

HB

2 2 4

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**DEPARTMENT OF LAW**

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March 29, 1991

RECEIVED  
APR - 1 AM

The Honorable Pat Carney and Georgianna Lincoln  
Co-Chairmen  
Health, Education, & Social Services Committee  
Alaska House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 224 (An act relating to population management in the state  
correctional system)

Dear Representatives Carney and Lincoln,

I am writing to you in my role as counsel to the Alaska Department of Corrections on behalf of the Administration regarding HB 224. This bill, which deals with a proposed short-term solution to prison crowding in Alaska, has been referred to the House HESS Committee for a hearing.

On behalf of the Administration, I respectfully request that you set the bill on for a hearing before your committee. To assist you and the members of your committee in better understanding HB 224, I have prepared and enclosed a sectional analysis of the bill as well as a flow chart which displays how the provisions of the bill will be implemented. While the concept of HB 224 is relatively simple, the mechanics of the bill are a bit complicated; thus I look forward to testifying before the committee to explain its provisions.

In addition, I have enclosed a proposed amendment to HB 224 which the Administration respectfully requests that you consider at the time that HB 224 is calendared for a hearing. The proposed amendment is self-explanatory, and is addressed in the sectional analysis.

The Honorable Pat Carney and Georgianna Lincoln

March 29, 1991  
Page 2

Thank you for your anticipated response to this request to calendar HB 224 for a hearing.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

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

Enclosures

cc: Commissioner Lloyd Hames (w/enclosures)  
Commissioner Richard Burton (w/enclosures)  
Malcolm Roberts (w/enclosures) |  
Bruce Kendall (w/enclosures)  
Jeff Bush (w/enclosures)  
Alaska Sentencing Commission (w/enclosures)

MJS:mm-047

SECTIONAL ANALYSIS FOR AN ACT  
RELATING TO POPULATION  
MANAGEMENT IN THE STATE  
CORRECTIONAL SYSTEM (HB 224)

Introduction

This Act is a recognition of the universal view of corrections experts that a correctional system cannot adequately function when every prison bed is full. When all areas of correctional facilities designed for housing prisoners are full, violence is much more likely to occur, and correctional administrators have no flexibility to respond to the ever-changing demands of a growing prison population. Rehabilitative resources are stretched too thin to effectively fulfill their purpose of reforming offenders; and the public safety is thus adversely affected upon the release of prisoners from a crowded correctional system.

Because the prison population in Alaska is continuing to increase, this Act represents an effort to provide short term assistance in managing the prison population during overcrowding emergencies while more long term solutions to prison crowding can be explored by the legislative and executive branches of government. Recommendations that will address this problem in a more comprehensive way are anticipated to come from the Alaska Sentencing Commission over the next few years.

Under this Act, when the prison population in the correctional system exceeds its maximum capacity for an extended period, the Commission must notify the governor and parole board,

and certain offenders not otherwise eligible for parole become eligible after serving at least half their sentences. If the parole board, after careful scrutiny, deems such a prisoner a safe risk to the public, then he or she may be released on discretionary parole subject to supervision by a parole officer and conditions set by the board.

If the correctional system has not been provided adequate relief such that the prison population has dropped below its maximum capacity within 120 days of the notification to the governor, then certain low risk offenders within 120 days of their release date would be released early into supervised probation or parole.

This two step proposal is similar to ones utilized in a number of states with prison crowding problems. Following is a brief analysis of each section of the bill.

Section 1. Legislative Findings And Purpose.

This section is a statement of the purpose of the bill: to manage the population in state correctional facilities so as to better enable state correctional officials to achieve the dual constitutional goals of reformation of the offender and protection of the public. See, Alaska Constitution, Art. I, § 12.

Those offenders affected by this Act are deemed to present a lesser risk to the public than those whose release are not affected.

Section 2. AS 12.55.125(g).

This section cross references the provisions which provide the authority for special discretionary parole and early release of eligible prisoners when crowding conditions persist.

Section 3 & 4. AS 33.16.090(b); AS 33.16.090(c).

These sections cross reference the provision which provides that after prolonged prison crowding conditions, a limited exception may be made to the general rule that presumptively sentenced prisoners are not eligible for parole.

Section 5. AS 33.16.100(c).

This section does the same thing as sections 3 and 4; and, in addition, makes two technical amendments to better clarify existing law.

Section 6. AS 33.25.010 -- 33.25.090, Prison Population Management Act.

This section adds a new chapter to Title 33 in Alaska's statutes. The sections in this chapter provide the statutory scheme to help manage Alaska's prison population when overcrowding conditions persist. A brief analysis of each section and its intent follows:

## CHAPTER 25. PRISON POPULATION MANAGEMENT ACT

### Section 33.25.010. Capacity of Correctional System.

This section requires the commissioner of corrections to adopt regulations under the Administrative Procedure Act (AS 44.62) specifying the maximum capacity of each state correctional facility and of the correctional system. The term "maximum capacity" is defined in proposed AS 33.25.910(5) as the maximum number of prisoners that can be accommodated in areas of a correctional facility designed for the general housing of prisoners. This excludes temporary holding areas. The commissioner will utilize generally accepted principles of correctional management in setting the maximum capacities including such factors as square footage in common and living areas, time out of living units, inmate/staff ratios, physical plant limitations, custody levels of inmates, and program resources. These factors are set out in the Final Settlement Agreement and Order in Cleary v. Smith, 3AN-81-5274 Civ.

### Section 33.25.020. Duties of the Commissioner.

This section sets out the duties of the commissioner so as to implement the provisions of this chapter. If the average daily prisoner population exceeds the maximum capacity of the system for a 30-day period, the commissioner is required to notify the governor and parole board; prepare a list of prisoners who would be eligible for special discretionary parole under AS 33.25.030; and explore alternatives for reducing prison

crowding, including increasing the maximum capacity, with executive and legislative branch leaders.

Under subsection (b), if the population continues to exceed the maximum capacity, the prisoners on the list become eligible for special discretionary parole, and the commissioner must notify the prisoners of their eligibility.

Under subsection (c), if the provisions regarding special discretionary parole are implemented, and the prison population nonetheless continues to exceed maximum capacity, the commissioner shall again notify the governor and parole board and immediately prepare a list of prisoners eligible for early release under AS 33.25.070.

If the early release of prisoners into supervised probation or parole under AS 33.25.050 does not reduce the prison population below maximum capacity, then the commissioner is obliged to again perform the duties relating to special discretionary parole consideration.

Finally, subsection (d) provides that this statutory population management tool (i.e., special discretionary parole consideration and early release) may not be utilized and the relevant time periods begin to run anew if the prison population falls below maximum capacity during certain relevant time periods.

Section 33.25.030. Special Discretionary Parole Eligibility.

This section sets out actual periods of eligibility and eligibility requirements for special discretionary parole for

classes of prisoners set out in AS 33.25.040.

Subsection (b) recognizes the due process right of a prisoner to retain his or her parole eligibility once it is achieved, even if the prison population falls below maximum capacity. Subsection (c) provides that, notwithstanding other provisions, no prisoner will become eligible for special discretionary parole if, at the time prisoners would otherwise become eligible, the commissioner determines that the maximum capacity of the prison system will be increased within the next 45 days such that it will exceed the prison population.

Section 33.25.040. Classes of Prisoners Eligible for Special Discretionary Parole.

A state prisoner who has not previously been revoked after being released on special discretionary parole or early release under this chapter is eligible for special discretionary parole when prison crowding conditions warrant, if the prisoner is serving a sentence of at least 181 days (minimum eligibility for parole under AS 33.16.090(a)) for a crime other than an unclassified or A Felony under AS 11, an equivalent offense under Alaska's former criminal code, or certain serious class B felonies (any B felony against a person under AS 11.41, arson in the second degree, criminal mischief in the first degree, and attempt or solicitation to commit a class A felony offense); and the prisoner is not otherwise eligible for parole due to the service of a presumptive sentence.

The critical element in this section which serves to

protect the public, in addition to excluding the most serious felons, is that a prisoner eligible for special discretionary parole may not be released on parole unless the parole board determines, with reasonable probability, that the prisoner will not violate the law or otherwise pose a threat to the public. AS 33.16.100(a). This provision along with AS 33.25.030 provides the opportunity, after prison crowding conditions persist, for certain less serious felons who have served one half of their sentences and who are not otherwise eligible for parole, and who have demonstrated a strong commitment toward rehabilitation, to be considered for discretionary parole.

Section 33.25.050 Early Release And Probation or Parole Supervision.

Subsection (a) requires the commissioner to release early each prisoner eligible under AS 33.25.070 into supervised probation or parole if crowding conditions still exist 120 days after eligible prisoners have been considered for special discretionary parole. A prisoner may not be released early until he or she agrees in writing to follow the conditions of behavior required while on supervision.

Subsection (b) dictates whether a person released early is to be under parole or probation supervision. Each prisoner released early will be under either parole or probation supervision except for a prisoner who has less than 10 days remaining to serve on a sentence at the time of early release, and who is not subject to probation or parole after the term of incarceration. Such a

prisoner requires no supervision upon release.

Subsection (c) makes clear that the prohibition in AS 12.55.090(c) against probation lasting more than five years does not apply to a prisoner released early under (a) of this section.

Section AS 33.25.060. Violation of Conditions of Early Release.

This section provides authority for a court to revoke the probation resulting from early release and the probation following early release, if a prisoner on early release violates a law or condition of probation. The same authority is provided to the parole board for a prisoner on parole resulting from early release.

Section 33.25.070. Prisoners Eligible for Early Release.

This section lists seven requirements that must be met for a prisoner to be released early under AS 33.25.050. As in AS 33.25.040 (eligibility for special discretionary parole), the most serious offenders are not eligible for early release. The seven requirements are self-explanatory and are aimed at releasing early only those prisoners who have served at least one-half of their period of confinement, are least likely to endanger the public and who are very close to the end of their sentences.

Section 33.25.080. Limitation on Civil Action.

This section prohibits anyone from bringing a civil action against the state or a state employee for failure to comply with any of the time limits established in this chapter. If this

Act is adopted, it is possible that time pressures caused by prison crowding and an effort to safeguard the public while complying with the provisions in this chapter may result in missing certain time frames. No liability will flow from such an occurrence.

Section 33.25.900. Definitions.

This section defines the terms in AS 33.25.

Section 7.

With the Administration's proposed amendment, this section provides for this chapter to be repealed in four years. This sunset provision is a recognition that the relief provided to prison crowding by this chapter is a short-term emergency measure that should no longer be needed after the comprehensive recommendations of the Alaska Sentencing Commission (AS 44.19.561 - - 44.19.577) are presented to the legislature, and long-term solutions to prison crowding are implemented.

Section 8. Immediate Effective Date.

This section provides for an immediate effective date for this Act.

**HOUSE COMMITTEE REPORT**

(7) Date Referred: March 20, 1991 FURTHER REFERRALS: Judiciary

Date of Committee Action: \_\_\_\_\_

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 224

HOUSE BILL NO. 224 PRISON POPULATION MANAGEMENT

"An Act relating to population management in the state correctional system; and providing for an effective date."

RECOMMENDATIONS:  
 be replaced with CS HB 224 (HES)  the same title  
 a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note Dept. of Corrections  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	Betty Davis		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	Mark Hendon		<input checked="" type="checkbox"/>	
<i>J. C. Douglas</i>	<input checked="" type="checkbox"/>	Mary Miller		<input checked="" type="checkbox"/>	
		Cheri Davis		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	

*[Signature]*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. H.B. 224

Revision Date: \_\_\_\_\_ Department Affected: Corrections  
 Title: "An Act relating to population management...state correctional system.." BRU: Statewide Operations  
 Component: \_\_\_\_\_  
 Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: 465-3376  
 Division: Administrative Services Date: 04-12-91

Approved by Commissioner: \_\_\_\_\_  
 Agency: Department of Corrections Date: 04-12-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

7-GH0024D  
Gaguine  
4/25/91

**CS FOR HOUSE BILL NO. 224 (HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES/GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to sentencing and to population management in the state correctional  
2 system; and providing for an effective date."**

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

**4 \* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.** The purpose of this Act is to manage the  
5 population in state correctional facilities so as to better enable state correctional officials to achieve the  
6 dual constitutional goals of protection of the public and reformation of the offender. The classes of  
7 prisoners eligible for parole or early release under this Act are considered by the legislature to present  
8 a lesser risk to the public safety than those classes whose release is unaffected. The legislature finds  
9 that the purposes of this Act can be best accomplished by differentiating between these classes of  
10 prisoners. However, the legislature views the provisions of AS 33.22 as establishing an extraordinary  
11 remedy to reduce prison crowding. Accordingly, it is expected that the commissioner of corrections will  
12 exhaust all available options for reducing prison crowding so as to minimize the necessity of utilizing  
13 this remedy.

**14 \* Sec. 2. AS 12.55.125(g) is amended to read:**

1 (g) If a defendant is sentenced under (c), (d), (e) [(d)(1), (d)(2), (e)(1), (e)(2)], or (i) of  
 2 this section, except to the extent permitted under AS 12.55.155 - 12.55.175, AS 33.22.030, and  
 3 33.22.050:

- 4 (1) imprisonment may not be suspended under AS 12.55.080;
- 5 (2) imposition of sentence may not be suspended under AS 12.55.085;
- 6 (3) terms of imprisonment may not be otherwise reduced.

7 \* Sec. 3. AS 33.16.090(b) is amended to read:

8 (b) Except as provided in AS 33.22.030, a [A] prisoner is not eligible for discretionary  
 9 parole during the term of a presumptive sentence; however, a prisoner is eligible for discretionary  
 10 parole during a term of sentence enhancement imposed under AS 12.55.155(a) or during the term  
 11 of a consecutive or partially consecutive presumptive sentence imposed under AS 12.55.025(e)  
 12 or (g).

13 \* Sec. 4. AS 33.16.090(c) is amended to read:

14 (c) Except as provided in AS 33.22.030, a [A] prisoner eligible for discretionary parole  
 15 during a period of sentence enhancement imposed under AS 12.55.155(a) or during a consecutive  
 16 or partially consecutive presumptive sentence imposed under AS 12.55.025(e) or (g) shall serve  
 17 the unenhanced portion of the sentence or the initial presumptive sentence before being otherwise  
 18 eligible for discretionary parole under AS 33.16.100(c) or (d). For purposes of this subsection,  
 19 the sentence for the most serious offense in the case of consecutive or partially consecutive  
 20 presumptive sentences shall be considered the initial presumptive sentence. The unenhanced  
 21 sentence or the initial presumptive sentence is considered served for purposes of discretionary  
 22 parole on the date the unenhanced or initial presumptive sentence is due to expire less good time  
 23 earned under AS 33.20.010.

24 \* Sec. 5. AS 33.16.100(c) is amended to read:

25 (c) Except as provided in (d) of this section and AS 33.22.030, a prisoner may not be  
 26 released on discretionary parole until the prisoner has served at least one-fourth of the period of  
 27 confinement imposed, one-fourth of an enhanced or consecutive or partially consecutive period  
 28 of confinement imposed under AS 12.55.025 or 12.55.155(a) [AS 12.55.155(a)] or any minimum  
 29 term set under AS 12.55.115 at sentencing, whichever is greater.

30 \* Sec. 6. AS 33 is amended by adding a new chapter to read:

31 CHAPTER 22. PRISON POPULATION MANAGEMENT ACT.

1           Sec. 33.22.010. CAPACITY OF CORRECTIONAL SYSTEM. The commissioner shall  
2 specify, by regulations adopted under the Administrative Procedure Act (AS 44.62), the  
3 maximum capacity of each state correctional facility and the maximum capacity of the correct-  
4 ional system.

5           Sec. 33.22.020. DUTIES OF THE COMMISSIONER. (a) If the average daily prisoner  
6 population exceeds the maximum capacity of the system for a 30-day period, the commissioner  
7 shall

8                   (1) on the next working day, notify the governor and the board of parole;

9                   (2) within 15 days, prepare a list of prisoners who would be eligible under  
10 AS 33.22.030 for special discretionary parole consideration; and

11                  (3) with representatives from the executive and legislative branches, explore  
12 alternatives for reducing the prison population or increasing the maximum capacity of the system.

13           (b) The commissioner shall notify prisoners of their eligibility under AS 33.22.030 for  
14 special discretionary parole.

15           (c) If the provisions in AS 33.22.030(a) are implemented but the average daily prisoner  
16 population exceeds the maximum capacity of the system for the 30-day period ending 120 days  
17 after the commissioner's notification of the governor under (a)(1) of this section, the  
18 commissioner shall again notify the governor and board of parole and immediately prepare a list  
19 of prisoners eligible under AS 33.22.070 for early release. If prisoners are released early under  
20 AS 33.22.050(a) but the average daily prisoner population exceeds the maximum capacity of the  
21 system for the 15-day period ending 30 days after the commissioner's notification of the governor  
22 under this subsection, the commissioner shall again perform the duties set out in (a)(1) - (3) of  
23 this section.

24           (d) A subsequent 30-day period that might require notification of the governor under (a)  
25 of this section begins to run

26                   (1) 15 days after a determination is made by the commissioner under  
27 AS 33.22.030(c) or 33.22.050(d); or

28                   (2) the day after the prison population falls below the maximum capacity of the  
29 system for either of the time periods in (c) of this section.

30           Sec. 33.22.030. SPECIAL DISCRETIONARY PAROLE ELIGIBILITY. (a) If the  
31 average daily prisoner population exceeds the maximum capacity of the system for the 15-day

1 period following the commissioner's notification to the governor under AS 33.22.020(a)(1), a  
 2 prisoner who is in, or within the next 105 days falls into, the class of prisoners eligible under  
 3 AS 33.22.040 for special discretionary parole is eligible for special discretionary parole if, by the  
 4 end of the 105-day period, the prisoner will have served the greater of

5 (1) one-half of the unenhanced portion of the presumptive sentence for the most  
 6 serious offense for which the prisoner is sentenced, plus the period of time equal to one-quarter  
 7 of an enhanced, consecutive, or partially consecutive sentence;

8 (2) any minimum term required by law; or

9 (3) any minimum term set by the court under AS 12.55.115.

10 (b) Unless special discretionary parole under this chapter is revoked, a prisoner who  
 11 becomes eligible for parole under (a) of this section remains eligible despite decreases in the  
 12 prison population or increases in the maximum capacity of the system.

13 (c) Notwithstanding (a) of this section, a prisoner is not eligible for special discretionary  
 14 parole if, at the end of the 15-day period described in AS 33.22.020(a)(2), the commissioner has  
 15 determined that the maximum capacity of the system will be increased, or additional space will  
 16 become available by contract, so that the average daily prisoner population will be less than the  
 17 maximum capacity of the system within 45 days.

18 Sec. 33.22.040. CLASS OF PRISONERS ELIGIBLE FOR SPECIAL DISCRETIONARY  
 19 PAROLE. A state prisoner whose special discretionary parole or early release under this chapter  
 20 has not previously been revoked, and who is serving a sentence of at least 181 days for a crime  
 21 other than one of the following, is in the class of prisoners eligible for special discretionary  
 22 parole under AS 33.22.030(a):

23 (1) an unclassified or class A felony under AS 11;

24 (2) a felony against a person under former AS 11.15, arson under former  
 25 AS 11.20.010 or 11.20.020, or a felony attempt to commit one of the offenses set out in this  
 26 paragraph;

27 (3) a class B felony that was:

28 (A) against a person under AS 11.41;

29 (B) arson under AS 11.46.410;

30 (C) criminal mischief under AS 11.46.480; or

31 (D) attempt or solicitation to commit an offense under AS 11.31.100 or

1 11.31.110.

2 Sec. 33.22.050. EARLY RELEASE AND PROBATION OR PAROLE SUPERVISION.

3 (a) Except as provided in (d) of this section, within five working days after notifying the  
4 governor under AS 33.22.020(c), the commissioner shall release each prisoner eligible under  
5 AS 33.22.070 after the prisoner agrees in writing to abide by the conditions of supervision set  
6 out in (b) of this section.

7 (b) A prisoner released early under (a) of this section is subject to the provisions of (c)  
8 of this section and shall be placed on supervised probation or parole as follows:

9 (1) if the prisoner's sentence provides for probation to follow incarceration, the  
10 prisoner is on probation during the period of supervision resulting from early release, subject to  
11 the same conditions of probation ordered by the court and, if the prisoner is serving a sentence  
12 for a felony offense, subject to the reasonable conditions set by the prisoner's probation officer;

13 (2) if the prisoner is scheduled to be released on parole during the period of early  
14 release or after the term of incarceration, the prisoner is on parole during the period of  
15 supervision resulting from early release, subject to the same conditions of parole imposed by the  
16 board of parole; or

17 (3) if the prisoner is not subject to probation or parole after the term of  
18 incarceration and the prisoner has more than 10 days remaining to serve on the sentence at the  
19 time of early release, the prisoner is on parole during the period of supervision resulting from  
20 early release, subject to conditions imposed by the board of parole; if the prisoner has 10 days  
21 or less remaining to serve on the sentence at the time of early release, the prisoner is  
22 unconditionally discharged.

23 (c) Notwithstanding (b) of this section, a prisoner released early under (a) of this section,  
24 who has 30 days or longer remaining to serve at the time of early release, shall be required as  
25 a condition of probation or parole to reside at a community residential center and follow the rules  
26 of the center during the period of supervision resulting from early release. If there is insufficient  
27 space at community residential centers to accommodate the number of prisoners released early  
28 under (a) of this section, the commissioner shall determine which prisoners shall reside at a  
29 center and which prisoners may be permitted to reside outside a center. In making this  
30 determination, the commissioner shall consider such factors as the time remaining to be served  
31 on each prisoner's sentence, protection of the public, and the proximity of community residential

1 centers to the correctional facilities from which prisoners will be released.

2 (d) A prisoner may not be released early if, during the five-working-day period following  
3 the commissioner's notification of the governor under AS 33.22.020(c), the commissioner  
4 determines that the maximum capacity of the system will be increased, or additional space will  
5 become available by contract, so that the average daily prisoner population will be less than the  
6 maximum capacity of the system within 45 days.

7 (e) AS 12.55.090(c) does not apply to a prisoner being released early under (a) of this  
8 section.

9 Sec. 33.22.060. VIOLATION OF CONDITIONS OF EARLY RELEASE. (a) The court  
10 may revoke the probation resulting from early release under AS 33.22.050 and the probation  
11 following early release, for violation of a state or federal law or municipal ordinance for which  
12 violation is punishable by imprisonment, or for violation of a condition of probation imposed by  
13 the court or the prisoner's probation officer.

14 (b) The board of parole may revoke the parole resulting from early release under  
15 AS 33.22.050 and the parole following early release, for violation of a state or federal law or  
16 municipal ordinance that is punishable by imprisonment, or for violation of a condition imposed  
17 by the board of parole.

18 Sec. 33.22.070. PRISONERS ELIGIBLE FOR EARLY RELEASE. A state prisoner is  
19 eligible for early release under AS 33.22.050 if the prisoner

20 (1) is serving a sentence for an offense other than one listed in AS 33.22.040;

21 (2) has not had special discretionary parole or early release under this chapter  
22 revoked previously;

23 (3) at the end of the five-working-day period described in AS 33.22.050(a)

24 (A) will have no more than 120 days remaining to serve; and

25 (B) will have served at least one-half of the period of confinement;

26 (4) has no outstanding detainers; and

27 (5) in the preceding six months, has not been convicted of a disciplinary infraction  
28 for which good time may be forfeited; a prisoner charged with a disciplinary infraction is not  
29 eligible for early release unless the prisoner is found not guilty of the infraction.

30 Sec. 33.22.080. LIMITATION ON CIVIL ACTION. A person may not commence a  
31 civil action against the state or an employee of the state for failure to comply with the time limits

1 established in this chapter.

2 Sec. 33.22.900. REGULATIONS. The commissioner may adopt regulations necessary  
3 to carry out the provisions of this chapter.

4 Sec. 33.22.910. DEFINITIONS. In this chapter, unless the context requires otherwise,

5 (1) "average daily prisoner population" means the total of the daily morning  
6 prisoner counts at each state correctional facility divided by the number of days in the period  
7 under observation;

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

9 (3) "community residential center" means a residential facility with varying levels  
10 of supervision and services, made available to the Department of Corrections by contract and  
11 designed to facilitate the reintegration of prisoners into society;

12 (4) "detainer" means a written request from another jurisdiction seeking  
13 notification of a prisoner's pending release in order to facilitate securing the prisoner's presence  
14 in that jurisdiction to answer to criminal charges or satisfy a sentence;

15 (5) "felony" has the meaning given in AS 11.81.900(b);

16 (6) "maximum capacity" means the maximum number of prisoners, as determined  
17 by the commissioner under AS 33.22.010, that can be accommodated in areas of a correctional  
18 facility designed for the housing of prisoners, excluding segregation and other temporary holding  
19 areas;

20 (7) "maximum capacity of the system" means the sum of the maximum capacities  
21 for all state correctional facilities;

22 (8) "misdemeanor" has the meaning given in AS 11.81.900(b); and

23 (9) "state correctional facility" means a correctional facility owned or operated  
24 by the state that holds persons charged with or convicted of violations of law.

25 \* Sec. 7. AS 33.22 is repealed July 1, 1995.

26 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

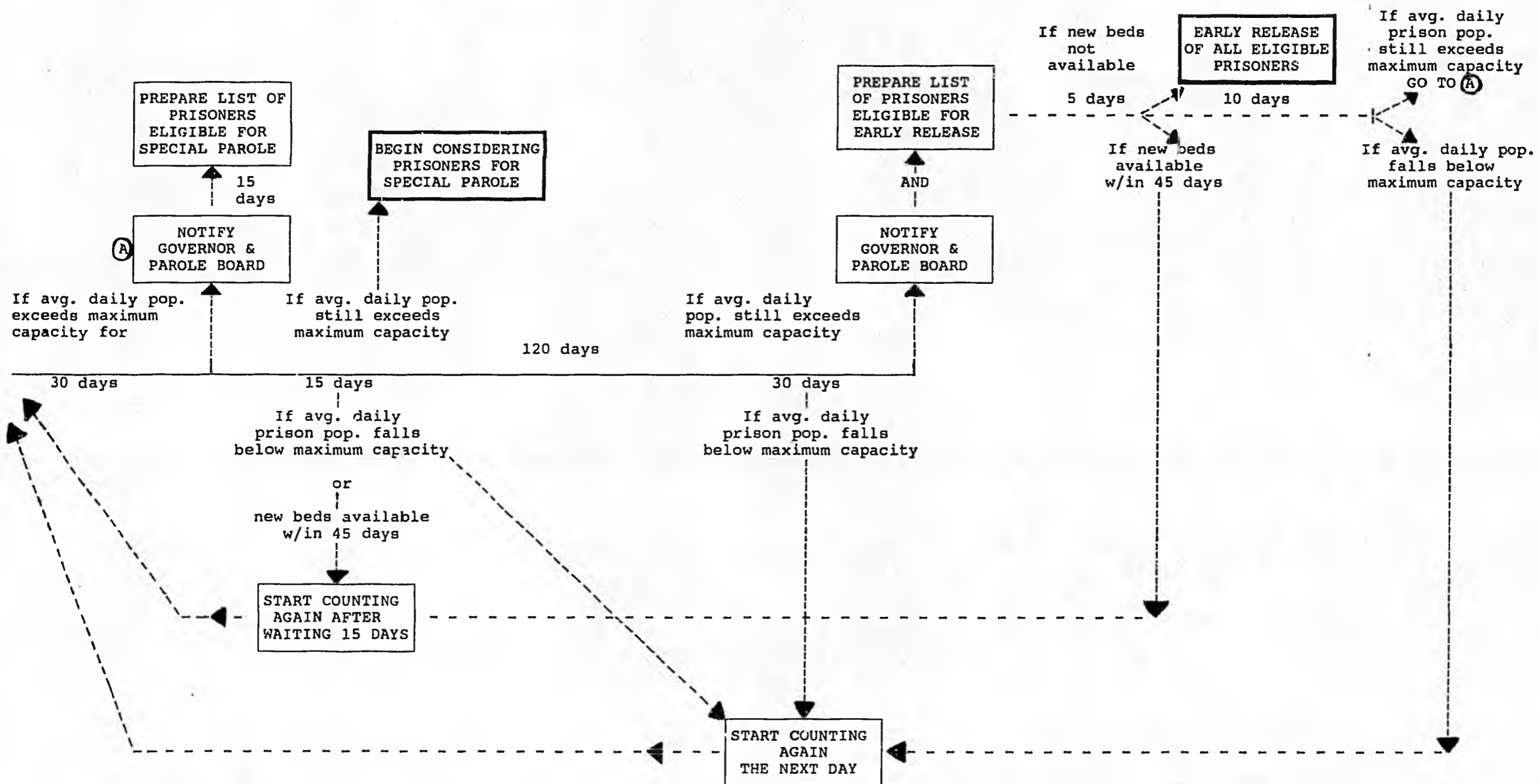
by D.O.L.

Proposed Amendment To HB 224

Page 7 line 11: Move the effective date clause to new section 8 on line 12, and replace with the following: "AS 33.25 is repealed July 1, 1995."

*proposed amendment*

# FLOW CHART FOR PRISON POPULATION MANAGEMENT ACT



- Flow Chart -