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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 286

Revisio. Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act extending the Parole Board BRU: Admin/Support  
 Component: Parole Board  
 Sponsor: Sen. Kelly  
 Requestor: Sen. L&C COMPONENT SERIAL NO. 605

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of any current year (FY94) cost: \$ 0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The Parole Board is contained in the department's proposed FY95 budget.

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 2/11/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2/14/94  
 Agency: Department of Corrections

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL SUITE 101  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-3822  
FAX: (907) 465-3756

## SENATE LABOR AND COMMERCE COMMITTEE

716 W 4TH, SUITE 400  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8180  
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### **SPONSOR STATEMENT: SB 286 - EXTEND THE BOARD OF PAROLE**

SB 286 and its House companion HB 418, introduced by Representative Bettye Davis, would extend the Board of Parole for the customary four-year period under AS 44.66.010(c). Under current law, and without passage of this legislation, the Board will shut down on June 30, 1994. The Board sunsetted on June 30th, 1993, and is in its "close-down" year.

The State Board of Parole was created in 1960 and has been an essential component of Alaska's criminal justice system. There are currently 70 felons on parole supervision. Each year, about 400 prisoners are eligible to be released to discretionary parole supervision for a portion of their sentence. In addition, 500 prisoners are released to mandatory parole supervision for a period equal to one-third of the sentence.

Expiration of the Parole Board will not alter the state's responsibility under Title 33, Chapter 16, which provides for prisoners to be eligible for and supervised on discretionary and mandatory parole. The state will almost certainly be a party to costly litigation to determine the legal status of prisoners, parolees and victims.

The Board of Parole has been an effective vehicle in administering the parole process.


# MEMORANDUM

Alaska Board of Parole

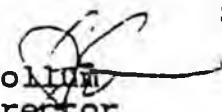
(907) 465-3384 Fax (907) 465-2006  
P.O. Box 112000, Juneau, Alaska 99811

TO: J. Frank Prewitt, Jr.  
Commissioner  
Department of Corrections

DATE: December 16, 1993

THRU: Diane Schenker   
Special Assistant to the Commissioner

TELEPHONE NO: (907) 465-3384

FROM: Richard E. Collins   
Executive Director  
Alaska Board of Parole

SUBJECT: Legislative Proposal

Please find attached a 1994 Legislative Proposal Form. This request form is submitted by the Parole Board Members at the suggestion of Michael J. Stark and Deborah E. Behr, Assistant Attorneys General, Department of Law, and is proposed to provide a clarification of Alaska Statute 33.16.050(c).

I can not overemphasize the urgency of this request. The subject matter of this clarification is the basis for at least two current law suits pending against the Board. If we lose one of these suits you can anticipate a copycat effect of similar suits multiplying exponentially. Consequently, this statutory change, at a minimum, will result in a reduction in litigation. In addition, if the Court rules against the Board in one of the current suits this statutory clarification would avert a substantial increase in our workload and a resulting increase in cost of operation.

This clarification should be non-controversial and is meant only to assure the Board's continued efficiency. Please approve and forward this request to the Governor's office as soon as possible.

If I can provide any additional information in this regard please do not hesitate to contact me.

cc: Michael J. Stark, Assistant Attorney General  
Department of Law, Juneau

CORRECTIONS PROPOSAL



**1994 LEGISLATIVE PROPOSAL FORM**

Return this form to the Governor's Legislative  
Office no later than August 13, 1993

**DEPARTMENT:** Department of Corrections  
Alaska Board of Parole

**SUBJECT OF PROPOSED BILL:** Amend AS 33.16.050(c) to clarify that the requirement for a majority of the Board to issue orders or decisions was never intended to apply to the setting of special or supplemental conditions of parole which has traditionally been done by a single member, subject to the parolee's right of appeal to the full Board.

**DEPARTMENT PRIORITY NO.** \_\_\_\_\_

**SPECIFY:** Governor's Legislation \_\_\_ / Friendly Legislation

**SUMMARY OF INTENT:** Include what the problem is, how this proposal solves it, how many incidents have occurred which necessitates this change, and include a short synopsis of how your proposal fits with the Governor's objectives(attach sheet, if necessary)

The Alaska Board of Parole has the statutory responsibility to grant discretionary parole, to set conditions of discretionary parole or mandatory parole and to revoke parole for good cause. With the exception of setting special or supplemental conditions of mandatory parole the Board's decisions are based on a majority of the members present as required by AS 33.16.050(c). However, in the case of special or supplemental conditions of parole the Board has a long standing policy of having one Board member review the file and set the conditions.

By delegating this responsibility to one member the remaining four members are relieved of the task of reviewing approximately 500 case files each year. As a safeguard, this system of setting conditions provides the parolee with an immediate appeal to a majority of the members if the parolee objects to any of the conditions set by one member.

The State is currently litigating this issue in a couple of cases before the Superior Court. No matter what the outcome in the lower court the Department of Law believes each side is prepared to pursue the issue to the Appeals Court. A timely clarification of the statute through legislation this session would reduce the future costs of litigation as well as avert a substantial increase in the Board's work load.

**ESTIMATED FISCAL IMPACT**(briefly describe): There should be no fiscal impact with this legislation. There is a potential for a substantial fiscal impact if the legislation is not passed.

Operating:

Capital:

Revenue:

**WHAT OTHER DEPARTMENTS WILL BE AFFECTED BY THIS PROPOSAL:**

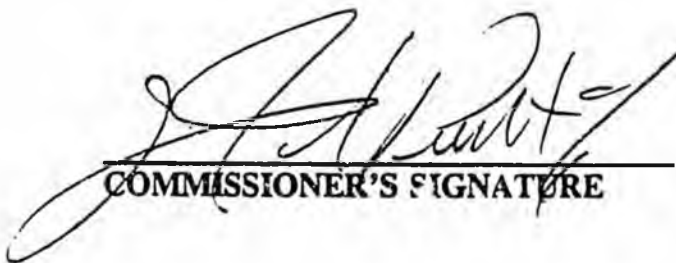
The Department of Law is currently litigating this matter in two cases at the Superior Court level. If this legislation is not passed it is assumed the Department of Law will be defending the Board in some future cases.

**WHO WILL SUPPORT THIS BILL:** The Department of Corrections, the Department of Law and the Alaska Board of Parole.

**WHO WILL OPPOSE THIS BILL:** The only possible opposition could come from prisoners/parolees and the Public Defender Agency. However, we do not anticipate a great deal of opposition.

**BRIEFLY OUTLINE ANY PRECEDENTS FOR THIS PROPOSAL IN ALASKA OR OTHER STATES (attach sheet):**

**IF A SUBSTANTIALLY SIMILAR BILL HAS BEEN DRAFTED AND NOT INTRODUCED, OR INTRODUCED AND NOT PASSED, PLEASE GIVE LAWLOG OR BILL NUMBER (CITE YEAR):**

  
\_\_\_\_\_  
COMMISSIONER'S SIGNATURE

12/27/93  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
Governor's Office Notes:

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**STATE OF ALASKA**

**BOARD OF PAROLE**



**1993 ANNUAL REPORT TO THE GOVERNOR**

**AND THE ALASKA LEGISLATURE**

**JANUARY 1994**

# STATE OF ALASKA

## DEPARTMENT OF CORRECTIONS

### BOARD OF PAROLE

WALTER J. HICKEL, GOVERNOR

ALASKA BOARD OF PAROLE  
P.O. BOX 7  
JUNEAU, ALASKA 99811-2000  
PHONE: (907) 465-3384  
FAX: (907) 465-2006

Alonzo B. Patterson, Jr., Chairman  
Dolores G. Weiler, Vice Chairperson  
David F. Cooper, Member  
Elsabeth Demeksa, Member  
James E. McLain, Member

December 30, 1993

To the Honorable Walter J. Hickel, Governor  
and the Honorable Members of the Alaska  
State Legislature and the Citizens of the  
State of Alaska:

Ladies and Gentlemen:

It is my pleasure to offer the Annual Report of the Alaska Board of Parole for the calendar year 1993. I believe you will find the information contained in this report to be both interesting and informative.

The Board and the Department of Corrections are faced with many challenges. At the forefront is the growing prisoner population and the limits of our resources. The Board takes a great deal of pride in the dedication and commitment to excellence exemplified by our administrative staff and by the Department's employees during the last year. Often employees go beyond the call of duty to bring about positive change in many who have known only failure.

We as a Board are first and foremost accountable to the citizens of Alaska and we will endeavor to uphold their trust through informed decision-making and successful reintegration of the offender back to the community.

Sincerely,



Alonzo B. Patterson, Jr.  
Chairman

# MISSION STATEMENT

## Alaska Board of Parole

### OUR MISSION IS

To protect the public by focusing on risk and by making careful, just and equitable parole decisions.

To have a clear, articulate policy and numerical guidelines so the public, offenders and criminal justice components can easily understand discretionary parole release decisions.

To have professionally trained Board Members, with close ties to the community, who are representative of the ethnic, racial, sexual, and cultural populations of the state.

To use Department and community resources as a bridge to help parolees become contributing members of society.

To set realistic parole conditions and to return to prison those who show they will not be law-abiding.

## OUR STATUTORY OBLIGATIONS

AS 33.16.100(a) The Board may authorize the release of a prisoner on discretionary parole if it determines that 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.

AS 33.16.010(d) A prisoner released on discretionary or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150.

AS 33.16.220 The Board may revoke parole for conduct in violation of AS 33.16.150(a) or (b).

# OUR RESPONSIBILITIES

## To Alaska Citizens

To keep refining our ability to select persons for parole who will succeed as law-abiding citizens; to help parolees become productive citizens for the benefit of society, themselves and their families; and to use our revocation authority wisely and to promptly return to prison those parolees who present a danger to the community.

## To Victims

To welcome and consider views and information from crime victims and their families and to respond positively to their requests for information and notification.

## To Corrections Employees

To provide leadership, training and resources so they can perform their job effectively and efficiently.

## To Offenders

To consider each offender as an individual by one set of standards and to provide a fair and unbiased hearing; to provide realistic parole conditions and helpful positive supervision.

## To Justice

To uphold appropriate punishment, to advance equal treatment of offenders serving for similar offenses with similar histories and needs, and to work with other justice components to reduce criminality.

## THE BOARD MEMBERS

Chairman Alonzo B. Patterson, Jr. was appointed to the Board in February 1984 by Governor Sheffield. He was reappointed by Governor Sheffield in 1986 and by Governor Hickel in 1991. Reverend Patterson is the pastor of Shiloh Missionary Baptist Church in Anchorage. He has a Bachelor of Arts Degree in Psychology from the University of Alaska/Anchorage, and a Doctor of Divinity Degree from the American Bible Institute. Reverend Patterson is a resident of Anchorage.

Member David Cooper was appointed by Governor Sheffield in February 1984. He was reappointed by Governor Sheffield in 1986 and again by Governor Cowper in 1990. He has an Associate Arts Degree in Behavioral Science from the University of Alaska/Anchorage. Mr. Cooper is retired from the position of Assistant Superintendent at the Palmer Correctional Center after 19 years of exemplary service. He was born and raised near Ninilchik. He and his family operate a commercial fishing business in Cook Inlet. Mr. Cooper is a resident of Palmer.

Member Elisabeth Demeksa was appointed by Governor Hickel in 1992. She has a Bachelor of Arts Degree in English Literature from New York State University. Ms. Demeksa is the owner, manager of a women's apparel store. From 1980 to 1991 she was an Aide to the Alaska Legislature, the last two years as Chief of Staff to the House Minority Leader. She is active in numerous women's and family organizations, and in 1984 was honored as one of the Outstanding Young Women of America. Ms. Demeksa is a resident of Juneau.

Member James McLain was appointed by Governor Hickel in 1993. He has a Bachelor of Arts Degree in Criminal Justice from the University of Alaska/Fairbanks and was the Justice Student of the Year in 1988. He is currently employed as a paralegal. Mr. McLain is a resident of Fairbanks.

Member Mary Vollendorf was appointed by Governor Hickel in 1994. She has a Bachelor of Arts Degree in Political Science/Pre Law from the University of Northern Arizona University. Since graduation from college she has worked for several legislators. Ms. Vollendorf is a resident of Anchorage.

# THE EMPLOYEES OF THE PAROLE BOARD

During 1993 the administrative office of the Board was located at the corner of 4th & Harris, Juneau, Alaska. As of January 21, 1994 the office will be located at 802 Third St., Douglas, Alaska. Our mailing address is:

Alaska Board of Parole  
P.O. Box 112000  
Juneau, Alaska 99811-2000  
Phone: (907) 465-3384  
Fax: (907) 465-2006

## EXECUTIVE DIRECTOR

*Richard E. Collum*

The Executive Director is appointed by the Board and is responsible for day to day operations of the agency. The Executive Director attends parole release hearings and parole revocation hearings and provides technical assistance to the Board.

## Secretary I

*Georgina Weitzel*

## Clerk Typist III

*Mary Engdahl*

## PAROLE ADMINISTRATOR

*Donna E. White*

The Parole Administrator assists the Executive Director in agency administration and supervision of the staff. The Parole Administrator is a resource for parole officers to use in the daily management of cases, scheduling hearings and compiling statistics.

## PAROLE BOARD OFFICER

*Daniel L. Stroeing*

The Parole Board Officer assists the Parole Administrator and handles conditions of supervision and Executive Clemency applications and investigation.

## THE PAROLE BOARD

Society through legislation has determined that some people who commit crimes must be incarcerated in correctional institutions as a deterrent to others and for punishment for their crime, as well as for protection of the public and for reformation. The optimum period of time that will meet this criteria, for any given crime, is unknown and consequently sentence length varies considerably across the United States. We know from experience that a number of offenders can be released to community supervision prior to the expiration of their sentences without jeopardizing the public and at a tremendous cost savings to the public.

The Alaska Board of Parole was created by the legislature at the time of statehood to fulfill the State's constitutional requirement for a parole system. The Board was originally comprised of three volunteer members appointed by the Governor, the staff was provided by the Division of Corrections. In the mid 1960's the Board was increased to five members. In 1972, a separate parole office was created within the Department of Health and Social Services to make the Board independent of the Division of Corrections and provide the Board Members with their own administrative staff. When the Division of Corrections became the Department of Corrections in 1984 the Board's Budget Request Unit was moved from Health and Social Services to this newly formed Department.

Prior to 1986, Board Members were appointed to four year terms. Beginning January 1, 1986 the five members are appointed to staggered five year terms. One term expires every year on December 31. The Staff presently consists of an Executive Director, Parole Administrator, Parole Board Officer, a Secretary and a Clerk Typist.

In addition to holding discretionary parole release hearings, the Board holds parole revocation hearings on both mandatory parolees and discretionary parolees. The Board sets conditions of parole, conducts preliminary revocation hearings and preliminary recision hearings, and issues arrest warrants and subpoenas. During the years from 1984 to 1986, the Board reviewed cases in accordance with the Prisoner Overcrowding Emergency Conditional Commutation Plan. The staff conducts all of the Executive Clemency investigations for the Executive Clemency Advisory Committee and the Governor.

The Board meets quarterly in Fairbanks, Anchorage and Juneau. The Board meets quarterly as necessary in other areas which have a State Correctional Facility, such as Seward, Nome, Bethel, Kenai,

and Ketchikan. Occasionally it is necessary for the Board to travel outside Alaska to the Federal Bureau of Prisons Facilities and other contract institutions to hold parole hearings. The Board members are not state employees but are paid per diem and travel expenses plus \$150 compensation for each full day they are in session.

In 1981, following three years of research and analysis the Board adopted a parole guidelines model which rates a prisoner's social and criminal history to determine risk. This risk score is compared to the severity of the crime to determine a range of time the prisoner should serve prior to discretionary parole. These guidelines were revised in 1983 based on criminal code revisions and again in 1989 following additional research into the validity of the risk factors.

## THE HISTORY OF PAROLE ELIGIBILITY

Eligibility for discretionary parole and for mandatory parole has changed considerably over the last three decades since Statehood and has become extremely complicated. The following information is presented as a historical review of what has occurred and may provide some perspective on the limited numbers of prisoners who are currently eligible for release.

The Alaska legislature determined, with passage of the criminal code in 1960, that a prisoner sentenced to a term of at least 181 days would be eligible for discretionary parole. Former AS 33.15.180. Although there was no statutory minimum term a prisoner had to serve before release on parole, the court had the discretion to set a minimum term, not to exceed one-third of the total sentence. Former AS 33.15.230(a)(1). No other restrictions or guidelines applied.

Effective May 16, 1974, the Alaska Legislature amended former AS 33.15.080 to require a prisoner to serve one-third of the period of confinement prior to being eligible for release on discretionary parole. In the case of a prisoner serving a life sentence, the mandatory minimum was set at fifteen years. In addition, former AS 33.15.230(a)(1) was amended so the court could further restrict eligibility up to the maximum term.

In 1980, as part of the revised criminal code and with the inception of presumptive sentencing, parole eligibility was altered significantly. Crimes were grouped according to severity of the offense. Murder I, Murder II and Kidnapping were unclassified felonies. Murder I and II and Kidnapping were changed from a maximum term of life to a maximum term of 99 years. The mandatory

minimum for discretionary parole eligibility for Murder I was increased to 20 years [AS 12.55.125(a)] or one-third of the period of confinement (former AS 33.15.080), whichever was greater. The mandatory minimum term for Murder II and Kidnapping was set at five years [AS 12.55.125(b)] or one-third of the period of confinement, whichever was greater.

All other felony offenses were classified as A, B, or C felonies. First time felony offenders and all misdemeanor offenders with a sentence of 181 days or longer were eligible for parole after serving one-third of the period of confinement. The remaining felony offenders (those with one or more prior felony convictions) were to be given a non-parole eligible presumptive term. AS 12.55.125. As in the past, the court could further restrict parole eligibility beyond the statutory minimums. AS 12.55.115.

The 1980 revised criminal code also provided for a Three-Judge Sentencing Panel (AS 12.55.175) to review cases with extraordinary circumstances. AS 12.55.165. The Three-Judge Panel may sentence a defendant to any sentence authorized under AS 12.55.015, including making an otherwise ineligible defendant eligible for parole.

Effective October 1, 1982, Sexual Assault I and Sexual Abuse of a Minor I, previously class A felonies, were moved to a new category of unclassified presumptive's [AS 12.55.125(i)] and first time offenders were no longer eligible for parole. In addition, Class A first time offenders were now subject to presumptive terms and were not eligible for parole. AS 12.55.125(c).

Effective January 1, 1987, drug offenses were included in the revised criminal code and Misconduct Involving a Controlled Substance in the First Degree became an unclassified felony with a five year mandatory minimum. AS 12.55.125(b).

Effective January 1, 1986, class A, B and C felony offenders eligible for parole, had their parole eligibility reduced from one-third of the period of confinement to one-quarter. [AS 33.16.100(c)] In addition, enhanced or aggravated presumptive's were declared eligible for discretionary parole after completing the initial presumptive term plus the minimum (one-third or one-quarter) applicable to the enhanced portion of the term. [AS 33.16.090(c)].

In order to correct what they believed to be a previous oversight the legislature made Class A offenders eligible for parole after serving one-third of the period of confinement, effective September 12, 1987. Eligibility on these offenders had been mistakenly reduced the previous year to one-quarter along with class B and C offenders. [AS 33.16.100(d)].

In 1988, it was determined an offender sentenced prior to 1986 to an enhanced (aggravated) presumptive sentence [AS 12.55.155(c)] was eligible for parole after serving the presumptive term, less good time, and at least one-third of the composite term. Merry v. State, 752 P.2d 475 (Alaska App. 1988). In 1990, it was determined an offender sentenced to a consecutive presumptive sentence prior to 1986 was eligible for parole after completion of the initial presumptive sentence, less good time, and after serving the applicable minimum (one-third or one-quarter) of the consecutive presumptive term.

It has been long established that good time does not reduce the minimum term for parole eligibility. Attorney General Opinion, 01/30/74, Mills v. State, 592 P.2d 1247 (Alaska 1979). However good time does reduce the term of a presumptively sentenced prisoner and thus affects parole eligibility on enhanced presumptive sentences and consecutive presumptive sentences. AS 33.16.090(c).

Effective September 14, 1992, Three Judge Panel sentencing based on a finding of an exceptional potential for rehabilitation became more restrictive. After that date the panel is required to sentence the defendant to the presumptive term, shall order the defendant to participate in appropriate programs of rehabilitation, and may provide that the defendant is eligible for discretionary parole during the second half of the sentence imposed if the defendant successfully completes all rehabilitation programs ordered. AS 12.55.175(e), AS 33.16.090(e).

## WHO IS ELIGIBLE FOR DISCRETIONARY PAROLE NOW?

As indicated in the previous history of parole, the parole eligibility laws have become extremely complicated. A quick overview follows:

In order for a prisoner to be eligible for discretionary parole, the prisoner must be sentenced to a term of 181 days or more. In the case of classified felonies, first time class B and C offenders are eligible after serving one-quarter of their term. All other classified felonies and unclassified sex offenses fall under presumptive sentencing and are eligible for parole after serving the initial presumptive terms. Prisoners convicted of Unclassified felonies must serve mandatory minimums (20 yrs. for Murder in the first Degree, five years for all others) or one-third of the total term, whichever is greater.

## WHO IS ON MANDATORY PAROLE?

A prisoner who is not eligible for discretionary parole or has not been granted discretionary parole will be supervised on mandatory parole if the composite term the prisoner is serving is two (2) years or more. The term of mandatory parole is equal to the period of time the prisoner's sentence was reduced for good behavior, in most cases this is one-third of the total sentence.

Mandatory parole can be revoked prior to a prisoner's release to supervision if the prisoner does not comply with court ordered treatment while incarcerated. Once released from the institution, mandatory parole can be revoked by the Board if the prisoner violates a condition of the mandatory parole. A prisoner cannot refuse to be released to mandatory parole supervision.

## The Board's Workload

The workload for the Alaska Board of Parole increased significantly during the 1980's at a time when the prison population mushroomed. As an example, the 1980 criminal code revision did not begin to show an impact until about 1983 (Figure #1). In 1982, the Board's total workload including parole hearings, parole revocation hearings, warrants and preliminary hearings, was under 400 cases. From 1982 to the current peak, the Board's workload increased fourfold. The increase was substantially related to the 1980 presumptive sentence law and mandatory parole law. Discretionary parole hearings and discretionary parole releases did not increase during that period in spite of the growing prison population. Each year, as a higher percentage of prisoners entering the system were sentenced after 1979 under the presumptive sentence law, the number of prisoners eligible for discretionary parole and the number of prisoners released on discretionary parole decreased.

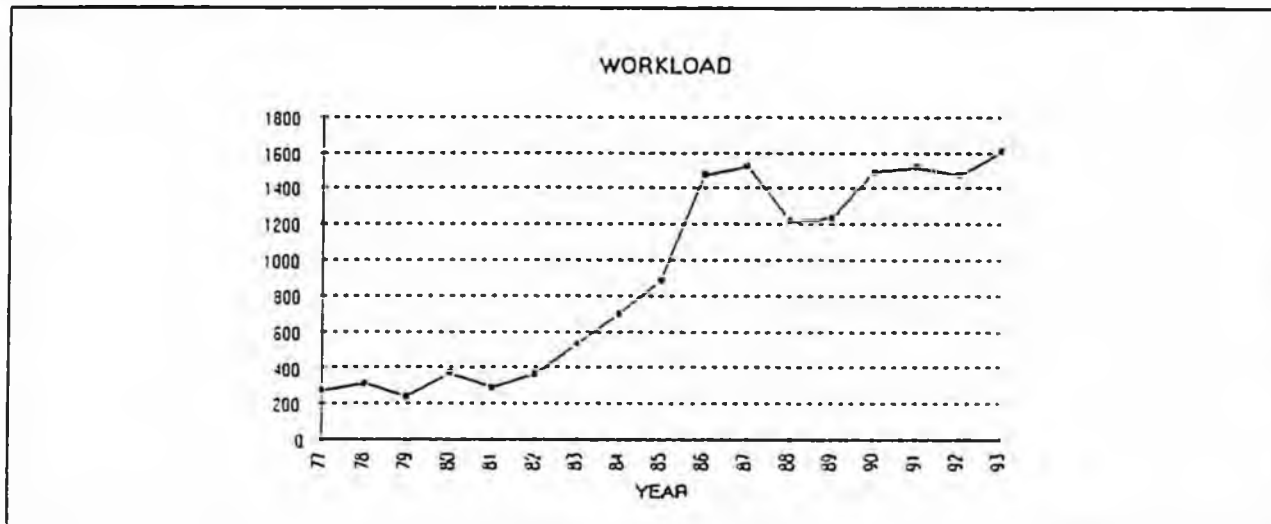


Figure #1

The Board's sharp increase in workload in 1986 and 1987 as indicated in Figure #1 is attributed to the added responsibility during those two years of reviewing prisoners eligible for release under the Governor's Emergency Conditional Commutation Release Plan.

During calendar year 1993, the Board held a total of 1608 hearings, 697 of which were in-person hearings. The remaining 911 case decisions included issuing warrants, setting or changing conditions, and reviewing appeals.

## Discretionary Parole

During the calendar years 1991, 1992 and 1993 the Board held a total of 461 discretionary parole release hearings. Of that total, 178 prisoners were granted discretionary parole for a parole rate of 39%. (Figure 2). In addition, during that three year period, the Board released another 225 prisoners following revocation of their mandatory parole.

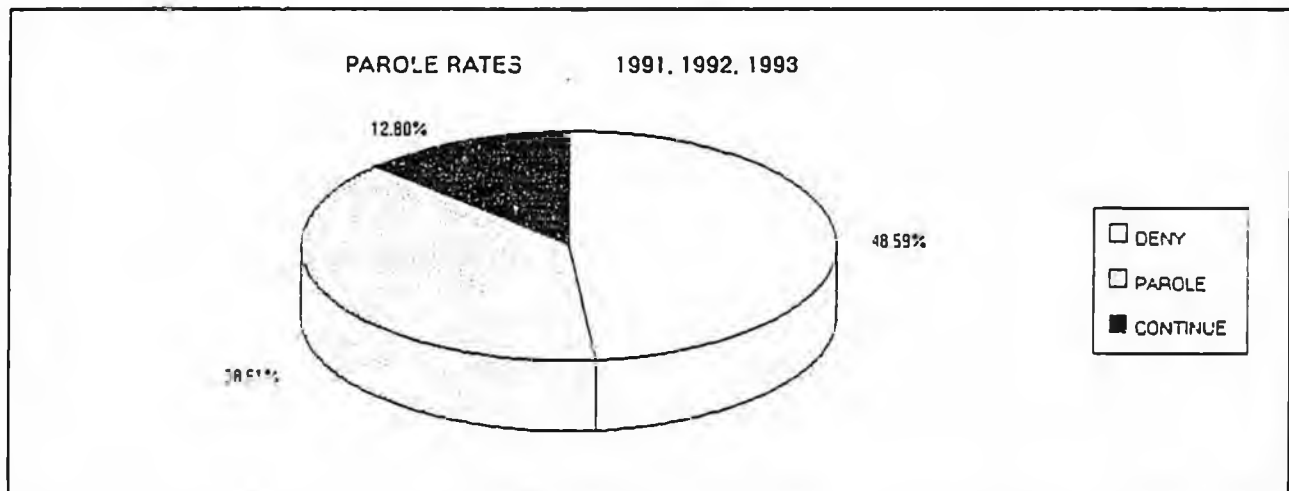


Figure #2

The Board has completed a recidivism study every year since at least the mid 1970's. This was traditionally a one year follow up of prisoners released to discretionary parole. In 1988, the study was expanded to follow the parolee for more than one year. Success is measured by the parolee's ability to complete the followup period on supervision without having been revoked by the Board.

Failure is also divided into four categories based on the nature of the violation. If the violation was for a condition of parole that was not a violation of a law or local ordinance, such as consuming alcohol or failing to report a change of residence, the violation is considered to be a **technical** or conditions violation. If parole is revoked as a result of a conviction for a **misdemeanor** or **felony** while on supervision, the violation is noted accordingly. A parolee who does not report to the parole office as instructed and is unable to be located by the parole officer is coded as an **absconder**. If multiple violations occur, the most serious one is the one coded.

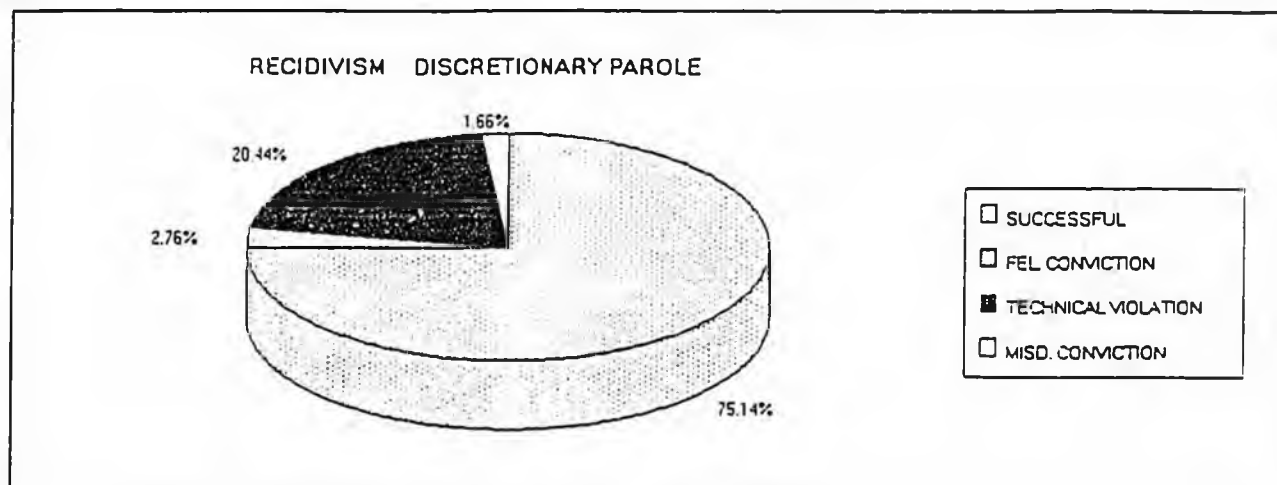


Figure #3

The Board is very proud of its consistently low felony revocation rate. A felony revocation rate of 10% is acceptable and expected in many jurisdictions across the United States. The Alaska Board of Parole has consistently had a felony violation rate of 5% or less. A follow-up of the prisoners released to discretionary parole during the years 1989, 1990, 1991 and 1992 indicates a felony violation rate of 5 out of 182, or 3%. (Figure #3).

The combined violation rate for discretionary parolees during that period of time is 25%. However, many of those prisoners were ordered back to prison for only a short period of time and then released to supervision again at a later date. This low felony and misdemeanor revocation rate is an indication the field parole officer is doing a good job of monitoring cases to assure the parolee is removed from the community at the first sign of serious supervision violations and before a new crime is committed.

### Mandatory Parole

The Department of Corrections currently releases over 500 prisoners each year who are to be supervised on mandatory parole for the period of time their sentence was reduced for good behavior in the institution. This number has increased considerably as the prison population has increased. In 1986, less than 300 prisoners were released to mandatory parole supervision. At the present time, the Department is supervising about 700 mandatory parolees.

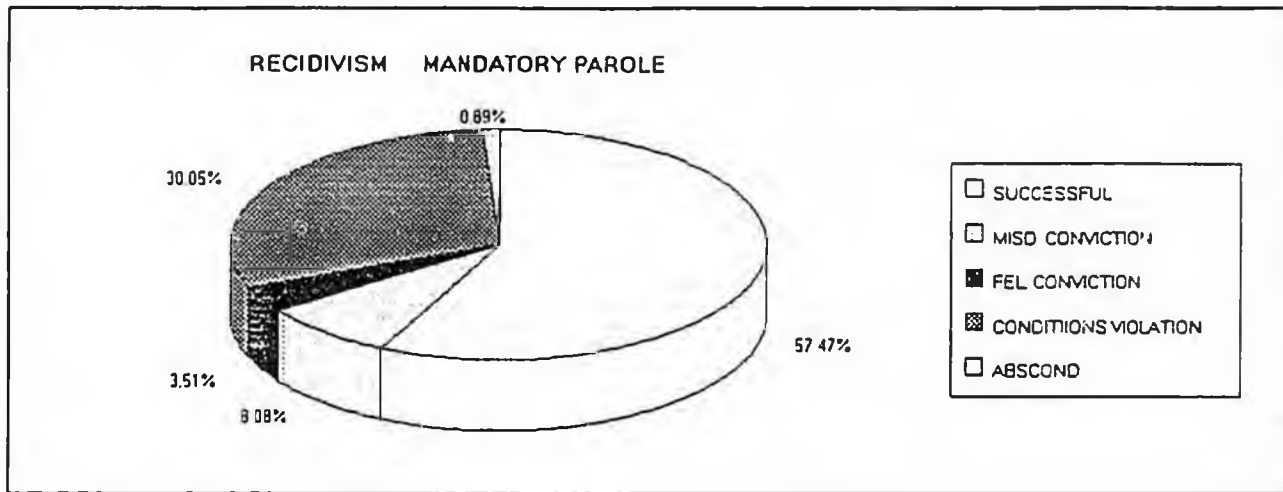


Figure #4

During the years 1989, 1990, 1991 and 1992, it is estimated 1907 prisoners were released to mandatory parole supervision. This estimate is based on the number of cases submitted to the Board so they could set conditions prior to release. As Figure #4 indicates, 811 of them were returned to prison. This is a violation rate of 43%. This violation rate is nearly eighteen (18%) percentage points higher than prisoners released to discretionary parole. In addition, on the average these prisoners were not as closely supervised as discretionary parolees who are often required to participate in residential programs, halfway houses or the Intensive Supervision Program. This revocation rate for mandatory parolees could increase considerably if they were supervised as closely as discretionary parolees.

### Risk Factors

The parole guidelines model developed in 1981 and the subsequent revisions to that model have always included a risk score sheet. The current risk factors were adopted in 1989 and provide for a scoring range of 0 to 49. The lower the score, the lower the risk to reoffend. Risk scores are divided into four categories as follows:

A = 0-6                      B = 7-14                      C = 15-29                      D = 30-49

During the years 1990, 1991, 1992, and 1993, the parole rate for prisoners in category A was 52%; the parole rate for category B was

48%; the parole rate for category C was 33%; and the parole rate for category D was 23%. (Figure #5). This is a good indication the Board is paying a great deal of attention to an applicant's risk to the community at the time parole is granted.

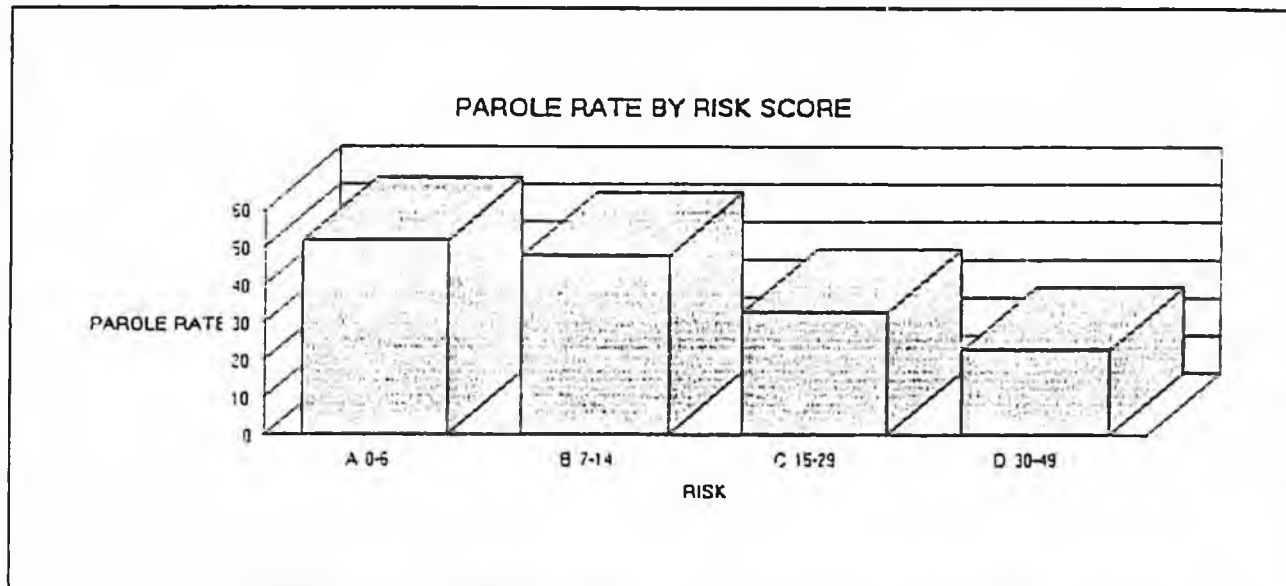
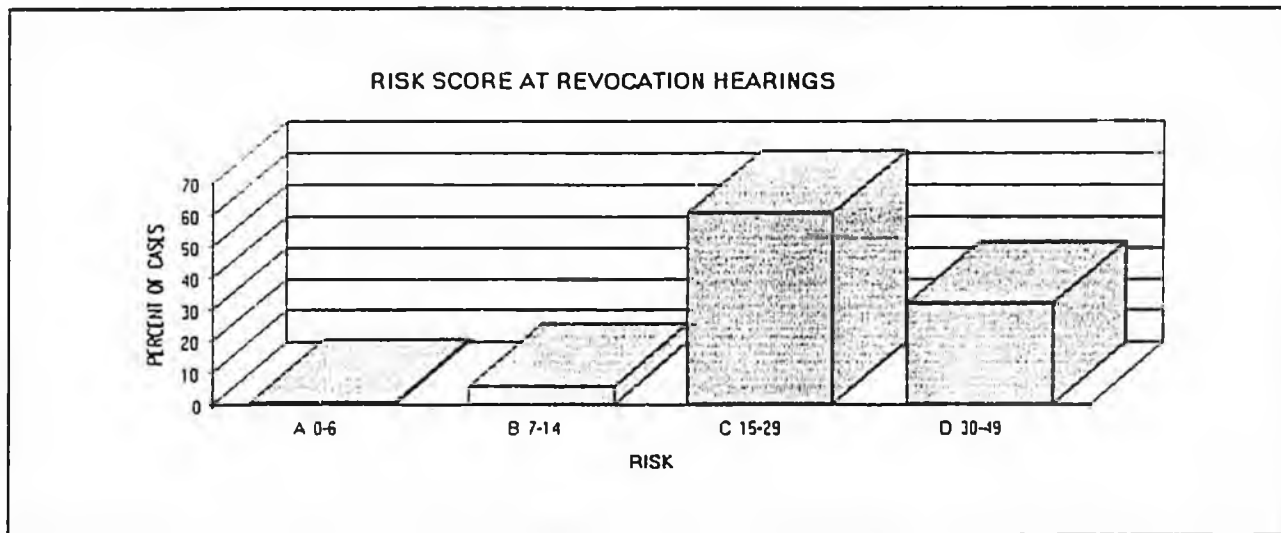


Figure #5

Information obtained from risk scores for prisoners appearing in revocation hearings during the years from 1988 to 1993 further support the validity of the scores and the Board's reliance on these scores. Of the 1350 prisoners revoked during that six year period, only 7% were in the two best risk categories (A & B). (Figure #6). Nearly all of the parolees violated during those years (93%) had a risk score of 15 or higher.



**Figure #6**

### Parole Guidelines

The Board has utilized numerical guidelines for releasing prisoners since 1981. See 22 AAC 20.142. The guidelines are designed for non-presumptively sentenced offenders eligible for discretionary parole. Many other states have guidelines models, including the U.S. Parole Commission. One of the goals in utilizing a guidelines system is to limit the number of cases where a decision is made outside of the suggested guidelines range. In some cases the Board will release a prisoner below the minimum range by making a formal finding of mitigating factors; or the Board will deny parole and thus require a prisoner to serve a term above the guidelines by making a formal finding of aggravating factors. As **Figure #7** indicates, the Alaska Board of Parole is finding mitigation in about 7% of the cases appearing before them and is making a finding of aggravation in about 10% of the cases appearing before them.

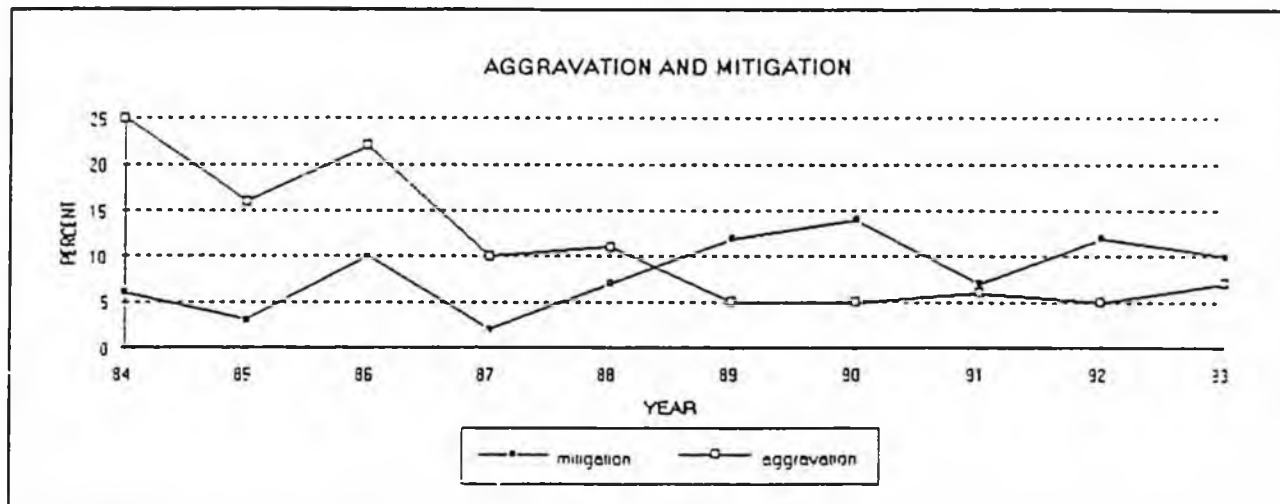


Figure #7

The remaining 83% of decisions are made within the guidelines range and this high percentage of conformity to the guidelines is an indication the Board is making a conscious effort to apply the discretion they have in a fair and equitable manner.

(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. (§ 2 ch 88 SLA 1985)

Legislative history reports. — For House letter of intent related to this section, see 1985 House Journal, p. 821.

**Sec. 33.16.020. Board of parole.** (a) There is in the Department of Corrections a board of parole consisting of five members appointed by the governor, subject to confirmation by a majority of members of the legislature in joint session.

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

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

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

(e) The governor shall appoint at least one member who resides in the First Judicial District, one member who resides in the Third Judicial District, and one member who resides in either the Second or Fourth Judicial District. (§ 2 ch 88 SLA 1985)

Cross references. — For transitional provisions relating to board members, see § 8, ch 88, SLA 1985 in the Temporary and Special Acts.

#### NOTES TO DECISIONS

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of

government. *Davenport v. State*, Sup. Ct. Op. No. 1219 (File No. 2202), 543 P.2d 1204 (1975); *Szeratics v. State*, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977), decided under former AS 33.15-010.

Collateral references. — Statute conferring power upon administrative body in respect to parole of prisoners or dis-

charge of parolees, as unconstitutional infringement of power of executive. 143 ALR 1488.

# DRAFT

"Clarifying meeting requirements for activities of the board of parole; and providing for an effective date."

\* **Section 1. PURPOSE.** The purpose of this Act is to validate and affirm the longstanding practice of the board of parole to delegate the setting of special conditions for mandatory parole under AS 33.16.150 to a single board member, subject to a right of review by a quorum of the board of parole. It is the intent of the legislature to expressly ratify this practice and to clarify existing statutes to reflect it.

\* **Sec. 2.** AS 33.16.050(c) is amended to read:

(c) Except as provided in (e) of this section, decisions [DECISIONS] and orders of the board require the affirmative vote of a majority of the members present.

\* **Sec. 3.** AS 33.16.050 is amended by adding a new subsection to read:

(e) A meeting of the board is not required for a decision or order setting special conditions of mandatory parole by a single member of the board under AS 33.16.150(b) and (e), unless a prisoner or parolee aggrieved by the decision or order requests a change in parole conditions to the full board under AS 33.16.150(e) and AS 33.15.160.

\* **Sec. 4.** AS 33.16.150 is amended by adding a new subsection to read:

(e) The board may delegate its authority under this section to a single member of the board to issue a decision or order on behalf of the board setting special conditions of mandatory parole. A prisoner or parolee aggrieved by a

— AMENDMENT PROPOSED BY THE BOARD —

# DRAFT

decision or order of a single board member may request a change in mandatory parole conditions by applying to the full board under AS 33.16.160.

\* **Sec. 5.** Sections 1 - 4 of this Act are retroactive to January 1, 1986.

\* **Sec. 6.** Section 1 - 4 and 5 of this Act take effect immediately under AS 01.10.070(c).