

**HB**

**219**

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE MULDER

TO: CSHB 219( ), "G" version, draft dated 3/23/95

- 1 Page 1, line 3, following "disabled":
- 2       Insert "or quadriplegic"
  
- 3 Page 3, line 8, following "disabled":
- 4       Insert "or a quadriplegic"
  
- 5 Page 3, line 10, following "disabled":
- 6       Insert "or a quadriplegic"

9-LS0810G  
Luckhaupt  
3/23/95

CS FOR HOUSE BILL NO. 219( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to medical care for prisoners; relating to payment for drug  
2 testing for persons in prison, on probation, or on parole; and authorizing special  
3 medical parole for severely medically disabled prisoners."

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

5 \* Section 1. AS 11.61.127(b) is amended to read:

6 (b) This section does not apply to persons providing plethysmograph  
7 assessments in the course of a sex offender treatment program that meets the minimum  
8 standards under AS 33.30.011(a)(5) [AS 33.30.011(6)].

9 \* Sec. 2. AS 12.55.100 is amended by adding a new subsection to read:

10 (d) As a condition of probation, the court shall order the defendant, to the  
11 extent the defendant has the ability to pay, to reimburse the Department of Corrections  
12 for all the costs of drug testing during the period of probation.

13 \* Sec. 3. AS 33.16.010(d) is amended to read:

14 (d) A prisoner released on special medical, discretionary, or mandatory parole

1 is subject to the conditions of parole imposed under AS 33.16.150. Parole may be  
2 revoked under AS 33.16.220.

3 \* Sec. 4. AS 33.16.010 is amended by adding a new subsection to read:

4 (e) A prisoner eligible under AS 33.16.085 may be released on special medical  
5 parole by the Parole Board.

6 \* Sec. 5. AS 33.16.060 is amended to read:

7 Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

8 (1) serve as the parole authority for the state;

9 (2) upon receipt of an application, consider the suitability for parole of  
10 a prisoner who is eligible for special medical or discretionary parole;

11 (3) impose parole conditions on all prisoners released under  
12 discretionary or mandatory parole;

13 (4) under AS 33.16.210, discharge a person from parole when custody  
14 is no longer required;

15 (5) maintain records of the meetings and proceedings of the board;

16 (6) recommend to the governor and the legislature changes in the law  
17 administered by the board;

18 (7) recommend to the governor or the commissioner changes in the  
19 practices of the department and of other departments of the executive branch necessary  
20 to facilitate the purposes and practices of parole;

21 (8) upon request of the governor, review and recommend applicants for  
22 executive clemency; and

23 (9) execute other responsibilities prescribed by law.

24 (b) The board shall adopt regulations under the Administrative Procedure Act  
25 (AS 44.62)

26 (1) establishing standards under which the suitability of a prisoner for  
27 special medical or discretionary parole shall be determined;

28 (2) providing for the supervision of parolees and for recommitment of  
29 parolees; and

30 (3) governing procedures of the board.

31 \* Sec. 6. AS 33.16 is amended by adding new sections to read:

1           Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a  
2 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or  
3 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term  
4 of at least 181 days, may, upon application by the prisoner or the commissioner be  
5 released by the board on special medical parole if the board determines

6           (1) for a prisoner convicted of

7           (A) an offense other than a violation of AS 11.41.434 -  
8 11.41.438, that the prisoner is severely medically disabled <sup>or quadriplegic</sup> (as certified in  
9 writing by a physician licensed under AS 08.64, was not severely medically  
10 disabled <sup>or quadriplegic</sup> (at the time the prisoner committed the offense or parole or probation  
11 violation for which the prisoner is presently incarcerated; or

12           (B) a violation of AS 11.41.434 - 11.41.438, that the prisoner  
13 is a quadriplegic as certified by a physician licensed under AS 08.64 and was  
14 not a quadriplegic at the time the prisoner committed the offense or parole or  
15 probation violation for which the prisoner is presently incarcerated; and

16           (2) that a reasonable probability exists that

17           (A) the prisoner will live and remain at liberty without violating  
18 any laws or conditions imposed by the board;

19           (B) because of being severely medically disabled or a  
20 quadriplegic, the prisoner will not pose a threat of harm to the public if  
21 released on parole; and

22           (C) release of the prisoner on parole would not diminish the  
23 seriousness of the crime.

24           (b) If the board finds a change in circumstances or discovers new information  
25 concerning a prisoner who has been granted a special medical parole release date, the  
26 board may rescind or revise the previously granted parole release date.

27           (c) The board shall issue its decision to grant or deny special medical parole,  
28 or to rescind or revise the release date of a prisoner granted special medical parole, in  
29 writing and provide a basis for the decision. A copy of the decision shall be provided  
30 to the prisoner.

31           Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH

1 SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or  
2 arson in the first degree requests notice of a scheduled hearing to review or consider  
3 special medical parole for a prisoner convicted of that crime, the board shall send  
4 notice of the hearing to the victim at least 30 days before the hearing. The notice  
5 must be accompanied by a copy of the prisoner's or commissioner's application for  
6 parole submitted under AS 33.16.085. However, the copy of the application sent to  
7 the victim may not include the prisoner's proposed residence and employment  
8 addresses.

9 (b) A victim who requests notice under this section shall maintain a current,  
10 valid mailing address on file with the board. The board shall send the notice required  
11 by this section to the last known address of the victim. The victim's address may not  
12 be disclosed to the prisoner or the prisoner's attorney.

13 (c) The victim has a right to attend meetings of the parole board in which the  
14 status of the prisoner convicted of the crime against that victim is officially  
15 considered and to comment, in writing or in person, on the proposed action of the  
16 board. Copies of any written comments shall be provided to the prisoner and the  
17 prisoner's attorney before action by the board.

18 (d) The board shall consider the comments presented under (c) of this section  
19 in deciding whether to release the prisoner on special medical parole.

20 (e) If the victim requests, the board shall make every reasonable effort to  
21 notify the victim as soon as practicable in writing of its decision to grant or deny  
22 special medical parole. The notice under this subsection must include the expected  
23 date of the prisoner's release, the geographic area in which the prisoner is required to  
24 reside, and other pertinent information concerning the prisoner's conditions of parole  
25 that may affect the victim.

26 \* Sec. 7. AS 33.16.140 is amended to read:

27 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the  
28 board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the  
29 date parole custody ends, shall be furnished to each prisoner released on special  
30 medical, discretionary, or mandatory parole.

31 \* Sec. 8. AS 33.16.150(a) is amended to read:

1 (a) As a condition of parole, a prisoner released on special medical,  
2 discretionary, or mandatory, parole  ~~or~~

3 (1) shall obey all state, federal, or local laws or ordinances, and any  
4 court orders applicable to the parolee;

5 (2) shall make diligent efforts to maintain steady employment or meet  
6 family obligations;

7 (3) shall, if involved in education, counseling, training, or treatment,  
8 continue in the program unless granted permission from the parole officer assigned to  
9 the parolee to discontinue the program;

10 (4) shall report

11 (A) upon release to the parole officer assigned to the parolee;

12 (B) at other times, and in the manner, prescribed by the board  
13 or the parole officer assigned to the parolee;

14 (5) shall reside at a stated place and not change that residence without  
15 notifying, and receiving permission from, the parole officer assigned to the parolee ;

16 (6) shall remain within stated geographic limits unless written  
17 permission to depart from the stated limits is granted the parolee;

18 (7) may not use, possess, handle, purchase, give, distribute, or  
19 administer a controlled substance as defined in AS 11.71.900 or under federal law or  
20 a drug for which a prescription is required under state or federal law without a  
21 prescription from a licensed medical professional to the parolee and shall, to the  
22 extent the prisoner has the ability to pay, reimburse the department for all costs  
23 for drug testing during the period of parole;

24 (8) may not possess or control a firearm; in this paragraph, "firearm"  
25 has the meaning given in AS 11.81.900;

26 (9) may not enter into an agreement or other arrangement with a law  
27 enforcement agency or officer that will place the parolee in the position of violating  
28 a law or parole condition without the prior approval of the board;

29 (10) may not contact or correspond with anyone confined in a  
30 correctional facility of any type serving any term of imprisonment or a felon without  
31 the permission of the parole officer assigned to a parolee;

1 (11) shall agree to waive extradition from any state or territory of the  
2 United States and to not contest efforts to return the parolee to the state.

3 \* Sec. 9. AS 33.16.150(b) is amended to read:

4 (b) The board may require as a condition of special medical, discretionary, or  
5 mandatory parole, or a member of the board acting for the board under (e) of this  
6 section may require as a condition of mandatory parole, that a prisoner released on  
7 parole

8 (1) not possess or control a defensive weapon, a deadly weapon other  
9 than an ordinary pocket knife with a blade three inches or less in length, or  
10 ammunition for a firearm, or reside in a residence where there is a firearm capable of  
11 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly  
12 weapon," "defensive weapon," and "firearm" have the meanings given in  
13 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

14 (2) refrain from possessing or consuming alcoholic beverages;

15 (3) submit to reasonable searches and seizures by a parole officer, or  
16 a peace officer acting under the direction of a parole officer;

17 (4) submit to appropriate medical, mental health, or controlled  
18 substance or alcohol examination, treatment, or counseling;

19 (5) submit to periodic examinations designed to detect the use of  
20 alcohol or controlled substances;

21 (6) make restitution ordered by the court according to a schedule  
22 established by the board;

23 (7) refrain from opening, maintaining, or using a checking account or  
24 charge account;

25 (8) refrain from entering into a contract other than a prenuptial contract  
26 or a marriage contract;

27 (9) refrain from operating a motor vehicle;

28 (10) refrain from entering an establishment where alcoholic beverages  
29 are served, sold, or otherwise dispensed;

30 (11) refrain from participating in any other activity or conduct  
31 reasonably related to the parolee's offense, prior record, behavior or prior behavior,

1 current circumstances, or perceived risk to the community, or from associating with  
 2 any other person that the board determines is reasonably likely to diminish the  
 3 rehabilitative goals of parole, or that may endanger the public; in the case of special  
 4 medical parole, for a prisoner diagnosed with a communicable disease, comply  
 5 with conditions set by the board designed to prevent the transmission of the  
 6 disease.

*Added to this draft*

7 \* Sec. 10. AS 33.16.200 is amended to read:

8 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in  
 9 AS 33.16.210, the board retains custody of special medical, discretionary, and  
 10 mandatory parolees until the expiration of the maximum term or terms of  
 11 imprisonment to which the parolee is sentenced.

12 \* Sec. 11. AS 33.16.900(6) is amended to read:

13 (6) "discretionary parole" means the release of a prisoner by the board  
 14 before the expiration of a term, subject to conditions imposed by the board and subject  
 15 to its custody and jurisdiction; "discretionary parole" does not include "special  
 16 medical parole";

*new to draft*

17 \* Sec. 12. AS 33.16.900 is amended by adding new paragraphs to read:

18 (11) "severely medically disabled" means that a person has a medical  
 19 condition that requires the person suffering from the condition to be confined to bed  
 20 and the person is likely to

21 (A) be confined to bed throughout the entire period of parole;

*or Before it was added*

23 (B) to die from the condition;

24 (12) "special medical parole" means the release by the board before the  
 25 expiration of a term, subject to conditions imposed by the board and subject to its  
 26 custody and jurisdiction, of a prisoner who is severely medically disabled or a  
 27 quadriplegic.

28 \* Sec. 13. AS 33.30.011 is amended to read:

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

30 (1) establish, maintain, operate, and control correctional facilities  
 31 suitable for the custody, care, and discipline of persons charged or convicted of

1 offenses against the state or held under authority of state law;

2 (2) classify prisoners;

3 (3) for persons committed to the custody of the commissioner, establish

4 programs, including furlough programs that are reasonably calculated to

5 (A) protect the public;

6 (B) maintain health;

7 (C) create or improve occupational skills;

8 (D) enhance educational qualifications;

9 (E) support court-ordered restitution; and

10 (F) otherwise provide for the rehabilitation and reformation of

11 prisoners, facilitating their reintegration into society;

12 (4) provide necessary

13 (A) medical services for prisoners in correctional facilities or

14 who are committed by a court to the custody of the commissioner, including

15 examinations for communicable and infectious diseases;

16 (B) [(5) PROVIDE NECESSARY] psychological or psychiatric

17 treatment if a physician or other health care provider, exercising ordinary skill

18 and care at the time of observation, concludes that

19 (i) [(A)] a prisoner exhibits symptoms of a serious

20 disease or injury that is curable or may be substantially alleviated; and

21 (ii) [(B)] the potential for harm to the prisoner by reason

22 of delay or denial of care is substantial;

23 (5) [(6)] establish minimum standards for sex offender treatment

24 programs offered to persons who are committed to the custody of the commissioner;

25 (6) [AND (7)] provide for fingerprinting in correctional facilities in

26 accordance with AS 12.80.060; and

27 (7) develop a program to require all prisoners, to the extent each

28 prisoner has the ability to pay, to reimburse the department for all costs

29 associated with drug testing.

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30 \* Sec. 14. AS 33.30 is amended by adding a new section to read:

31 Sec. 33.30.028. RESPONSIBILITY FOR COSTS OF MEDICAL CARE. (a)

1 Notwithstanding any other provision of law, the liability for payment of the costs of  
2 medical, psychological, and psychiatric care provided or made available to a prisoner  
3 committed to the custody of the commissioner is, subject to (b) of this section, the  
4 responsibility of the prisoner and the

5 (1) prisoner's insurer if the prisoner is insured under existing individual  
6 health insurance, group health insurance, or any prepaid medical coverage;

7 (2) Department of Health and Social Services if the prisoner is eligible  
8 for assistance under AS 47.07 or AS 47.25.120 - 47.25.310;

9 (3) United States Department of Veterans Affairs if the prisoner is  
10 eligible for veterans' benefits that entitle the prisoner to reimbursement for the medical  
11 care or medical services;

12 (4) United States Public Health Service, the Indian Health Service, or  
13 any affiliated group or agency if the prisoner is a Native American and is entitled to  
14 medical care from those agencies or groups; and

15 (5) parent or guardian of the prisoner if the prisoner is under the age  
16 of 18.

17 (b) The commissioner shall require prisoners who are without resources under  
18 (a) of this section to pay the costs of medical, psychological, and psychiatric care  
19 provided to them by the department. At a minimum, the prisoner shall be required to  
20 pay a portion of the costs based upon the prisoner's ability to pay.

21 \* Sec. 15. AS 33.30.071(a) is amended to read:

22 (a) Notwithstanding AS 33.30.011(1), the commissioner of public safety shall  
23 provide for the custody, care, and discipline of prisoners pending arraignment,  
24 commitment by a court to the custody of the commissioner of corrections, or  
25 admission to a state correctional facility. Except as provided in (c) of this section, the  
26 responsibility for providing necessary medical services for prisoners remains with the  
27 commissioner of corrections under AS 33.30.011(4), subject to the responsibility for  
28 payment under AS 33.30.028. The commissioner of corrections and the  
29 commissioner of public safety are not responsible for providing custody, care, and  
30 discipline for a person detained under AS 47.30.705 or AS 47.37.170 [,] unless the  
31 person is admitted into a state correctional facility.

**CS FOR HB 219**  
**SECTIONAL ANALYSIS**

Section 1. Amends AS 11.61.127(b) to accommodate number change in Section 12 of the bill. No substantive effect.

Section 2. Requires a prisoner to reimburse the Department of Corrections for drug testing during probation, to the extent the person can pay.

Section 3. Adds "special medical" to those subject to the conditions of parole imposed under AS 33.16.150.

Section 4. Adds prisoners eligible for special medical parole to those the Parole Board may release.

Section 5. Adds consideration of special medical parole to the duties of the Parole Board.

Section 6. Permits special medical parole and sets out limitations for those convicted of child sex offenses. A person convicted of a child sex offense would have to be a quadriplegic to qualify for special medical parole. Sets out the rights of the victims to be informed of the parole hearing, to be present and comment at the hearing, and to be informed of the decision to grant or deny parole.

Section 7. Requires conditions for parole to be provided to the prisoner.

Section 8. Includes prisoners on special medical parole in the required general conditions for parole. Requires that prisoner pay the cost of drug testing as a condition of parole, to the extent the prisoner has the ability to pay.

Section 9. Includes prisoners on special medical parole in those who may be required to abide by other conditions of parole imposed by the Parole Board. It adds the ability for the Parole Board to require special conditions of those paroled with communicable disease.

Section 10. Includes special medical parolees in those under custody of the Parole Board.

Section 11. Provides that "special medical" parole is not "discretionary parole"

Section 12 Defines severely medically disabled as a condition that requires a person likely to be confined to bed and to die from the condition, or seriously incapacitated and likely to remain so through the parole period.

Defines special medical parole as release on parole of a person who is medically disabled.

Section 13. Adds a provision for the Commissioner to develop a charge system for drug testing of prisoners.

Section 13 Makes any other coverage available to a prisoner primary to the Department of Corrections. For those prisoners without other coverage, the Commissioner shall develop a program for the prisoners to pay a nominal fee for medical and psychological services.

Section 14. Requires the Commissioner of Public Safety to implement a program requiring other coverage of the prisoner to pay for health care provided in community jails. This will change to the Commissioner of Corrections if HB 200 (moving Community Jails to Corrections) passes.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for  
Children and Families

Region X  
M/S \_\_\_\_\_  
2201 Sixth Avenue  
Seattle, WA 98121

March 8, 1995

Kathy Tibbles  
Acting Director  
DHSS/DFYS  
PO Box 11601  
Juneau, AK 99811-0630

Dear Ms. Tibbles:

This is in response to your request for information on the Title IV-E and Title IV-B requirements for the safeguarding of information. We referred this issue to our Central Office in Washington, D.C. for clarification and have received the attached response.

We hope this information will be of use to you as you address these issues with your legislature. Please contact Carol Overbeck, at (206) 615-2558 if we can be of further assistance.

Sincerely,

Richard D. McConnell  
Chief, CCWD&R



## DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Administration for Children and Families  
Administration on Children, Youth and Families  
330 C Street, S.W.  
Washington, D.C. 20201

MAR - 8 1995

To: Richard McConnell  
Branch Chief, CWD  
Region X

From: Associate Commissioner  
Children's Bureau

Subject: Confidentiality Requirements of Title IV-E and IV-B

This is in response to your request for clarification on the confidentiality requirements of title IV-E and title IV-B. The confidentiality requirements for title IV-B and title IV-E are identified in the provisions in 45 CFR 205.50.

Question 1: Do the title IV-B and title IV-E confidentiality requirements apply to court records of children served by the title IV-B agency?

Answer: Yes, to the extent that the records contain information obtained from the IV-B agency. In Section 471(a)(8) of the Social Security Act, the title IV-E agency is required to have safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State Plan for Foster Care and Adoption. The release of information from the State IV-E agency can only be for the reasons identified in the statute. Further clarification regarding these safeguards is contained in 45 CFR 205.50. While the State Plan for Child Welfare Services in Section 422 of the Social Security Act does not identify confidentiality restrictions, title IV-B services are also subject to confidentiality regulatory restrictions identified in 45 CFR 205.50.

Other parties, including the court, are prohibited from redisclosure of information gained from the child welfare agency in 45 CFR 205.50(a)(2)(ii), except in the same circumstances as identified in 45 CFR 205.50(a)(1)(i). This prohibition would be for any information gained from the child welfare agency. The information to be safeguarded may be either written information or testimonials. In addition to the examples provided in 45 CFR

Page 2 - Richard McConnell

205.50(a)(2)(i), examples of child welfare information safeguarded include but are not limited to the following: referrals from other agencies to the child welfare agency, services provided by the child welfare agency to the child or family, referrals by the child welfare agency to other parties requesting services be provided to the child or family.

Question 2: Because the bill provides for the release of information only on children who have previously offended, can we prohibit this release because the information on a previous offense is part of a child welfare record? Such release would indirectly inform the public that this child had previously offended.

Answer: No. The court is prohibited from redisclosing information that is gained from the child welfare agency. The provisions of confidentiality of information cannot be extended to information that the court has gained from sources other than the child welfare agency. The court is required to abide by its own governing legislation on matters of safeguarding of information.

For example, if the police, school officials, or some other party refers a child to the child welfare agency, the child welfare agency would treat information about the referral as confidential. If the child welfare agency informed the court about this referral, the court would be prohibited from redisclosing the information. If the police, the school official, or some other party went to the court then the confidentiality provisions do not apply. If the court became aware of the police, the school, or other party involvement through a source other than the child welfare agency, the confidentiality provisions in Section 471(a)(8) and 45 CFR 205.50 would not apply.

Question 3: Who can release information? In particular, can parties other than the state title IV-B agency (such as the court) release information?

Answer: Any party (including the court) is prohibited from releasing information which was gained from the child welfare agency, except in the same circumstances as identified in 45 CFR

Page 3 - Richard McConnell

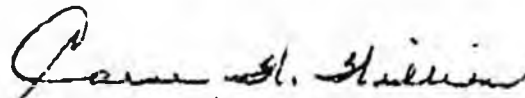
205.50(a)(1)(i).

Question 4: What information can be released? In particular, what information is child welfare information when a child is placed as a result of a juvenile offense?

Answer:

The issue of confidentiality is not focussed around the specific nature of the information, but rather the source of the information. No information that is gained from the child welfare agency may be released, except as noted in Question 3. If the court gained information regarding a juvenile from the child welfare agency, this information shall remain confidential. Should the court gain information about a juvenile in a proceeding that does not involve the child welfare agency, the confidentiality provisions of Section 471(a)(8) do not apply. Other parties would abide by their own confidentiality restrictions.

Thus, in a court proceeding, if a psychologist is requested to testify on behalf of the child welfare agency, the information is safeguarded under the provisions of Section 471(a)(8). If the psychologist's awareness of the child did not involve the child welfare agency, Section 471(a)(8) does not apply.

  
Carol W. Williams, D.S.W.

9-LS0810F  
Luckhaupt  
3/21/95

CS FOR HOUSE BILL NO. 219( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to medical care for prisoners; relating to payment for drug  
2 testing for persons in prison, on probation, or on parole; and authorizing special  
3 medical parole for severely medically disabled prisoners."

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

5 \* Section 1. AS 11.61.127(b) is amended to read:

6 (b) This section does not apply to persons providing plethysmograph  
7 assessments in the course of a sex offender treatment program that meets the minimum  
8 standards under AS 33.30.011(a)(5) [AS 33.30.011(6)]. *& setting out conditions*

9 \* Sec. 2. AS 12.55.100 is amended by adding a new subsection to read: *of probation*

10 (d) As a condition of probation, the court shall order the defendant, to the  
11 extent the defendant has the ability to pay, to reimburse the Department of Corrections  
12 for all the costs of drug testing during the period of probation.

13 \* Sec. 3. AS 33.16.010(d) is amended to read:

14 (d) A prisoner released on special medical, discretionary, or mandatory parole

*Parole Administration*

is subject to the conditions of parole imposed under AS 33.16.150. Parole may be  
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\* Sec. 4. AS 33.16.010 is amended by adding a new subsection to read:

(e) A prisoner eligible under AS 33.16.085 may be released on special medical  
parole by the Parole Board.

\* Sec. 5. AS 33.16.060 is amended to read:

Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

- (1) serve as the parole authority for the state;
- (2) upon receipt of an application, consider the suitability for parole of  
a prisoner who is eligible for special medical or discretionary parole;
- (3) impose parole conditions on all prisoners released under  
discretionary or mandatory parole;
- (4) under AS 33.16.210, discharge a person from parole when custody  
is no longer required;
- (5) maintain records of the meetings and proceedings of the board;
- (6) recommend to the governor and the legislature changes in the law  
administered by the board;
- (7) recommend to the governor or the commissioner changes in the  
practices of the department and of other departments of the executive branch necessary  
to facilitate the purposes and practices of parole;
- (8) upon request of the governor, review and recommend applicants for  
executive clemency; and
- (9) execute other responsibilities prescribed by law.

(b) The board shall adopt regulations under the Administrative Procedure Act  
(AS 44.62)

- (1) establishing standards under which the suitability of a prisoner for  
special medical or discretionary parole shall be determined;
- (2) providing for the supervision of parolees and for recommitment of  
parolees; and
- (3) governing procedures of the board.

\* Sec. 6. AS 33.16 is amended by adding new sections to read:

*Conditions  
for all  
parolees*

*Revocation  
of Parole*

*new  
Special  
Medical  
Parole*

*adds  
word of  
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Subsect  
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1           Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a  
 2 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or  
 3 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term  
 4 of at least 181 days, may, upon application by the prisoner or the commissioner be  
 5 released by the board on special medical parole if the board determines

6           (1) for a prisoner convicted of

7           (A) an offense other than a violation of AS 11.41.434 -  
 8 11.41.438, that the prisoner is severely medically disabled as certified in  
 9 writing by a physician licensed under AS 08.64, was not severely medically  
 10 disabled at the time the prisoner committed the offense or parole or probation  
 11 violation for which the prisoner is presently incarcerated; or

12           (B) a violation of AS 11.41.434 - 11.41.438, that the prisoner  
 13 is a quadriplegic as certified by a physician licensed under AS 08.64 and was  
 14 not a quadriplegic at the time the prisoner committed the offense or parole or  
 15 probation violation for which the prisoner is presently incarcerated; and

16           (2) that a reasonable probability exists that

17           (A) the prisoner will live and remain at liberty without violating  
 18 any laws or conditions imposed by the board;

19           (B) because of being severely medically disabled or a  
 20 quadriplegic, the prisoner will not pose a threat of harm to the public if  
 21 released on parole; and

22           (C) release of the prisoner on parole would not diminish the  
 23 seriousness of the crime.

24           (b) If the board finds a change in circumstances or discovers new information  
 25 concerning a prisoner who has been granted a special medical parole release date, the  
 26 board may rescind or revise the previously granted parole release date.

27           (c) The board shall issue its decision to grant or deny special medical parole,  
 28 or to rescind or revise the release date of a prisoner granted special medical parole, in  
 29 writing and provide a basis for the decision. A copy of the decision shall be provided  
 30 to the prisoner.

31           Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH

*sexual abuse of a minor Statutes*  
*sexual assault on a minor*

??  
*on murder (1 month - 1 year) would not be necessary? in some cases, person*

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SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or arson in the first degree requests notice of a scheduled hearing to review or consider special medical parole for a prisoner convicted of that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's or commissioner's application for parole submitted under AS 33.16.085. However, the copy of the application sent to the victim may not include the prisoner's proposed residence and employment addresses.

(b) A victim who requests notice under this section shall maintain a current, valid mailing address on file with the board. The board shall send the notice required by this section to the last known address of the victim. The victim's address may not be disclosed to the prisoner or the prisoner's attorney.

(c) The victim has a right to attend meetings of the parole board in which the status of the prisoner convicted of the crime against that victim is officially considered and to comment, in writing or in person, on the proposed action of the board. Copies of any written comments shall be provided to the prisoner and the prisoner's attorney before action by the board.

(d) The board shall consider the comments presented under (c) of this section in deciding whether to release the prisoner on special medical parole.

(e) If the victim requests, the board shall make every reasonable effort to notify the victim as soon as practicable in writing of its decision to grant or deny special medical parole. The notice under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

\* Sec. 7. AS 33.16.140 is amended to read:

Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the date parole custody ends, shall be furnished to each prisoner released on special medical, discretionary, or mandatory parole.

\* Sec. 8. AS 33.16.150(a) is amended to read:

}  
similar  
to other  
victim  
rights  
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*Number -  
to Conditions  
of parole*

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(a) As a condition of parole, a prisoner released on special medical discretionary, or mandatory parole

(1) shall obey all state, federal, or local laws or ordinances, and any court orders applicable to the parolee;

(2) shall make diligent efforts to maintain steady employment or meet family obligations;

(3) shall, if involved in education, counseling, training, or treatment, continue in the program unless granted permission from the parole officer assigned to the parolee to discontinue the program;

(4) shall report

(A) upon release to the parole officer assigned to the parolee;

(B) at other times, and in the manner, prescribed by the board or the parole officer assigned to the parolee;

(5) shall reside at a stated place and not change that residence without notifying, and receiving permission from, the parole officer assigned to the parolee;

(6) shall remain within stated geographic limits unless written permission to depart from the stated limits is granted the parolee;

(7) may not use, possess, handle, purchase, give, distribute, or administer a controlled substance as defined in AS 11.71.900 or under federal law or a drug for which a prescription is required under state or federal law without a prescription from a licensed medical professional to the parolee and shall, to the extent the prisoner has the ability to pay, reimburse the department for all costs for drug testing during the period of parole;

(8) may not possess or control a firearm; in this paragraph, "firearm" has the meaning given in AS 11.81.900;

(9) may not enter into an agreement or other arrangement with a law enforcement agency or officer that will place the parolee in the position of violating a law or parole condition without the prior approval of the board;

(10) may not contact or correspond with anyone confined in a correctional facility of any type serving any term of imprisonment or a felon without the permission of the parole officer assigned to a parolee;

*new*

1 (11) shall agree to waive extradition from any state or territory of the  
2 United States and to not contest efforts to return the parolee to the state.

3 \* Sec. 9. AS 33.16.150(b) is amended to read:

*discretionary parole conditions*

4 (b) The board may require as a condition of special medical, discretionary, or  
5 mandatory parole, or a member of the board acting for the board under (e) of this  
6 section may require as a condition of mandatory parole, that a prisoner released on  
7 parole

8 (1) not possess or control a defensive weapon, a deadly weapon other  
9 than an ordinary pocket knife with a blade three inches or less in length, or  
10 ammunition for a firearm, or reside in a residence where there is a firearm capable of  
11 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly  
12 weapon," "defensive weapon," and "firearm" have the meanings given in  
13 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

14 (2) refrain from possessing or consuming alcoholic beverages;

15 (3) submit to reasonable searches and seizures by a parole officer, or  
16 a peace officer acting under the direction of a parole officer;

17 (4) submit to appropriate medical, mental health, or controlled  
18 substance or alcohol examination, treatment, or counseling;

19 (5) submit to periodic examinations designed to detect the use of  
20 alcohol or controlled substances;

21 (6) make restitution ordered by the court according to a schedule  
22 established by the board;

23 (7) refrain from opening, maintaining, or using a checking account or  
24 charge account;

25 (8) refrain from entering into a contract other than a prenuptial contract  
26 or a marriage contract;

27 (9) refrain from operating a motor vehicle;

28 (10) refrain from entering an establishment where alcoholic beverages  
29 are served, sold, or otherwise dispensed;

30 (11) refrain from participating in any other activity or conduct  
31 reasonably related to the parolee's offense, prior record, behavior or prior behavior,

1 current circumstances, or perceived risk to the community, or from associating with  
2 any other person that the board determines is reasonably likely to diminish the  
3 rehabilitative goals of parole, or that may endanger the public.

4 \* Sec. 10. AS 33.16.200 is amended to read:

5 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in  
6 AS 33.16.210, the board retains custody of special medical, discretionary, and  
7 mandatory parolees until the expiration of the maximum term or terms of  
8 imprisonment to which the parolee is sentenced.

*best*

9 \* Sec. 11. AS 33.16.900 is amended by adding new paragraphs to read:

*new to CS - at least 4 provided*

10 (11) "severely medically disabled" means that a person has a medical  
11 condition that

12 (A) requires the person suffering from the condition to be  
13 confined to bed and the person is likely to be permanently confined to bed and  
14 to die from the condition; (or)

15 (B) makes a person seriously physically incapacitated and the  
16 person is likely to remain so throughout the entire period of parole;

17 (12) "special medical parole" means the release by the board before the  
18 expiration of a term, subject to conditions imposed by the board and subject to its  
19 custody and jurisdiction, of a prisoner who is severely medically disabled (or) a  
20 quadriplegic.

21 \* Sec. 12. AS 33.30.011 is amended to read:

*Prison facilities & prisoners*

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

*new to CS*

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

26 (2) classify prisoners;

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

29 (A) protect the public;

30 (B) maintain health;

31 (C) create or improve occupational skills;

- (D) enhance educational qualifications;
- (E) support court-ordered restitution; and
- (F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) subject to responsibility for payment under AS 33.30.028,  
provide necessary

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

(B) [(5) PROVIDE NECESSARY] psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(i) [(A)] a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) [(B)] the potential for harm to the prisoner by reason of delay or denial of care is substantial;

(5) [(6)] establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner;

(6) [AND (7)] provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; and

(7) develop a program to require all prisoners, to the extent each prisoner has the ability to pay, to reimburse the department for all costs associated with drug testing.

\* Sec. 13. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.028. RESPONSIBILITY FOR COSTS OF MEDICAL CARE. (a)

Notwithstanding any other provision of law, the liability for payment of the costs of medical care or medical services provided or made available to a prisoner committed to the custody of the commissioner is the responsibility of the prisoner and the

(1) prisoner's insurer if the prisoner is insured under existing individual health insurance, group health insurance, or any prepaid medical coverage;

(2) Department of Health and Social Services if the prisoner is eligible

*new -  
below*

*How would this apply*

1 for assistance under AS 47.07 or AS 47.25.120 - 47.25.310;

2 (3) United States Department of Veterans Affairs if the prisoner is  
3 eligible for veterans' benefits that entitle the prisoner to reimbursement for the medical  
4 care or medical services;

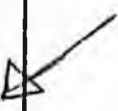
5 (4) United States Public Health Service, the Indian Health Service, or  
6 any affiliated group or agency if the prisoner is a Native American and is entitled to  
7 medical care from those agencies or groups;

8 (5) parent or guardian of the prisoner if the prisoner is under the age  
9 of 18.

10 (b) The commissioner shall develop a program for those prisoners that are  
11 without resources under (a) of this section to pay the costs of medical, psychological,  
12 and psychiatric care provided to them by the department. At a minimum, the program  
13 shall provide for the prisoner to pay, based upon the prisoner's ability to pay, a portion  
14 of the costs of the care provided or a nominal fee, that involves the prisoner in the  
15 decision to seek and provide the care and the responsibility for that care.

16 \* Sec. 14. AS 33.30.071(a) is amended to read:

17 (a) Notwithstanding AS 33.30.011(1), the commissioner of public safety shall  
18 provide for the custody, care, and discipline of prisoners pending arraignment,  
19 commitment by a court to the custody of the commissioner of corrections, or  
20 admission to a state correctional facility. Except as provided in (c) of this section, the  
21 responsibility for providing necessary medical services for prisoners remains with the  
22 commissioner of corrections under AS 33.30.011(4), subject to the responsibility for  
23 payment under AS 33.30.028. The commissioner of corrections and the  
24 commissioner of public safety are not responsible for providing custody, care, and  
25 discipline for a person detained under AS 47.30.705 or AS 47.37.170 [,] unless the  
26 person is admitted into a state correctional facility.



*new to CS*

*Correc  
tion  
still  
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care*

*Emergency  
psychiatric  
detention*

*Detention?  
persons  
what or intent  
to escape  
alcohol*

## **SPONSOR STATEMENT HOUSE BILL 219**

House Bill 219 provides the Department of Corrections additional "tools" to control spiraling inmate health care costs by allowing special medical parole for terminally ill and severely disabled prisoners and charging for medical services and drug testing.

This legislation creates a new category of parole called "special medical parole" for inmates who are suffering from terminal diseases or are severely disabled. The classification only allows parole -- it does not guarantee parole. The judgment will still rest with the Parole Board.

The Alaska Sentencing Commission has recommended that parole statutes be amended to allow special medical parole for terminally ill offenders. The Commission's report found that many offenders have serious medical problems that cost the Department of Corrections significant amounts of money each year. The Commission expressed concern that as the inmate population ages and as the number of HIV infected inmates increase, the Department will face even higher inmate health costs. A recent case cost the Department of Corrections over \$500,000 for two months of medical care before the inmate died.

"Special medical parole" should not pose a risk to public safety. Those who qualify will do so because they are debilitated to an extent that they cannot present any risk to the general public. Should the person have a communicable disease, the condition of parole would certainly include appropriate containment. If a prisoner becomes a

quadriplegic while in prison, the risk to society is likely to be substantially reduced.

Currently, the Department of Corrections can furlough a terminally ill or severely disabled inmate, but the Department remains responsible for medical expenses. Medicare and Medicaid will step in only after the Department of Corrections releases the person from its custody. If the offender can secure Medicaid or Medicare eligibility, those programs will help fund the cost of medical care.

We believe that there may, in the past year or so, be 5-10 prisoners that would be eligible for this program. It could save the Department of Corrections and the State of Alaska a few million dollars in a very short time.

The Department of Corrections also needs the ability to bill any "other coverage" a prisoner has and to charge for medical care and drug testing. This is especially important when a prisoner is on work furlough, or in a half way house and working in the community. If they have insurance, it should be primary, not the Department of Corrections.

Today, prisoners in our institutions receive health care at no cost to themselves. I believe that a nominal fee associated with "sick call" will act as a deductible does in the insured population. It will encourage users to consider if there is a real health care need.

This bill allows the department to establish charges for the health care it provides. It also requires insurance or any other coverage available to the individual to be primary rather than the Department of Corrections. It is true that we may have a problem with some federal programs paying for prisoner's health care in institutions. However, those prisoners in community settings can go to their own providers and get the coverage they are entitled to.

The bill requires the department to charge prisoners, parolees and those on probation for the cost of drug testing. The Commissioner is directed to consider the person's financial situation when charging for the testing.

HB 219 will reduce some of the costs of inmate health care and allow the Department of Corrections to focus its limited budget on its true mission.

## CS FOR HB 219 SECTIONAL ANALYSIS

Section 1. Amends AS 11.61.127(b) to accommodate number change in Section 12 of the bill. No substantive effect.

Section 2. Requires a prisoner to reimburse the Department of Corrections for drug testing during probation, to the extent the person can pay.

Section 3. Adds "special medical" to those subject to the conditions of parole imposed under AS 33.16.150.

Section 4. Adds prisoners eligible for special medical parole to those the Parole Board may release.

Section 5. Adds consideration of special medical parole to the duties of the Parole Board.

Section 6. Permits special medical parole and sets out limitations for those convicted of child sex offenses. A person convicted of a child sex offense would have to be a quadriplegic to qualify for special medical parole. Sets out the rights of the victims to be informed of the parole hearing, to be present and comment at the hearing, and to be informed of the decision to grant or deny parole.

Section 7. Requires conditions for parole to be provided to the prisoner.

Section 8. Includes prisoners on special medical parole in the required general conditions for parole. Requires that prisoner pay the cost of drug testing as a condition of parole, to the extent the prisoner has the ability to pay.

Section 9. Includes prisoners on special medical parole in those who may be required to abide by other conditions of parole imposed by the Parole Board.

Section 10. Includes special medical parolees in those under custody of the Parole Board.

Section 11. Defines severely medically disabled as a condition that requires a person likely to be confined to bed and to die from the condition, or seriously incapacitated and likely to remain so through the parole period.

Defines special medical parole as release on parole of a person who is medically disabled.

Section 12. Adds responsibility for the prisoner to pay for medical services and psychiatric services. Adds a provision for the Commissioner to develop a charge system for drug testing of prisoners.

Section 13 Makes any other coverage available to a prisoner primary to the Department of Corrections. For those prisoners without other coverage, the Commissioner shall develop a program for the prisoners to pay a nominal fee for medical and psychological services.

Section 14. Requires the Commissioner of Public Safety to implement a program requiring other coverage of the prisoner to pay for health care provided in community jails. This will change to the Commissioner of Corrections if HB 200 (moving Community Jails to Corrections) passes.

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 219

Revision Date: \_\_\_\_\_  
 Title: "An Act authorizing special medical parole for terminally ill prisoners."  
 Sponsor: Rep. Mulder  
 Requestor: (H) JUD

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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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>	0.0	0.0	0.0	0.0	0.0	0.0

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill will not have a fiscal impact on the Public Defender Agency.

Prepared by: John Salemi, Director  
 Division: Public Defender Agency

Phone: 264-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

Date: 3/20/95

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