

HB

140

HOUSE BILL 140
INDEX

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SUMMARY OF MANDATORY PAROLE BILL

Mandatory parole is the supervision time a misdemeanor or felony offender must complete immediately after being released from incarceration. The supervised time is determined by the amount of good time an inmate earns during incarceration.

181 days is the current minimum for mandatory parole eligibility. Under the new bill being submitted, this eligibility would be increased to a minimum of two years as outlined in Sections 1 and 2. This would decrease the parole work load by an estimated 130 cases at the current time. This in turn allows the probation/parole officer to devote more time to the long term offender who, as statistics show, require more supervision. The majority of short term offenders falls under probation guidelines, therefore, there is no need for double supervision as there is under current statute. It should also be pointed out that the misdemeanor offender was not intended to be supervised by the parole board, as is currently the case.

Section 3 of the current statute allows certain Class A felons discretionary parole after serving only 1/4 of the sentence. Under the proposed bill, those particular Class A felons are eligible after 1/3 of the sentence. This was the parole board's original intent and the intent of the 1985 legislature as noted on page 4 of the House Journal Supplement which is found in the miscellaneous section of this packet.

Sections 4 and 5 amend the methods that the Parole Board may use to release a parolee to probation. In the event an offender is released to discretionary parole, the Parole Board may release the offender to serve court ordered probation time after successful completion of two years of parole. A mandatory parolee may be released to serve probation as long as the term of probation and the period of suspended imprisonment each equal or exceed the mandatory parole period.

In the proposed bill, Section 6 defines mandatory parole and Section 7 defines parolee. Section 8 amends the definitions to comply with the changes made in sections 1 through 5.

In the event both mandatory parole supervision and probationary supervision are required upon release, section 9 allows for the mandatory parole time and the probation time to be served concurrently.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : CSHB 140 (JUD)
 Publish Date : 03-26-87

REQUEST: _____

Revision Date: _____
 Title: "An act relating to Parole."

Agency Affected: Department of Corrections
 BRU: _____

Sponsor: Rep. Swackhammer, Gruenberg
 Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached pages.

Susan Knighton

Prepared by: Susan Knighton, Research Analyst IV

Phone: 465-3376

Division: Administrative Services

Date: 3/6/87

Approved by Commissioner: *William W. Lindsey for*
Susan Humphrey-Barnett

Date: 3/11/87

Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 140

Publish Date: _____

REQUEST _____

Revision Date: _____

Agency Affected: Public Safety

Title: "An Act relating to parole."

BRU: Alaska State Troopers

Sponsor: Rep. Swackhammer

Components: Detachments & CIB

Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *F.C.A.*

Phone: 269-5691

Division: Alaska State Troopers

Date: 2/23/87

Approved by Commissioner: William R. Nix *W.R.N.*

Date: 2/25/87

Agency: Public Safety

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

JMR
2/25/87

BILL NO: HB 140

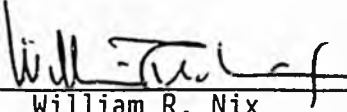
DATE: March 3, 1987

TITLE: "An Act relating to parole."

CONTACT: Maj. Walter J. Gilmour
Acting Director
Alaska State Troopers

DEPARTMENT OF
PUBLIC SAFETY

This bill does not impact the Department of Public Safety.



William R. Nix
Acting Commissioner

RECEIVED
MAR 10 1987
ALASKA DEPARTMENT OF
PUBLIC SAFETY

POSITION PAPER
DEPARTMENT OF CORRECTIONS

BILL: H.B. 140

DATE: March 9, 1987

TITLE: "An Act relating to Parole"

CONTACT: Samuel H. Trivette
Executive Director
Parole Board

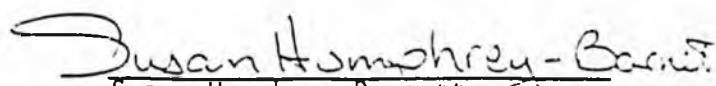
This Administration supports House Bill #140. The primary purpose of the bill is to adjust the parole statutes to eliminate duplication and ensure the supervision of more serious prisoners upon release from jail.

Since statehood, prisoners sentenced to serve two years or longer have been placed on mandatory parole supervision. The prisoners must follow standard and special parole conditions the same as prisoners released on parole by the Parole Board. Rehabilitative and other counseling services are made available and behavior is monitored by parole officers. Most other states and the federal government have mandatory parole laws similar to this law.

This bill would eliminate supervision only on misdemeanants and short-term felony offenders. A great majority of these short-term felony offenders will be on probation supervision. This allows the Parole Board and parole officers to concentrate resources on the more serious offenders. Therefore, this bill will result in very few prisoners being release without supervision. Most would be misdemeanants. And clearly 99% of the presumptively-sentenced offenders would be on mandatory parole supervision, taking care of the more serious cases.

The bill allows the merging of mandatory parole and probation cases when the probation period exceeds the mandatory parole period. Again, the purpose is to minimize the duplication of Parole Board and Correction's staff time nt on supervising the same offender for the court system and Parole ard.

Finally, the bill clarifies parole eligibility on class A felons. When House Bill 141 passed in 1985, the commentary at page four was contradictory on whether eligibility would be at one-third or one-fourth of the sentence. The testimony in committee and on the House floor was eligibility would be one-fourth only for class B felony, class C felony and misdemeanants. This bill conforms to that intent.


Susan Humphrey-Barnett
Commissioner

POSITION PAPER

HB 140

The Alaska Public Defender Agency and the Office of Public Advocacy are totally reactive agencies which provide representation to indigent persons when appointed by the court. These agencies do not make policy nor do they initiate litigation. Only proposed legislation with fiscal or program ramifications for these agencies can be said to have a direct agency impact. Thus, the Public Defender Agency and Office of Public Advocacy submit position papers for legislation which will affect these agencies fiscally or programatically or will require these agencies to litigate constitutional issues raised by the legislation.

Fiscal impact: X None See attached fiscal note _____
Program impact: X None See analysis below _____
Constitutional impact: X None See analysis below _____
Other: Legislative request See analysis below X

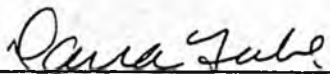
This bill will streamline the current system of mandatory parole, particularly by clarifying that a probationary period may run concurrently with a period of mandatory parole. Judges often set precise conditions of probation which they expect an offender to follow once he or she is released from prison. Under current law, most prisoners serve a period of mandatory release parole prior to starting their probationary term, thus creating the potential for a "limbo" period prior to the commencement of formal court probation and its attendant conditions. This bill further limits the necessity of mandatory parole to those prisoners who have sentences of more than two years, thus obviating the need for expensive supervision for the least serious offenders. All of these changes will streamline the mandatory parole system and free the time of overburdened parole officers to supervise the more serious offenders.

Section 3, which deals with discretionary parole, is somewhat problematical. Currently, those persons who are convicted of unclassified felonies may not be eligible for discretionary parole until they have served one third of their sentence. This provision ensures that a person serving a lengthy sentence for First or Second Degree Murder will not be released prior to serving at least one third of their term of imprisonment. All other offenses allow parole eligibility at the discretion of the parole board after service of one fourth of a sentence.


Section 3 of this bill adds Class A offenses to the list of crimes requiring service of at least one third of the sentence prior to discretionary parole rather than one fourth. Although persons convicted of Class A felonies are normally not eligible for discretionary parole due to the requirement that they receive a presumptive sentence even on a first offense, a discrete group of persons convicted of Class A felonies have received the right to discretionary parole eligibility

from the three judge sentencing panel due to unusual mitigating circumstances in their cases. Since Class A felony prisoners are not normally eligible for discretionary parole, the legislature may not wish to deprive those persons with extraordinarily mitigating circumstances from consideration after one quarter of their term. It should be noted that if the parole board does not wish to grant discretionary parole after one quarter of a sentence due to the circumstances of the offense, nothing in this bill will deprive the parole board of its discretion to deny parole application.

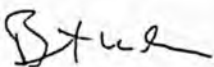
Based on the above reasons, the Public Defender Agency and Office of Public Advocacy support all provisions of this bill except Section 3. The Public Defender Agency and Office of Public Advocacy oppose Section 3 of this bill.



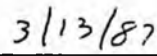
Dana Fabe, Director
Public Defender Agency



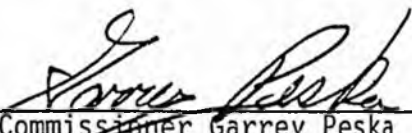
Date



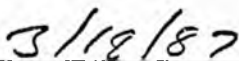
Brant McGee, Director
Office of Public Advocacy



Date



Commissioner Garrey Peska
Department of Administration



Date

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF CORRECTIONS

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
POUCH T
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

March 6, 1987

Representative Swackhammer
Rm. 106
Capital Building
Juneau, AK

Re: House Bill #140

Dear Rep. Swackhammer:

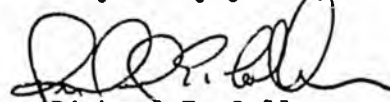
I strongly support passage of H.B. #140. As you are aware this legislation will return our Parole Supervision caseloads to a level comparable to 1985, before the comprehensive Revision of the Parole Laws effective January 1, 1986.

From an administration point of view it is very difficult to supervise misdemeanants because the periods of supervision are very short and the individual has very little to lose for non-compliance. Their attitude is that they have earned the Good Time and it shouldn't be subject to be taken away. The felons that fall into this less than two year sentence category are often subject to a residual period of probation to follow release anyway, certainly the ones the Judge thought were in need of supervision have probation to follow. We could better utilize our resources and manpower by concentrating on supervising serious felons. I believe that closer supervision of this higher risk group would provide better public protection.

The second section of this bill changes Parole Eligibility back to one-third for Class A felons. They were subject to this minimum from 1974 to 1985 and I believe it was changed in 1986 only due to a misunderstanding or a drafting error. However, to my knowledge, no one has been paroled by the Board, even since the Law was changed to one-quarter, before they completed at least one-third of their term. So a statutory change now will not have a fiscal impact but would be good public policy in my opinion.

Thank you for your efforts on this legislation and I appreciate the opportunity to provide you with my comments.

Very truly yours,



Richard E. Collum
Parole Board Officer

REC:rs

February 27, 1987

Representative C.E. Swackhammer
P.O. Box 417
Soldotna, Alaska 99669

re: House Bill 140

Dear Representative Swackhammer:

Thank you for your letter of 02-20-87, reference House Bill 140. I support the bill 100%, as I believe all probation officers do.

I will not attempt to explain each and every detail, nor offer examples as to why I disagree with present statutes. Simply stated, probation officers are wasting their time supervising clients with six months supervision or less. Precious resources such as time, man power and money are being wasted by requiring probation officers to supervise short term felons and misdemeanants. We must be allowed to concentrate our efforts where they are needed. At the present time, probation officers are over-loaded with burdensome paperwork, high caseloads and needless supervision of clients. House Bill 140 would assist in allowing probation officers to focus their attention where it belongs i.e., with individuals convicted of serious offenses and who received sentences of two years or more.

Legislators should scrutinize the role of probation officers within the state of Alaska. Careful review will demonstrate the cost effective nature of releasing inmates to probation/parole supervision. This includes intensive supervision which offers a tremendous savings and alleviates over-crowding as well. House Bill 140 would allow probation officers to supervise the more serious offender. It would also incorporate concurrent supervision of probationers/parolees which would assist probation officers in the course of their duties.

In conclusion, legislators should request testimony from individuals such as Sam Trivette, if they desire a comprehensive over-view of the nature of this bill. Additionally, myself and others will be willing to offer our assistance as requested, in an effort to secure passage.

Sincerely,



Curt Geoffrion
Probation/Parole Officer III

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF CORRECTIONS

NORTHERN REGION

March 17, 1987

C.E. Swackhammer
State Representative
Box V
Juneau, Alaska 99811

Dear Representative Swackhammer:

I am responding to your letter dated 02-20-87. I am sorry for the late response, however, I have just returned from the lower 48, due to a death in my family.

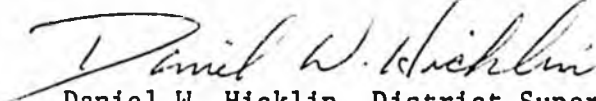
Regarding H.B. 140, I conferred with Ken Brown, Regional Director, and was informed that the Department of Corrections is extremely supportive of your bill.

If passed, your bill would have a positive effect on my district caseload. My district is 100,000 square miles (approximately the size of the state of Oregon). The district caseload has been as high as 175 offenders this year, and is covered by myself and two other probation officers. A total of 18% of our caseload is located in Bethel, the other 82% is located in 50 plus villages in the Yukon-Kuskokwim Region.

I am sure with your law enforcement background, you can see we are spread about as thin as we can be, and still provide protection to the public.

If there is anything that I may do to assist the passing of H.B. 140, please feel free to contact me.

Yours, for a better Alaska,


Daniel W. Hicklin, District Superior
DEPARTMENT OF CORRECTIONS
Probation/Parole
Bethel, Alaska

DWH:gp

C.E. Swackhammer

March 17, 1987

Page 2

cc: Susan Humphrey-Barnett, Commissioner
Art Schmidt, Deputy Commissioner
Ken Brown, Regional Director
File

information on that prisoner may come to the board's attention. For example, a prospective employment plan may no longer be possible, or the prisoner is unable to immediately enter a residential treatment program upon release, or the prisoner is subsequently involved in a major disciplinary action. With this provision the board can change conditions or decide that the prisoner is not appropriate for discretionary parole, and rescind its previous action or merely delay the prisoner's release date. Due process safeguards are built in to protect the prisoner's liberty interest.

Subsections (c) and (d) set out the minimum amount of a sentence a prisoner must serve before being eligible for discretionary parole. For discretionary parole eligible prisoners, the minimum term is decreased from one-third of the sentence under current law to one-fourth of the sentence, except for an individual convicted of first or second degree murder, kidnapping, or misconduct involving a controlled substance in the first degree. With this latter group, the minimum term remains one-third or the mandatory minimum, whichever is greater. The sentencing court may further restrict parole eligibility under AS 12.55.115. Parole eligibility is reduced by this bill only for first-time non-presumptive Class B or C felony offenders and for misdemeanants.

AS 33.15.110 codifies existing practice by setting out the information which the board must consider when determining a prisoner's suitability for discretionary parole.

AS 33.16.120 was enacted in 1984 as a portion of the Victim's Rights Legislation and gives a victim the right to comment in writing on a pending discretionary parole decision. The board is required to consider those comments. The board also has a duty to notify a victim if a prisoner is released on either discretionary or mandatory parole.

AS 33.16.130 places the responsibility for requesting discretionary parole on the prisoner rather than making the board responsible for reviewing all potentially eligible prisoners. Working with institutional staff, the prisoner would prepare a parole release plan, including the prisoner's plans for employment, treatment, residence and other relevant material, for presentation to the board. A hearing on the granting of parole is required. If the board denies an application for discretionary parole, a written decision must be issued and provided to the prisoner. This section mirrors current practice, but the procedural safeguards are made more specific.

ALASKA PAROLE BOARD
MANDATORY PAROLE INFORMATION
1985 - 1986

	Supplemental Conditions Set	Mandatory Parole Revocation Hearings
1985	179 Cases	25
1986	373 Cases	57

MEMORANDUM

State of Alaska


TO: Tom Wright
Legislation Aide
Rep. Swackhammer's Office

DATE: March 9, 1987

FILE NO.:

THRU: TELEPHONE NO.: 907-465-3384

SUBJECT: Mandatory Parole

FROM: Samuel H. Trivette
Executive Director
Parole Board 

Per your request of March 7, 1987, I researched out files and also contacted the National Institute of Corrections Information Center to obtain additional information on mandatory parole in other jurisdictions. Unfortunately no national data is being gathered on mandatory parole. However, I did discuss this issue at length with Brian Bemus at the Information Center. He has extensive knowledge in this area. He only knows of two states that have abolished mandatory parole supervision. Some other states require the Parole Board to parole prisoners prior to "flat-time" dates but don't call it mandatory parole.

Mr. Bemus stated that most states have a system similar to ours. That is, prisoners with only longer sentences go on supervision subject to conditions set by the Parole Board. At least one state has the supervision lengths tied to the seriousness of the crime. So he agrees House Bill 140 is fairly typical of mandatory parole laws.

Another point I think is important. Alaska is fairly unique in having "split sentences", that is a prison sentence with probation to follow. In most states a judge can impose only a short county jail sentence as a condition of probation. Otherwise the judge sends the offender to prison, and there is no probation to follow. I checked two of our larger correctional facilities today and over 95% of the felons sentenced for classified felony crimes have split sentences, i.e.; have jail time and probation to follow. The importance is most felons will be supervised on probation without mandatory parole, so the public will be protected.

BSN: 200

ALASKA HOUSE OF REPRESENTATIVES
CSHB 140(JUD)

1ST SESSION 15TH LEG

4/10/87 10:44 AM

		36	YEAS	0	NAYS	4	EXC	0	ABS		
Y	ADAMS	Y		Y	DONLEY	Y		Y	HUDSON	Y	POURCHOT
Y	BARNES	Y		Y	ELLIS	Y		Y	KOPONEN	Y	RIEGER
Y	BOUCHER	Y		Y	FRANK	Y		Y	LARSON	E	SHULTZ
Y	BOYER	Y		Y	FURNACE	Y		Y	MARTIN	Y	SPRINGER
Y	BROWN	Y		Y	GOLL	Y		Y	MENARD	E	SUND
Y	CATO	Y		Y	GRUENBERG	Y		Y	MILLER	Y	SWACKHAMMER
Y	COLLINS	Y		Y	GRUSSENDORF	E		Y	NAVARRE	Y	TAYLOR
Y	COTTEN	Y		Y	HANLEY	Y		Y	PEARCE	Y	ULMER
Y	DAVIDSON	Y	E		HERRMANN	Y		Y	PETTYJOHN	Y	WALLIS
Y	DAVIS	Y		Y	HOFFMAN	Y		Y	PHILLIPS	Y	ZAWACKI

STATE OF ALASKA THE LEGISLATURE

POUCH Y. - STATE CAPITOL
KUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

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

H. FIN.	4-7-87	1:30 P.M.
H. JUD.	3-25-87	1:30 P.M.
H. HESS	3-10-87	8:30 A.M.

3691), 578 P.2d 971 (1978); Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 35 (1980); State v. Brinkley, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984); Cleary v. State, Sup. Ct. Op. No. 1257 (File No. 2623), 548 P.2d 952 (1976); Salazar v. State, Sup. Ct. Op. No. 1404 (File No. 2567), 562 P.2d 694 (1977); Cleary v. State, Sup. Ct. Op. No. 1431 (File No. 3059), 564 P.2d 374 (1977); Amidon v. State, Sup. Ct. Op. No. 1434 (File Nos. 2511, 2512), 565 P.2d 1248 (1977); Black v. State, Sup. Ct. Op. No. 1506 (File No. 3327), 569 P.2d 804 (1977); Sumabat v. State, Sup. Ct. Op. No. 1648 (File No. 3739), 580 P.2d 323 (1978); Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978); Kanipe v. State, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); Hintz v. State, Sup. Ct. Op. No. 2334 (File No. 3541), 627 P.2d 207 (1981).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, Sup. Ct. Op. No. 1529 (File No. 3209), 571 P.2d 1003 (1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record

indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. Pascoe v. State, Sup. Ct. Op. No. 2249 (File No. 4290), 628 P.2d 547 (1980).

Case remanded for resentencing. — See Neal v. State, Sup. Ct. Op. No. 2341 (File No. 4787), 628 P.2d 19 (1981).

Case remanded for sentence review.

— Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, Sup. Ct. Op. No. 1843 (File No. 3564), 594 P.2d 50 (1979).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years.

(b) A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, two years.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (f) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

(i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

WAC 33.16.010 DOCUMENT#

CHAPTER # 33.16
SECTION # 33.16.010
TITLE # 33
HEADING TITLE 33.

PROBATION, PRISONS, AND PRISONERS.
CHAPTER 16.
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.010.

CATCH LINE

PAROLE.

TEXT

(A) A PRISONER WHO IS SERVING A TERM OR TERMS OF AT LEAST 180 DAYS IS ELIGIBLE FOR EITHER DISCRETIONARY OR MANDATORY PAROLE.

(B) A PRISONER WHO IS ELIGIBLE UNDER AS 33.16.090 MAY BE GRANTED DISCRETIONARY PAROLE BY THE BOARD OF PAROLE.

(C) A PRISONER WHO IS NOT ELIGIBLE FOR DISCRETIONARY PAROLE, OR WHO IS NOT RELEASED ON DISCRETIONARY PAROLE, SHALL BE RELEASED ON MANDATORY PAROLE FOR THE TERM OF GOOD TIME DEDUCTIONS CREDITED UNDER AS 33.20, IF THE TERM OR TERMS OF IMPRISONMENT EXCEED 180 DAYS.

(D) A PRISONER RELEASED ON DISCRETIONARY OR MANDATORY PAROLE IS SUBJECT TO THE CONDITIONS OF PAROLE IMPOSED UNDER AS 33.16.150. PAROLE MAY BE REVOKED UNDER AS 33.16.220.

HISTORY (SEC. 2 CH 88 SLA 1985)

ANNOTATIONS

LEGISLATIVE HISTORY REPORTS. - FOR HOUSE LETTER OF INTENT RELATED TO THIS SECTION, SEE 1985 HOUSE JOURNAL P. 821.

NOTE: * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 33.15
SECTION = 33.15.100
TITLE = 33
REVISOR TITLE 33.
PROBATION, PRISONS, AND PRISONERS.
CHAPTER 33.
PAROLE ADMINISTRATION.

CITATION SEC. 33.15.100

CATCH LINE

GRANTING OF DISCRETIONARY PAROLE.

TEXT

(A) THE BOARD MAY AUTHORIZE THE RELEASE OF A PRISONER ON DISCRETIONARY PAROLE IF IT DETERMINES A REASONABLE PROBABILITY EXISTS THAT

(1) THE PRISONER WILL LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING ANY LAWS OR CONDITIONS IMPOSED BY THE BOARD,

(2) THE PRISONER'S REHABILITATION AND REINTEGRATION INTO SOCIETY WILL BE FURTHERED BY RELEASE ON PAROLE,

(3) THE PRISONER WILL NOT POSE A THREAT OF HARM TO THE PUBLIC IF RELEASED ON PAROLE, AND

(4) RELEASE OF THE PRISONER ON PAROLE WOULD NOT DIMINISH THE SERIOUSNESS OF THE CRIME.

(B) IF THE BOARD FINDS A CHANGE IN CIRCUMSTANCES IN A PRISONER'S PAROLE RELEASE PLAN SUBMITTED UNDER AS 33.15.130(A), OR DISCOVERS NEW INFORMATION CONCERNING A PRISONER WHO HAS BEEN GRANTED A PAROLE RELEASE DATE, THE BOARD MAY REVOKE OR REVISE THE PREVIOUSLY GRANTED PAROLE RELEASE DATE. IN RECONSIDERING THE RELEASE DATE THE PROCEDURES SET OUT IN AS 33.15.130(B) AND (C) SHALL BE FOLLOWED.

(C) EXCEPT AS PROVIDED IN (D) OF THIS SECTION, A PRISONER MAY NOT BE RELEASED ON DISCRETIONARY PAROLE UNTIL THE PRISONER HAS SERVED AT LEAST ONE-FOURTH OF THE PERIOD OF CONFINEMENT IMPOSED, ONE-FOURTH OF AN ENHANCED PERIOD OF CONFINEMENT IMPOSED UNDER AS 12.55.155(A), OR ANY MINIMUM TERM SET UNDER AS 12.55.115 AT SENTENCING, WHICHEVER IS GREATER.

(D) A PRISONER WHO IS SENTENCED FOR A TERM UNDER AS 12.55.125(A) OR (B) MAY NOT BE RELEASED ON DISCRETIONARY PAROLE UNTIL THE PRISONER HAS SERVED THE MANDATORY MINIMUM TERM UNDER AS 12.55.125(A) OR (B), AT LEAST ONE-THIRD OF THE PERIOD OF CONFINEMENT IMPOSED, OR ANY MINIMUM TERM SET UNDER AS 12.55.115 AT SENTENCING, WHICHEVER IS GREATER.

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NOTED TO DECISIONS THE TRIAL COURT IS NOT REQUIRED TO ADVISE OF PAROLE MINIMUMS, OR OF ITS AUTHORITY TO FIX PAROLE ELIGIBILITY, UNDER THE TERMS OF CR. R. 11; BUT IT IS PREFERABLE FOR THE COURT TO INFORM THE DEFENDANT. *NEWMAN V. STATE*, SUP. CT. 031, NO. 2282 (FILE NO. 2284), 152 P.3D 1017 (1978), DECIDED UNDER FORMER AS 33.15.000. AN INCREASE IN THE MINIMUM PERIOD OF INCARCERATION REQUIRED BEFORE BECOMING ELIGIBLE FOR PAROLE IS AN INCREASE IN THE SENTENCE. *NELSON V. STATE*, SUP. CT. 031, NO. 2260 (FILE NO. 4692), 157 P.2D 502 (1981), DECIDED UNDER FORMER AS 33.15.000.

CHAPTER = 33.16
SECTION = 33.16.210
TITLE = 33
ENRICHED TITLE 33.

PROBATION, PRISONS, AND PRISONERS.
CHAPTER 16.
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.210.

LATCH LINE

* DISCHARGE OF PAROLEE.

TEXT THE BOARD MAY UNCONDITIONALLY DISCHARGE A PAROLEE FROM THE JURISDICTION AND CUSTODY OF THE BOARD AFTER THE PAROLEE HAS COMPLETED TWO YEARS OF PAROLE, IF THE SENTENCE OF THE PAROLEE DOES NOT INCLUDE A RESIDUAL PERIOD OF PROBATION. A PAROLEE WITH A RESIDUAL PERIOD OF PROBATION MAY, AFTER TWO YEARS OF PAROLE, BE DISCHARGED BY THE BOARD TO IMMEDIATELY BEGIN SERVING THE RESIDUAL PERIOD OF PROBATION.

HISTORY (SEC. 2 CH 88 SLA 1985)

PC501 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 33.15
SECTION = 33.16.900
TITLE = 33
READING TITLE 33.
PROBATION, PRISONS, AND PRISONERS.
CHAPTER 16.
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.900.
MATCH LINE

TEXT DEFINITIONS.
IN THIS CHAPTER

- (1) "BOARD" MEANS THE BOARD OF PAROLE.
- (2) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTIONS.
- (3) "CONTROLLED SUBSTANCE" MEANS A DRUG, SUBSTANCE, OR IMMEDIATE PRECURSOR INCLUDED IN THE SCHEDULES SET OUT IN AS 11.71.149 - 11.71.190.
- (4) "CRIME AGAINST A PERSON" HAS THE MEANING GIVEN IN AS 33.50.900.
- (5) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS.
- (6) "DISCRETIONARY PAROLE" MEANS THE RELEASE OF A PRISONER BY THE BOARD BEFORE THE EXPIRATION OF A TERM, SUBJECT TO CONDITIONS IMPOSED BY THE BOARD AND SUBJECT TO ITS CUSTODY AND JURISDICTION.
- (7) "MANDATORY PAROLE" MEANS THE RELEASE OF A PRISONER WHO WAS SENTENCED TO ONE OR MORE TERMS OF IMPRISONMENT EXCEEDING 180 DAYS, FOR THE PERIOD OF GOOD TIME CREDITED UNDER AS 33.20, SUBJECT TO CONDITIONS IMPOSED BY THE BOARD AND SUBJECT TO ITS CUSTODY AND JURISDICTION.
- (8) "PAROLEE" MEANS A PRISONER, SENTENCE TO ONE OR MORE TERMS OF IMPRISONMENT EXCEEDING 180 DAYS, RELEASED BY THE BOARD OR BY OPERATION OF LAW BEFORE THE EXPIRATION OF THE TERM, SUBJECT TO THE CUSTODY AND JURISDICTION OF THE BOARD.
- (9) "PRISONER" MEANS AN OFFENDER CONFINED FOR A VIOLATION OF STATE LAW, BUT DOES NOT INCLUDE A PERSON CONFINED UNDER AS 47.
- (10) "VICTIM" HAS THE MEANING GIVEN IN AS 12.55.185.

HISTORY (SEC. 2 CH 89 SLA 1985)
ANNOTATIONS

REVISOR'S NOTES FORMERLY AS 33.16.260. RENUMBERED IN 1988.

CHAPTER = 33.20
 SECTION = 33.20.940
 TITLE = 33
 ENGLISH TITLE 33.
 PROBATION, PRISONS, AND PRISONERS.
 CHAPTER 30.
 REMISSION OF SENTENCES AND EXECUTIVE PARDONS AND CLEMENCY.
 ARTICLE 1.
 REMISSION OF SENTENCES.
 CITATION SEC. 33.20.940.
 CATCH LINE

RELEASED PRISONER.

TEXT (A) A PRISONER RELEASED UNDER AS 33.20.930 SHALL BE RELEASED ON MANDATORY PAROLE TO THE CUSTODY AND JURISDICTION OF THE PAROLE BOARD UNDER AS 33.16, UNTIL THE EXPIRATION OF THE MAXIMUM TERM TO WHICH THE PRISONER WAS SENTENCED, IF THE TERM OR TERMS OF IMPRISONMENT EXCEEDED 180 DAYS. HOWEVER, A PRISONER RELEASED ON MANDATORY PAROLE MAY BE DISCHARGED UNDER AS 33.16.210 BEFORE THE EXPIRATION OF THE TERM. A PRISONER WHO WAS SENTENCED TO AN IMPRISONMENT OF 180 DAYS OR LESS SHALL BE UNCONDITIONALLY DISCHARGED, EXCEPT AS PROVIDED IN (C) OF THIS SECTION.

(B) THIS SECTION DOES NOT PREVENT DELIVERY OF A PRISONER TO THE AUTHORITIES OF A STATE OR THE UNITED STATES ENTITLED TO THE CUSTODY OF THE PRISONER.

(C) IF A PRISONER'S SENTENCE INCLUDES A RESIDUAL PERIOD OF PROBATION, A PRISONER RELEASED UNDER AS 33.20.930 SHALL IMMEDIATELY BEGIN SERVING THE RESIDUAL PROBATIONARY PERIOD, EXCEPT THAT IF MANDATORY PAROLE IS REQUIRED UNDER (A) OF THIS SECTION, SERVING THE PROBATIONARY PERIOD SHALL IMMEDIATELY FOLLOW DISCHARGE FROM PAROLE.

HISTORY (SIC. & CH 107 SLA 1969; AM SECS. 3, 4 CH 89 SLA 1985)

AMENDMENT NOTES EFFECT OF AMENDMENTS THE 1985 AMENDMENT REWROTE SUBSECTION (A) AND ADDED SUBSECTION (C).

DECISIONS NOTES TO DECISIONS THE WORDING OF 18 U.S.C. & 300 4144 IS VERY CLOSE TO THAT OF SUBSECTION (A). MORTON V. HAMMOND, SUP. CT. OP. NO. 1982 (FILE NO. 4982), 604 P.2D 1 (1979), DECIDED PRIOR TO 1985 AMENDMENT. PAROLE BOARD AUTHORITY. - PRISONERS WHO ARE RELEASED MANDATORILY UNDER THE PROVISIONS OF SUBSECTION (A) WITH GREATER THAN 180 DAYS TO SERVE UNDER THEIR SENTENCES ARE RELEASED AS IF RELEASED ON PAROLE, WHICH MEANS THAT THE PAROLE BOARD HAS THE AUTHORITY TO SET SPECIAL CONDITIONS OF RELEASE ON PAROLE WHICH ARE THE SAME AS THE SPECIAL CONDITIONS WHICH THE PAROLE BOARD SETS FOR PRISONERS WHICH IT RELEASES BY EXERCISING ITS DISCRETION, AND THE PAROLE BOARD CAN REVOKE THE PAROLE OF A PERSON ON MANDATORY RELEASE WHO VIOLATES THESE SPECIAL CONDITIONS, EVEN THOUGH THE VIOLATIONS ARE NOT VIOLATIONS OF STATUTORY CONDITIONS OF PAROLE. BRAHAM V. BIERNE, CT. APP. OP. NO. 337 (FILE NO. 7739), 575 P.2D 1297 (1984), DECIDED PRIOR TO 1985 AMENDMENT. RELEASE OF PRESUMPTIVELY SENTENCED PRISONER. - A PRESUMPTIVELY SENTENCED PRISONER WHO IS

