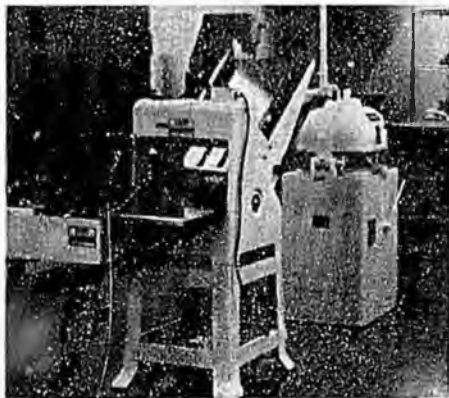
Prison and profits

"Corrections Release" June 1986

Income statements, sales charts, marketing brochures, product catalogues, and profits are not usually associated with inmates and prison. But the fact is that the Industries Division of the Alaska Department of Corrections employs over 65 inmates and returns dollars to the department through six Industries businesses ranging in location from southcentral to southeastern Alaska.

When authorized and funded by the legislature in 1982, Alaska became the last state in the union to develop a prison industries program. Four years later, the hard work of department staff members has resulted in a strong, growing program dedicated to producing quality goods for Alaskan government and non-profit organizations.

"People in this state like the idea of prisoners working and helping pay the cost of their incarceration," said Wes



The commercial bakery at Lemon Creek Correctional Center supplies quality baked goods for the Alaska Marine Highway.

Milton, manager of the industries program. Inmates benefit by developing job skills and work habits in an environment similar to the jobs they will be competing for when no longer incarcerated. Industries generally pays more than institutional jobs, and half of each industries paycheck goes to a "gate" account for the inmate's use upon release.

With 200 tons of potatoes cooling in the barn, the farm at Palmer Correctional Center is one of the top ten producers in the state. "The Industries potato lends itself to many product usages and deserves more than an equal chance over Lower 48 potatoes," says Jon Olsen, Food Service Manager at the Cook Inlet Pre-trial Facility. Production Manager Leland Spratt also has two greenhouses packed full of tomatoes and cucumbers, and flowers grown here will soon decorate state buildings.

The Industries auto-body operation is headed by Mike Able. A professional with over 20 years in the auto business, Able oversees five inmate employees who give new life and luster to bent and beat-up state vehicles.

At Wildwood Correctional Center in Kenai, Industries has recently installed a metal fabrication shop and furniture assembly plant. Organized by Hubert Nelson, the metal products shop makes prison furniture, firepits, and gates for the State Park System. Many additional products are made from various types of steel and aluminum.

The comfortable, new blue couches in the lobby of the Southcentral Region Of-

fice are examples of the fine quality and workmanship of Production Manager Paul Lunn and his crew at the furniture shop in Kenai. This industry should prove to be one of the largest, having already supplied furniture to Wildwood, Anvil Mountain and Palmer Correctional Centers, as well as to other State agencies.

The two businesses in the Southeast region are located at Lemon Creek Correctional Center in Juneau. A commercial laundry, managed by Joe Corbett, is housed in a one and one-half year old facility. It supplies services to the Alaska Marine Highway's ferry system, as well as other institutions in the Juneau area. During the tourist season, an evening and weekend shift is supervised by Jeff Watts.

The excellent pastry, french rolls, and berry pies praised by ferry travelers are prepared at the Industries bakery at Lemon Creek. Steve Adams, the baker (and a former correctional officer), operates this state-of-the-art shop.

Sales and profits have been growing steadily. From total revenues in FY 85 of less than \$250,000 (with no profits), an operational profit of 15 percent (\$75,000) will be seen from an expected \$505,000 in FY 86 sales. A revenue goal of \$1,015,000 for FY 87 should yield a 25 percent profit of \$253,000.

Thanks to Industries personnel Mark Butler and Marty Rossman for their report and photos. They invite staff suggestions and comments regarding new businesses or those currently in operation.

an Assistant Superintendent to Superintendent and then Assistant Director of Corrections. When Corrections attained departmental status in 1983, he was

Southcentral Region Director Ted Corey retires June 30.

and support they have given me over the years."

Story and photo by Doreen Kansom.

"Cops vs Cons" is a winner for Special Olympics

Alaska State Troopers and inmates of Palmer Correctional Center competed in a fund-raising basketball game for the Special Olympics at Palmer High School in February 1986.

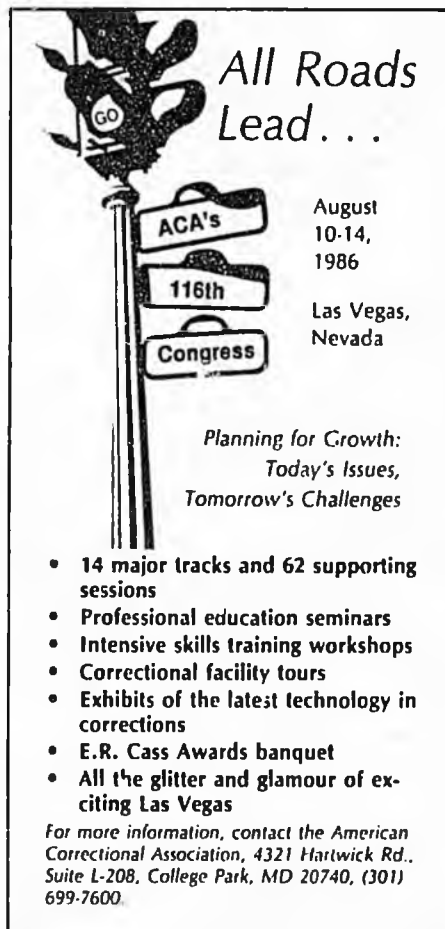
Two Special Olympic teams competed as a half-time event. The winning team was awarded a stained glass Donald Duck, made and donated by an inmate. An auction held at half-time included many hobbycraft items donated by inmates.

Over \$1,600.00 was raised as a result of the game; \$500.00 from gate money, \$600.00 from the auction, and \$500.00 from the Alaska Public Employees' Association.

Special Olympics' staff members are hoping this will be an annual event. According to one State Trooper who competed, "It was fun! Anytime they want to play we are willing."

The score? Troopers 76, Palmer 61.

Thanks to Correctional Officer Don Dyer of Palmer Correctional Center for this item.



*All Roads
Lead...*

August
10-14,
1986

Las Vegas,
Nevada

*Planning for Growth:
Today's Issues,
Tomorrow's Challenges*

- 14 major tracks and 62 supporting sessions
- Professional education seminars
- Intensive skills training workshops
- Correctional facility tours
- Exhibits of the latest technology in corrections
- E.R. Cass Awards banquet
- All the glitter and glamour of exciting Las Vegas

For more information, contact the American Correctional Association, 4321 Hartwick Rd., Suite L-208, College Park, MD 20740, (301) 699-7600.

Wildwood inmates capture Kenai hoop competition

The Wildwood Correctional Center's inmate basketball team finished its 1985-86 season by winning the B-1 City League Championship at Kenai. Wildwood staff were present to support the team in its attempt to gain the championship on March 14.

The final score was 58 to 52, with Wildwood victorious over strong competition. The runner-up team, sponsored by Fred Braun Sport Shop, had previously dominated league play throughout the year.

Thanks to Wildwood Correctional Officer Vern Nusunginya for his story.

INDUSTRY PROPOSALS

<u>INDUSTRY</u>	<u>STATUS</u>	<u>COMMENTS</u>
Construction	Approved	Limited to institutions
Agriculture	Approved	Palmer Farming Operations
Body Fender	Approved	Palmer Body Shop
Data Input	Pending	No apparent private sector interference
Furniture, Office	Approved	No private sector interference
Laundry, Anch.	Disapproved	Private sector laundry protested
Laundry, Juneau	Approved	No private sector wanted business. Exception, the LeConte laundry held back due to private sector.
Print Shop	Disapproved	Most State forms printed in States, but massive number of private print shops in State now.
Sign Shop	Disapproved	Two companies in Anch. and Fbks. doing some sign work with State now.
Metal Shop	Approved	No metal fabrication and manufacturer in State at this time.
Bakery, Anch.	Disapproved	Possible local impact on private sector due to bakeries in Anchorage
Bakery, Juneau	Approved	No private sector business existing
Tire Recapping	Disapproved	Insufficient market
Tire Chain Mfg.	Pending	No apparent private sector interference.
Mattress Mfg.	Approved	Private sector limited to commission on mattresses purchased in States. New type of mattress (fire rating etc) not available yet through supplier.
Calcium/Magnes.	Pending	Insufficient control of market, and procedures for process.
Asphalt Addit.	Pending	No controls on process, DOT cannot put controls on or install properly.
Pressure Sen.		
Decals	Disapproved	Possible private sector impact.
Swine Operations	Disapproved	Low potential business operation.

Nadine Winters

3/21/86

file HB 114

WORK DRAFT

WORK DRAFT

WORK DRAFT

CHANGES:

- ✓ p. 11, line 2, 6, 7-10
- ✓ p. 12, line 9-10
- ✓ p. 1, line 9
- ✓ p. 23, lines 12-13, 14, 18, 19
- ✓ p. 18, line 21, 23-24

James
3/24/86

Original sponsor: Rules/Governor

Final w/changes.

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 114 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND 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 LFGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09...020 is amended to read:

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

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

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

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

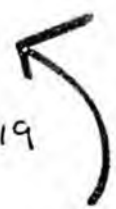
19 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A
20 person commits the crime of unlawful evasion in the first degree if,
21 while charged with or convicted of a felony,

22 (1) the person fails to return to official detention within
23 the time authorized following temporary leave granted for a specific
24 purpose or limited period, including leave granted under AS 33.30.181;
25 or

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

29 (b) Unlawful evasion in the first degree is a class A

see language attached AS 09.10.140



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1 misdemeanor.

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

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

6 (1) the person fails to return to official detention within
7 the time authorized following temporary leave granted for a specific
8 purpose or limited period, including leave granted under AS 33.30.181;
9 or

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

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

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

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

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

20 (2) on parole.

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

22 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

28 (2) classify prisoners;

29 (3) for persons committed to the custody of the

1 commissioner, establish programs, including furlough programs that are
2 reasonably calculated to

- 3 (A) protect the public;
4 (B) maintain health;
5 (C) create or improve occupational skills;
6 (D) enhance educational qualifications;
7 (E) support court-ordered restitution; and
8 (F) otherwise provide for the rehabilitation and

9 reformation of prisoners, facilitating their reintegration into
10 society;

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

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

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

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

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

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

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

1 agency to provide necessary facilities. Correctional facilities
2 provided through agreement with a public agency may be in this state
3 or in another state. Correctional facilities provided through agree
4 ment with a private agency must be located in this state. The commis
5 sioner may not enter into an agreement with an agency unable to pro
6 vide a degree of custody, care, and discipline similar to that re
7 quired by the laws ^{and regulations} of this state.

8 (b) Unless the purpose is to involve prisoners in a program
9 established under AS 33.30.091 - 33.30.131 or AS 33.30.151 - 33.30.18
10 or to confine prisoners convicted of a misdemeanor, the commissioner
11 may not enter into an agreement with a privately operated correctional
12 facility under (a) of this section.

13 (c) Notwithstanding AS 37.05.230(1)(B), an agreement with a
14 private agency to provide necessary facilities under (a) of this
15 section must be based on competitive bids.

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

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

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

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

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

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

5 (2) the administrator of the correctional facility agrees
6 to implement an order, concerning a prisoner, issued by a court of the
7 state;

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

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

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

21 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

1 within the judicial district in which the prisoner was convicted, or
2 is located in the state.

3 (b) The commissioner may designate an out-of-state facility
4 under this section only if the commissioner determines that rehabili-
5 tation or treatment of the prisoner will not be substantially im-
6 paired.

7 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

8 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
9 safety shall provide for the custody, care, and discipline of prison-
10 ers pending arraignment, commitment by a court to the custody of the
11 commissioner of corrections, or admission to a state correctional
12 facility. Except as provided in (c) of this section, the responsibil-
13 ity for providing necessary medical services for prisoners remains
14 with the commissioner of corrections under AS 33.30.011(4). The
15 commissioner of corrections and the commissioner of public safety are
16 not responsible for providing custody, care, and discipline for a
17 person detained under AS 47.30.705 or AS 47.37.170, unless the person
18 is admitted into a state correctional facility.

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

25 (c) Medical services for a prisoner who is unconscious or in
26 immediate need of medical attention before admission to a correctional
27 facility or commitment by a court to the custody of the commissioner
28 of corrections shall be provided by the law enforcement agency having
29 custody of the prisoner. The law enforcement agency may require the

1 prisoner to compensate the agency for the cost of medical service
2 provided for a preexisting medical condition not arising out of th
3 prisoner's arrest.

4 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis
5 sioner of public safety is responsible for transporting a prisoner t
6 and from the court having jurisdiction over the prisoner and fo
7 delivering a prisoner to a correctional facility upon temporary o
8 final commitment by a court or upon transfer of a prisoner from one
9 correctional facility to another either inside or outside the state.

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

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

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

21 (e) Except as provided in (f) of this section, a court may not
22 order the transportation of a prisoner.

23 (f) A court may order a prisoner who is a party or witness to a
24 civil action or a witness to a criminal action to appear at a place
25 other than within a correctional facility only if the court deter-
26 mines, after providing a reasonable opportunity for the commissioner
27 to comment, that the prisoner's personal appearance is essential to
28 the just disposition of the action. In making its determination, the
29 court shall consider available alternatives to the prisoner's personal

1 appearance including deposition and telephone testimony.

2 (g) Except as provided in (h) of this section, the expenses
3 associated with the transportation of a prisoner ordered under (f) of
4 this section, including the costs of travel for the prisoner and
5 escorting officers and the salary and per diem costs of the escorting
6 officers, shall be borne by the party who has requested the prisoner's
7 appearance, and shall be paid to the commissioner of public safety
8 before the prisoner is transported.

9 (h) A prisoner who is a party to a civil action is not required
10 to bear the full costs of the prisoner's own transportation under (g)
11 of this section if the court determines that the prisoner is indigent.
12 In these cases, the court may require the prisoner to bear a portion
13 of the costs, and the commissioner of public safety shall bear the re-
14 maining costs of transporting the prisoner. If an indigent prisoner
15 recovers a money judgment, the court may require the prisoner to bear
16 all or part of the expenses required under (g) of this section.

17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
18 AS 33.30.111 and 33.30.161, the commissioner may assign a prisoner
19 committed to the commissioner's custody to a program established under
20 AS 33.30.011(3) considering

- 21 (1) safeguards to the public;
- 22 (2) the prospects for the prisoner's rehabilitation;
- 23 (3) the availability of program and facility space;
- 24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;
- 26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;
- 28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

1 court;

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

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

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

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

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

13 (1) obtain counseling and treatment for alcohol or dru
14 abuse;

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

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

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

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

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

29 (1) the factors in AS 33.30.091;

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

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

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

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

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

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

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

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

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

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

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

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

1
2 prerelease furlough until the prisoner has served at least one-third
of the sentence; and

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

7 (3) a prisoner who is denied discretionary parole under
8 AS 33.16.130 may not be granted a prerelease furlough for a period of
9 at least one year following the denial unless the board of parole
10 expressly waives this provision.

11 (e) A prisoner may request a prerelease furlough under proce-
12 dures adopted by the commissioner. If the commissioner denies a
13 request for a prerelease furlough, the commissioner shall provide the
14 prisoner with a written explanation of the reasons for the denial.

15 (f) Upon request of the victim, in the case of a prisoner con-
16 victed of a crime against a person, notice of the commissioner's
17 intent to consider the prisoner for a prerelease furlough shall be
18 sent to the victim. The victim may comment in writing on the intent
19 of the commissioner to release the prisoner on prerelease furlough
20 status. The commissioner shall consider the comments of the victim
21 before making a final decision to release a prisoner on a prerelease
22 furlough. If the victim requests notification, the commissioner shall
23 make every reasonable effort to notify the victim of an intent to
24 release the prisoner on a prerelease furlough. The notice must con-
25 tain the expected date of the prisoner's release, the geographic area
26 in which the prisoner will reside and other pertinent information
27 concerning the prisoner's release that may affect the victim.

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

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

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

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

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

9 Sec. 33.30.131. ~~Prerelease or short duration furlough or correctional restitution~~

10 ~~center placement involving employment.~~

11 (a) The commissioner may grant a
12 prerelease or short-duration furlough to permit a prisoner to par-
13 ticipate in suitable employment under conditions and at wages that
14 represent the prevailing standard for the area. A prisoner may not
15 participate in employment where an organized labor dispute is in
16 progress.

17 (b) Unless alternative arrangements are expressly approved by
18 the commissioner, when a prisoner is employed outside a correctional
19 facility as part of a prerelease or short-duration furlough program,
20 or as part of serving time in a correctional restitution center under
21 AS 33.30.151 - 33.30.181, the earnings of the prisoner shall be de-
22 livered to the commissioner. If an employer transmits the earnings to
23 the commissioner, the employer has no liability to the prisoner for
24 the earnings. The commissioner shall disburse the earnings of the
25 prisoner, in an order determined appropriate, under procedures adopted
26 by the commissioner to

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

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

byes
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use
this
specific
wording

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

4 (4) pay a civil judgment arising out of the criminal conduct
5 of the prisoner; and

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

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

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

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

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

27 Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS. (a) The
28 commissioner shall establish correctional restitution centers in the
29 state. The purpose of the centers is to provide

1 offenders with rehabilitation through community service and employment;
 2 while protecting the community through partial incarceration of the
 3 offender, and to create a means to provide restitution to victims of
 4 crimes.

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

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

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

11 (3) standards for the granting of emergency absence to
 12 prisoners confined to the centers;

13 (4) standards for classifying prisoners to centers;

14 (5) standards for mandatory employment and participation in
 15 community service programs in each center; and

16 (6) standards for periodic review of the performance of
 17 prisoners confined to the centers.

18 Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL
 19 RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to
 20 serve time in a correctional restitution center unless the commission-
 21 er specifically finds that the prisoner meets the eligibility require-
 22 ments of this section.

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

25 (1) must be employable or eligible to work on community
 26 service projects approved by the commissioner and agree to secure
 27 employment or participate in community service projects and obey the
 28 rules of the center;

29 (2) may not have been convicted of an offense that

1 or another jurisdiction, involving violence or the use of force, as
2 defined in AS 11.81.900; in this section, violence or the use of force
3 includes possession of a firearm, as defined in AS 11.81.900, in the
4 commission of an offense whether or not the firearm was actually
5 used; and

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

10 (c) Unless the commissioner determines otherwise for good cause
11 shown, a person sentenced to less than five days who is serving time
12 in a correctional restitution center shall participate in a community
13 service project when available.

14 Sec. 33.30.171. COMMUNITY ADVISORY COMMITTEES. The commissioner
15 shall appoint a community advisory committee for each center, to
16 consist of five members of the community in which the center is locat-
17 ed. The committee shall act as a liaison between the community and
18 the department regarding community concerns with the center.

19 Sec. 33.30.181. CONFINEMENT TO THE CENTER. (a) A prisoner
20 shall be confined to the center at all times except while

- 21 (1) at work and traveling to and from work;
22 (2) at and traveling to and from a community service proj-
23 ect approved by the commissioner;
24 (3) on emergency absence;
25 (4) at and traveling to and from a job interview; or
26 (5) on a furlough approved by the commissioner.

27 (b) Except for an emergency absence or furlough, a prisoner may
28 not be absent from a center under this section for more than 12 hours
29 in a 24-hour period.

ARTICLE 3. GENERAL PROVISIONS.

1
2 Sec. 33.30.191. EMPLOYMENT OF PRISON INMATES. (a) It is the
3 policy of the state that prisoners be productively employed for a
4 many hours each day as feasible, not to exceed 40 hours a week unless
5 overtime has been specifically approved by the commissioner.

6 (b) The commissioner may enter into contracts or cooperative
7 agreements with any public agency for the performance of conservation
8 projects. The commissioner may enter into a contract with an individual
9 or agency for the employment of prisoners if the work to be
10 performed will have minimal negative impact on an existing private
11 industry or labor force in the state as determined by the Correctional
12 Industries Commission under AS 33.32.015.

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

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

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

24 (2) education, including both academic and vocational;

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

27 (4) public conservation projects, including forest fire
28 prevention and control, forest and watershed enhancement, recreational
29 area development, construction and maintenance of trails and camp

1 sites, fish and game enhancement, soil conservation, and forest water-
2 shed revegetation;

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

5 (6) other work performed inside or outside of a correction-
6 al facility if the work has minimal negative impact on an existing
7 private industry or labor force in the state as determined by the
8 Correctional Industries Commission under AS 33.32.015.

9 Sec. 33.30.201. PAY OF PRISON INMATES. Each prisoner who is
10 productively employed, as defined in AS 33.30.191(d)(1) or 33.30.-
11 191(d)(3) - (6), may receive for that work compensation at a rate
12 determined by the commissioner under AS 33.32.050 if the money is
13 available from legislative appropriations. The provisions of AS 33.-
14 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-
15 tional industries program and to prisoners productively employed in
16 activities outside that program.

17 Sec. 33.30.211. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
18 is admitted to a correctional facility, a copy of the commitment shall
19 be delivered with the prisoner as evidence of the authority of the
20 correctional facility to hold the prisoner.

21 (b) When a person is sentenced to a term of imprisonment, copies
22 of the pre-sentence report, sentencing report prepared under AS 12.-
23 55.025, and any other information of the probation office or of the
24 court that may affect the person's rehabilitation shall be transmitted
25 to the superintendent of the correctional facility in which the pris-
26 oner will be confined.

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

1 Sec. 33.30.221. SUPERINTENDENT OF CORRECTIONAL FACILITY MA
2 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc
3 tional facility or the superintendent's assistant may administer oath
4 to and take acknowledgments from a prisoner, but may not request o
5 accept compensation from a prisoner for acts performed under thi
6 section.

7 Sec. 33.30.231. TELEPHONE ACCESS AND MONITORING INSIDE CORREC
8 TIONAL INSTITUTIONS. (a) Except as provided in (b) of this section
9 a prisoner shall have reasonable access to a telephone.

10 (b) A prisoner who is classified maximum custody, is placed i
11 segregation as punishment for a rule infraction, or is placed i
12 segregation because the prisoner poses a threat to others or to th
13 security of a correctional facility may not have access to a telephon
14 except to communicate with an attorney, to otherwise communicate a
15 provided in AS 12.25.150, or in an emergency as determined appropriat
16 by the commissioner.

17 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to
18 preserve the security and orderly administration of the institutio
19 and to protect the public, the commissioner may authorize the use o
20 monitoring or recording equipment to listen to a telephone conversa
21 tion of a prisoner [who has been convicted of an offense] if a warning
22 is posted by the telephone informing the prisoner that a call may be
23 monitored or recorded. A telephone call [made by or to a prisoner who
24 has not been convicted or a telephone call] between an attorney and a
25 prisoner may not be monitored or recorded except when authorized by a
26 court.

27 Sec. 33.30.241. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL
28 RIGHTS. (a) A person who is convicted of a felony involving moral
29 turpitude as defined in AS 15.60.010 is disqualified from voting in a

1 state or municipal election until the person's unconditional dis-
2 charge.

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

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

7 Sec. 33.30.251. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)
8 Except as provided in (b) of this section, it is the obligation of
9 each person committed to the custody of the commissioner to provide
10 for the appropriate disposition of all of the person's property re-
11 maining at a correctional facility within 90 days of the date of the
12 person's release or transfer from the correction facility.

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

17 (c) A prisoner's personal property that remains at a correction-
18 al facility after 90 days from the date of the prisoner's release or
19 transfer is considered abandoned, and shall be delivered to the De-
20 partment of Administration for disposal under AS 44.71.010.

21 (d) The state is not liable for any loss or damage to personal
22 property properly determined to be abandoned under (c) of this sec-
23 tion.

24 Sec. 33.30.261. EXCESS MONEY AS CONTRABAND. (a) A prisoner who
25 possesses money in an amount greater than that permitted by the com-
26 missioner is subject to disciplinary sanctions under regulations
27 adopted by the commissioner.

28 (b) Money in the possession of a prisoner in an amount greater
29 than that permitted by the commissioner is contraband. If, after a

1 hearing under regulations adopted by the commissioner, a prisoner is
2 found to have been in possession of contraband under this section, the
3 contraband shall be forfeited and deposited into the general fund.

4 Sec. 33.30.271. FORFEITURE OF PROPERTY. A conviction of a
5 person for a crime does not work a forfeiture of property, except in
6 cases where a forfeiture is expressly provided by law.

7 Sec. 33.30.281. CRIME AGAINST SENTENCED PRISONER. A person who
8 commits a crime against a sentenced prisoner is punishable as if the
9 prisoner was not sentenced and incarcerated.

10 Sec. 33.30.291. TREATIES. If a treaty in effect between the
11 United States and a foreign country provides for the transfer or
12 exchange of prisoners sentenced to serve a term of incarceration to
13 the country where they are citizens or nationals, the commissioner
14 may, on behalf of the state and subject to the terms of the treaty,
15 consent to the transfer or exchange of prisoners and take any other
16 action necessary to initiate the participation of the state in the
17 treaty.

18 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-
19 text requires otherwise,

20 (1) "center" means a correctional restitution center;

21 (2) "commissioner" means the commissioner of the Department
22 of Corrections;

23 (3) "community service" means work on projects designed to
24 reduce or eliminate environmental damage, protect the public health,
25 or improve public services, lands, forests, parks, roads, highways,
26 facilities, or education; community service may not confer a private
27 benefit on a person except as may be incidental to the public benefit;

28 (4) "correctional facility" or "facility" means a prison,
29 jail, camp, farm, half-way house, group home, or other placement

1 designated by the commissioner for the custody, care, and disciplin
2 of prisoners; a "state correctional facility" means a correctiona
3 facility owned or run by the state;

4 (5) "court" means the supreme court, the court of appeals
5 the superior court, the district or magistrate court, or a justice o
6 judge of a court;

7 (6) "crime against a person" means a crime as set out in
8 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.
9 330; or a crime against a person in this or another jurisdiction
10 having elements substantially identical to those of a crime as set ou
11 in AS 11.41, except custodial interference under AS 11.41.320 and
12 11.41.330;

13 (7) "department" means the Department of Corrections;

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

16 (9) "health care provider" means

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

20 (B) a mental health professional as defined in AS 47.-
21 30.915;

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

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

28 (12) "temporary commitment" means detention of a person for
29 any period under authority of state law, but does not include

1 confinement upon conviction and judgment of a court of this state;

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

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

4 (b) The commissioner of corrections may

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

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

14 (3) if the Correctional Industries Commission established
15 in AS 33.32.070 approves, employ prisoners to provide services or
16 products as needed by private industry if the services or products
17 have potential for contributing to the economy of the state and will
18 have minimal negative impact on an existing private industry or labor
19 force in the state;

20 (4) authorize a prisoner to engage in productive employment
21 within or outside a correctional facility or enter into a contract
22 under AS 33.30.151 for the employment of a prisoner if the Correction-
23 al Industries Commission determines that the employment will have
24 minimal negative impact on an existing private industry or labor force
25 in the state; and

26 (5) subject to the provisions of AS 37.05, enter into joint
27 cooperative ventures with private industry for the establishment and
28 operation of "Free Venture" industries under AS 33.32.017, if the
29 Correctional Industries Commission determines that the "Free Venture"

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

industry will have minimal negative impact on an existing private industry or labor force in the state.

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

Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)

Upon recommendation of the Correctional Industries Commission established under AS 33.32.070, the commissioner may establish "Free Venture" correctional industries for the sale of goods or services to the public or private sector. A "Free Venture" correctional industry is a correctional industry that is operated and managed in total or in part by a private industry or organization within a correctional facility under an agreement entered into under AS 33.32.015(b)(5).

REPLACE WITH

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

unless the commissioner determines otherwise,

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

(d) In exchange for the ~~space, utilities, and~~ inmate workers and other services

[^] provided to it, the private industry or organization shall pay to the commissioner a weekly payment in an amount not less than the sum of the existing minimum hourly wage, established under AS 23.10.065, multiplied by the total number of hours worked during that week by inmates employed in the "Free Venture" correctional industry.

(e) The private industry or organization shall indemnify, save harmless, and defend the state, its agents, officers, and employees from liability of any kind resulting from injuries or damages sustained by a person or property as a result of the manufacture, preparation, or use of the goods or services of the "Free Venture" 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 or former AS 33.30.060, who continues in state employment upon
8 transfer of the facility to the state, is entitled to credited service
9 for prior service with the facility if the employee remains in contin-
10 uous 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 for each project as determined by the terms of the
21 agreement.

22 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,
23 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.062, 33.30.070, 33.30.-
24 080, 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,
25 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.-
26 225, 33.30.227, 33.30.250, 33.30.260, 33.30.282, 33.30.283, 33.30.284,
27 33.30.286, 33.30.288, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and
28 33.30.900.

29 * Sec. 12. Regulations adopted under a statute amended or repealed by
SCS CSHB 114 (HESS)

1 this Act continue in effect until amended or repealed by the commissioner
2 of corrections, except to the extent that a regulation is inconsistent or
3 in conflict with a provision of this Act.
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Dept. Corrections (#1) Toll Statute of Limitations

I(a). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 1, line 9: Add new section to read as follows:

* Section 1. AS 09.10.140 is amended to read:

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

2. Renumber all remaining sections accordingly.

Explanation - This amendment would reinstate a section which was in an earlier version of this bill, but which was removed by the House Judiciary Committee.

This amendment would repeal the provision in AS 09.10.140 which ^{stops} tolls, for the period of imprisonment, the running of the period of time (statute of limitations) in which a prisoner may commence a lawsuit for an action which accrues