

HB

2000

HOUSE BILL NO. 200

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MULDER BY REQUEST, Foster

Introduced: 2/27/95

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act reassigning responsibility for the custody of persons pending their
 2 arraignments, commitment to the custody of the commissioner of corrections, or
 3 admission to a state correctional facility, and authorizing the commissioner of
 4 corrections to employ guards for emergencies on the same basis as the
 5 commissioner of public safety, as partially exempt service employees; and providing
 6 for an effective date."

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

8 * Section 1. AS 33.30.071(a) is amended to read:

9 (a) [NOTWITHSTANDING AS 33.30.011(1), THE COMMISSIONER OF
 10 PUBLIC SAFETY SHALL PROVIDE FOR THE CUSTODY, CARE, AND
 11 DISCIPLINE OF PRISONERS PENDING ARRAIGNMENT, COMMITMENT BY A
 12 COURT TO THE CUSTODY OF THE COMMISSIONER OF CORRECTIONS, OR
 13 ADMISSION TO A STATE CORRECTIONAL FACILITY. EXCEPT

*Responsibility for prisoners pending
 Commitment*

declassification

1 AS PROVIDED IN (c) OF THIS SECTION, THE RESPONSIBILITY FOR
2 PROVIDING NECESSARY MEDICAL SERVICES FOR PRISONERS REMAINS
3 WITH THE COMMISSIONER OF CORRECTIONS UNDER AS 33.30.011(4).] The
4 commissioner is [OF CORRECTIONS AND THE COMMISSIONER OF PUBLIC
5 SAFETY ARE] not responsible for providing custody, care, and discipline for a person
6 detained under AS 47.30.705 or AS 47.37.170 [,] unless the person is admitted into
7 a state correctional facility.

Emergency detention for mental illness

* Sec. 2. AS 33.30.071(b) is amended to read:

9 (b) The responsibility of the commissioner [OF PUBLIC SAFETY] under
10 AS 33.30.011 begins when [(a) OF THIS SECTION DOES NOT BEGIN UNTIL]
11 a prisoner is accepted into the commissioner's custody [OF THE COMMISSIONER
12 OF PUBLIC SAFETY,] or admitted into a correctional facility [OR OTHER
13 FACILITY DESIGNED FOR HOLDING PRISONERS, AND THE COMMISSIONER
14 OF PUBLIC SAFETY IS NOTIFIED OF THE ACCEPTANCE OR ADMISSION].

* Sec. 3. AS 39.25.120(c)(18) is amended to read:

16 (18) guards employed by the Department of Corrections or the
17 Department of Public Safety for emergencies;

* Sec. 4. This Act takes effect July 1, 1995.

*These are part of
a list of des in
the partially attempt service*

FISCAL NOTE

STATE OF ALASKA

BILL NO: HB 200

1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: Custody of prisoners BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Mulder
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Alaska State Troopers.

Prepared By: Francis C. Allan Phone: 289-5691
 Division: Alaska State Troopers Date: 03/06/95
 Approved by Commissioner: *Ronald L. Otte* Date: 3-8-95
 Agency: Ronald L. Otte, Dept. of Public Safety

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SPONSOR STATEMENT HOUSE BILL 200

House Bill 200 moves Alaska's community or "contract" jails program from the Department of Public Safety to the Department of Corrections.

The Governor's Task Force on Community Jails studied the issue for 2 years and recommended the governor and the legislature move the Contract Jails Program from Public Safety to Corrections. Governor Hickel's Organizational Efficiency Task Force also made the same recommendation. The Department of Public Safety and Department of Corrections are prepared to make the transfer. The Governor's FY 96 budget, both the Hickel version and the Knowles version, is built expecting this transfer to occur.

The Division of Corrections, under the Department of Health & Social Services, operating jointly with the Department of Public Safety, managed the community jail program until the early 1980's. The administration of the program was assigned to Public Safety as the legislature and the governor believed that the Department of Public Safety would be better able to manage the jails than the newly created Department of Corrections.

At that time we called the facilities "overnight" or "waiting" places for prisoners entering correctional facilities. We used the facilities almost exclusively as pre-arraignment facilities. Immediately following arraignment, we moved inmates to a prison in a larger community where the courts were. They remained in the Department of Corrections facility until released from custody.

Over time, the focus of these jails has changed. The courts and other parts of the criminal justice system have expanded into rural areas to

provide a more community based service that is thought to be more meaningful to citizens of the regions affected. The community jail facilities have become full blown jails used for holding inmates from pre-arraignment status through release following sentence. They provide the complete range of services for prisoners who serve their full term at the jail.

The result is a need to move community jails to the department with the expertise to deal effectively with the current realities of those facilities. The primary mission of the Department of Public Safety is law enforcement. The Department of Correction is mandated to provide safe, secure, and humane facilities of detention and incarceration. The functions of the Community Jails Program are more consistent with the mission, responsibilities, and expertise of the Department of Corrections.

GOVERNOR'S TASK FORCE

ON

COMMUNITY JAILS

***Final Report to Governor Hickel
November, 1994
Juneau Alaska***



**GOVERNOR'S TASK FORCE
ON THE
COMMUNITY JAILS PROGRAM**

**Final Report to Governor Hickel
November, 1994
Juneau, Alaska**

Task Force Members 1993 - 1994

Representative Gail Phillips, Chair

Senator Robin Taylor

Senator George Jacko

Representative Eileen MacLean

Frank Prewitt, Commissioner, Department of Corrections

Designee: **Larry McKinstry, Deputy Commissioner, Department of Corrections**

C.E. Swackhammer, Deputy Commissioner, Department of Public Safety

Shelby Stastny, Director, Office of Management and Budget

Deborah Wing, Director, DF&YS, Department of Health & Social Services**

Dean J. Guazeli, Asst. Attorney General, Department of Law**

Tom Briggs, City Manager, Craig

James (Jim) Christensen, Director, Department of Public Safety, Barrow*

Rick Gifford, City Finance Director, Seward

Henry Graper, City Manager, Dillingham*

Glenn Herbst, Director, Department of Public Safety, Unalaska

Jack McDonald, Chief of Police, City of Kodiak

John Newell, Chief of Police, City of Sitka

Dennis Packer, Director, Department of Public Safety, Barrow

Jeff Smith, City Manager, Kotzebue

Gordon J. Tans, Attorney at Law, Perkins, Coie, Anchorage**

Office of the Governor represented in 1993 by:

Bill Overstreet, Deputy Chief of Staff

Designee: **John Hendrickson, Special Staff Assistant**

Office of the Governor represented in 1994 by:

Cheryl Frasca, Deputy Chief of Staff

*** Served as member during 1993**

****Appointed 1994**

Committee Staff:

**Sandy Nusbaum, Special Assistant to
Representative Gail Phillips**

TRANSFER OF MANAGEMENT & ADMINISTRATION OF THE COMMUNITY JAILS PROGRAM

Issue:

The Division of Corrections, under the Department of Health & Social Services, operating jointly with the Department of Public Safety managed the jails program until the early 1980's. The administration of the program was then assigned to the Department of Public Safety as it was believed, at the time, that the Department of Public Safety would be better able to manage it than would the newly created Department of Corrections. At that time the facilities were termed "overnight" or "waiting" places for prisoners entering correctional facilities. The rationale for this transfer of responsibility was simple.....the state troopers had more of a presence in the rural communities and they were the ones who would be arresting and putting prisoners into the facilities.

Discussion:

(Refer to original Governor's Task Force report on the Contract Jails Program, dated November 1993.)

Recommendations:

(Excerpts from original Governor's Task Force report on the Contract Jails Program, dated November 1993.)

Because of the myriad of opinions on if and how the transfer should take place, it was determined by the Chair that the Task Force would conduct an open discussion at the final meeting on November 3, 1993, which was held in order to adopt the Task Force's report to the Governor.

The Task Force's ultimate decision was not without some hesitation and stipulations.

The majority of the members of the Task Force recommended that the responsibility for management and administration of the Contract Jails Program be transferred from the Department of Public Safety to the Department of Corrections.

Therefore, it was the Task Force's recommendation that, in order to insure an orderly transition, the transfer of authority would be gradually undertaken over a period of time with a proposed completion date of December, 1994.

FINAL RECOMMENDATIONS:

On May 24, 1994, the Department of Public Safety contacted the Office of Management & Budget officially requesting the name of the Contract Jails Budget Component be changed to "Community Jails".

In order that State statutes properly reflect the transfer of responsibility for management and administration of the Community Jails Program from the Department of Public Safety to the Department of Corrections, and particularly as it relates to emergency guard hires, the Chair contacted the Division of Legislative Legal Services and requested a legal opinion and the preparation of draft legislation to carry out this purpose.

Legal counsel has reviewed the Chair's request and has recommended that either an Executive Order and/or statute change be initiated in order to effectuate the transfer.

According to legal counsel, to transfer the responsibility between the Departments of Public Safety and Corrections, amendments to AS 33.30.071 are preferable; repeal of the statute reference is a feasible alternative, or it may be initiated by an Executive Order presented under the authority of article III, section 23 of the Alaska State Constitution and submitted in the manner prescribed by AS 24.08.210.

Staff has prepared a draft Executive Order, incorporated into this report, with the recommendation that it be introduced by the Governor. (Document A)

It is the intention of the Chair to submit proposed legislation for introduction and passage during the First Session of the Nineteenth Legislature. (Document B)

It is further recommended that the Department of Corrections promulgate regulations in Title 22 of the Alaska Administrative Code, concerning the use of emergency guards in community jail facilities similar to those presently contained in Title 13 Chapter 62. EMERGENCY GUARDS of the Alaska Administrative Code.

⇒ Draft Executive Order (Document A)

⇒ Draft Legislation (Document B)

GOVERNOR'S TASK FORCE

ON THE

CONTRACT JAILS PROGRAM

Report to Governor Hickel
November, 1993
Juneau, Alaska



GOVERNOR'S TASK FORCE
ON THE
CONTRACT JAILS PROGRAM

Report to Governor Hickel
November 15, 1993
Juneau, Alaska

Task Force Members

Representative Gail Phillips, Chair

Representative Eileen MacLean

Senator George Jacko

Senator Robin Taylor

Larry McKinstry, Deputy Commissioner, Department of Corrections

C.E. Swackhammer, Deputy Commissioner, Department of Public Safety

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Jeff Smith, City Manager, Kotzebue

Office of the Governor represented by:

Bill Overstreet, Deputy Chief of Staff

Designee: John Hendrickson, Special Staff Assistant

Committee Staff: Sandy Nusbaum, Special Assistant to
Representative Gail Phillips

Issue:

**** APPROPRIATE STATE AGENCY TO MANAGE RURAL JAIL FACILITIES ****

The Division of Corrections, under the Department of Health & Social Services, operating jointly with the Department of Public Safety managed the contract jail program until the early 1980's. The administration of the program was then assigned to the Department of Public Safety as it was believed, at the time, that the Department of Public Safety would be better able to manage it than would the newly created Department of Corrections. At that time the facilities were termed "overnight" or "waiting" places for prisoners entering correctional facilities. The rationale for this transfer of responsibility was simple.....the state troopers had more of a presence in the rural communities and they were the ones who would be arresting and putting prisoners into the facilities.

Discussion:

The question of who should manage the contract jail program - the Department of Corrections or the Department of Public Safety, was one which plagued the Task Forces from the beginning. The members wrestled with this question on numerous occasions.

What other studies have recommended on this issue.....

THE ALASKA CORRECTIONS MASTER PLAN (Completed in 1979) stated the following:

".....one less costly means of improving the quality of institutional corrections in rural Alaska is the statutory consolidation of responsibility of all local jail contracts under the Division of Corrections....."
and

".....in the interests of unifying correctional services in Alaska, it is recommended that the Department of Public Safety no longer have responsibility for any jail contacts"

THE GOVERNOR'S EFFICIENCY TASK FORCE (July, 1992) made the following recommendations:

"Continue to examine the possibility of transferring contract jails and prisoner transportation functions to the Department of Corrections (DOC).

While transfer of these services would not necessarily result in a net savings to the state, supervising, maintaining and transporting prisoners are properly Corrections responsibilities and may be managed more efficiently by that department. The focus of DPS efforts should center on crime prevention and law enforcement."

THE DIVISION OF AUDIT AND MANAGEMENT SERVICES, under the Office of Budget and Management, reviewed and evaluated the contract jails program (Report 12-58), dated October, 1991, and made this final observation:

".....we find some reasons that support reassignment of the contract jail program to the Department of Corrections.

In essence, we believe the incarceration function of the contract jail program is inconsistent with the mission of DPS. Incarceration is more consistent with the mission of DOC.

Some police chiefs report DPS is not aware of the problems of incarcerating prisoners. For some of the reasons mentioned in this report, they suggest the program may be better served if managed by DOC. They suggest DOC has the training, experience and expertise needed to incarcerate prisoners.

We believe there is a need for both agencies to formally study the issue in terms of costs and benefits. The study conclusions should be presented for the Governor's consideration."
(Note 2)

Members of the Task Force provided in-depth and specific recommendations on their choice for management of the contract jails program. Their recommendations include the following comments:

2/ In a memorandum, dated October 22, 1991, in response to the audit performed by the Office of Management and Budget, the Commissioner of Public Safety made the following statement:

".....in my judgment the Department of Public Safety should not be in the jail business. This department is, first and foremost, a law enforcement agency....."

".....While I am concerned about the political ability of DOC at this time, I feel that DOC would probably be the best State agency to manage the rural jails....."

".....The primary mission of the Department of Public Safety is in the area of crime prevention and law enforcement. The Department of Corrections is mandated to provide safe, secure, and humane facilities of detention and incarceration. The functions of the Contract Jails Program are more consistent with the responsibilities and expertise of the Department of Corrections.

Department of Public Safety lacks the in-house expertise in operating jails....."

".....Adopt a transition plan to transfer administration of contract jail facilities from the Department of Public Safety to the Department of Corrections by the end of fiscal year 1995....."

".....The control of contract jails should be transferred from the Department of Public Safety to the Department of Corrections.

The Department of Corrections is the expert agency in regards to jails and should have control over all jails in the state....."

".....the Department of Corrections has developed indepth expertise in the management of correctional institutions. Parallel with that development has been the Department of Public Safety's need to focus its limited resources on law enforcement issues....."

".....we believe it prudent that these responsibilities be transferred to the Department of Corrections....."

".....should this transition occur.....we would recommend any transitional plan be structured to allow for a phased-in or gradual evolution over a pre-planned time period to allow for a smooth and orderly transfer....."

".....with regard to the transfer of the contract jail program from the Department of Public Safety to Corrections, I think such a transition may be damaging to the program at this time. It is necessary to establish a long-standing administrator of the contract jail program before its movement to another department would be beneficial....."

".....we believe that the DPS should continue as the responsible department for overseeing the contract jail program. There is a very real concerns that if the DOC were to assume control of the program, all of the municipal facilities participating will be under the Cleary decision umbrella. Until this possibility is eliminated, we believe that DPS should continue as the responsible department....."
(Note 3)

".....the Department of Corrections has the expertise to assist in the development of standards for local jails. Once a set of standards is established there is no reason the Department of Public Safety could not continue to monitor compliance with the standards and handle funding and contract issues....."

".....recommend that it remain with the Department of Public Safety versus the Department of Corrections....."

Recommendations:

Because of the myriad of opinions on if and how this transfer should take place, it was determined by the Chair that the Task Force conduct an open dicussion at the final meeting on November 3, 1993, which was held in order to adopt the Task Force's report to the Governor.

The Task Force's ultimate decision is not without some hesitation and stipulations.

The majority of the members of this Task Force recommend that the responsibility for management and administration of the Contract Jails Program be transferred from the Department of Public Safety to the Department of Corrections.

It would be this Task Force's recommendation that, in order to insure an orderly transition, this transfer of authority be gradually undertaken over a period of time with a proposed completion date of December, 1994.

3/ Task Force received testimony from the Department of Law
".....even if DOC took over the monitoring and oversight
of the contracts, Cleary still would not apply....."
(Taken from transcript of July 13, 1993 meeting of the
Contract Jails Task Force)

Governor Hickel's Organizational Efficiency Task Force

*Summary
Report*



*Office of the Governor
Office of Management and Budget*



July, 1992

DEPARTMENT OF PUBLIC SAFETY

1. Continue to examine the possibility of transferring contract jails and prisoner transportation functions to the Department of Corrections (DOC).

While transfer of these services would not necessarily result in net savings to the state, supervising, maintaining and transporting prisoners are properly Corrections' responsibilities and may be managed more efficiently by that department. The focus of DPS efforts should center on crime prevention and law enforcement.

2. Examine the possibility of merging the DOT&PF traffic accident reporting system with existing programs in DPS.

This program would logically tie in and augment the DPS information base utilized by the state troopers.

3. Establish a task force to review the issue of state vs. local responsibility for provision of police services, prosecution, and jails.

There should be consistency among the various local governments in their responsibility to provide these services.

4. Establish pay levels for troopers that are lower than the pay levels of their supervisors.

Public Safety Employees Association contracts have skewed salary levels of troopers beyond the salaries of management, due largely to the effects of binding arbitration. If arbitration of labor contracts cannot be eliminated, AST management should receive additional compensation to establish the proper relationship between troopers and supervisors.

5. The VPSO program should be strengthened as an efficient and cost effective means of delivering public protection services to small rural communities.

Specifically, the following steps should be taken:

- Increase the number of oversight troopers,
- Increase on-site training and the frequency of training academies,
- Increase the pay of VPSO officers established in contracts with managing Native corporations, and
- Develop a career path for VPSO officers.