

**SB**

**1**

(7)

Date Referred to Committee: February 13, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/21/97

The JUDICIARY Committee considered:

CSSB 1(FIN) am

CS FOR SENATE BILL NO. 1(FIN) am

"NO FRILLS" PRISON ACT

"An Act relating to living and working conditions of prisoners in correctional facilities operated by the state, and authorizing the commissioner of corrections to negotiate with providers of detention and confinement services under contract to apply those conditions and limitations on services to persons held under authority of state law at facilities operated under contract or agreement; relating to services provided to prisoners; amending the definition of 'severely medically disabled' applicable to prisoners seeking special medical parole; amending provisions of the correctional industries program; and extending the termination date of the Correctional Industries Commission and the program."

recommends it be replaced with the following committee substitute HCS CSSB 1(JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_

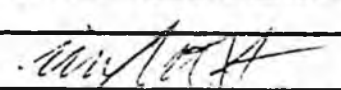
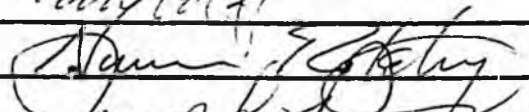
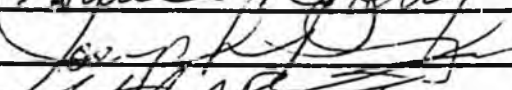
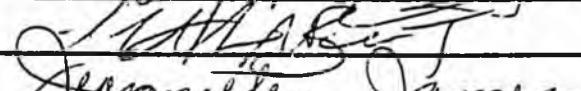
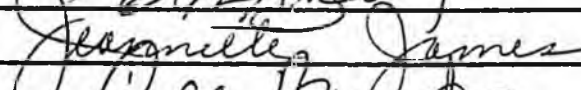
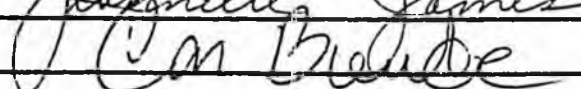
APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

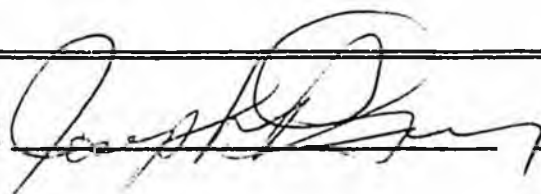
fiscal note(s) CORRECTIONS

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) PUB. SAFETY & LAW

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 CROFT			✓	
 ROKEBERG	✓			
 GREEN	✓			
 BERKOWITZ			✓	
 JAMES	✓			
 BUNDE	✓			

CHAIR'S SIGNATURE



# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO. CSSB 1 (FIN)am**

Revision Date: 3/3/97 Dept. Affected: Corrections  
 Title: "An act relating to living and working  
conditions of prisoners..." BRU: Institutions  
 Sponsor: Senator Donley Component: \_\_\_\_\_  
 Requester: House Judiciary Committee COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	20.0	20.0	20.0	20.0	20.0	20.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1005 )</b>	20.0	20.0	20.0	20.0	20.0	20.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	20.0	20.0	20.0	20.0	20.0	20.0
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Under Section 5 of this bill, a new Sec. 33.30.17 would require the Commissioner to establish a monthly prisoner utility fee, not to exceed \$2, that will be collected from those prisoners who possess at least one major electrical appliance. The Department projects that the additional bookkeeping duties required by this section will result in extra staff time that will cost an estimated \$20,000 each fiscal year. The Department also projects that this cost could be offset by \$20,000 in program receipts generated by the utility fees.

Prepared by: Bruce Richards  
 Division: Commissioner's Office  
 Approved by Commissioner: Margaret M. Peel  
 Agency: Department of Corrections

Phone: 465-3307  
 Date: 3/3/97  
 Date: 3-3-97

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# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO. CSSB 1 (FIN) am**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ... relating to living and working conditions of BRU: Criminal Division  
prisoners in correctional facilities operated by the state . . . Component: Criminal Division  
 Sponsor: Senator Donley  
 Requester: House Judiciary Committee COMPONENT SERIAL NO. 2085

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

To be known as the "Alaska No Frills Prison Act," this bill would amend Title 33, relating to probation, prisons and prisoners, to place specific limitations on the living and working conditions of prisoners in correctional facilities operated by the state, and negotiate for those same conditions and limitations in contract facilities. Further, the bill would require fees for utility services for prisoners. The bill would also amend the definition of "severely medically disabled" applicable to prisoners seeking special medical parole.

The purpose of the Alaska Correctional Industries Program would be amended to include vocational training, but would not require a vocational training program be established. The termination date for the Correctional Industries Commission and the program would be extended from 1999 to 2005 under this bill.

Passage of the Senate Finance committee substitute, as amended, will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Administrative/Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*  
 Agency: Department of Law

Phone: 465-5370  
 Date: 2/28/97  
 Date: 2/28/97

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STATE OF ALASKA

FISCAL NOTE

No. 4

1997 LEGISLATIVE SESSION

BILL NO:

Bill Version: CS SB 1 (JUD)

(S) Publish Date: 1-30-97

Revision Date: January 28, 1997

Dept. Affected: Public Safety

Title: "No Frills" Prison Act

DPS Statewide Support

Component: Commissioner's Office

Sponsor: Senator Donley

Requestor: S. Judiciary

COMPONENT SERIAL NO. 0523

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 ( )	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

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 97) impact: \$ \_\_\_\_\_

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 Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 1/24/97

Approved by Commissioner: *Ronald L. Otte*

Date: 1/24/97

Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

No. 3

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill. ersion: CS SB 1 (JUD)

(S) Publish Date: 1-30-97

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>... relating to living and working conditions of</u>	BRU: <u>Criminal Division</u>
<u>prisoners in correctional facilities operated by the state ...</u>	Component: <u>Criminal Division</u>
Sponsor: <u>Senator Donley</u>	
Requester: <u>Senate Judiciary Committee</u>	COMPONENT SERIAL NO. <u>2085</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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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 (FY97) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

To be known as the "Alaska No Frills Prison Act," this bill would amend Title 33, relating to probation, prisons and prisoners, to place specific limitations on the living and working conditions of prisoners in correctional facilities operated by the state, and negotiate for those same conditions and limitations in contract facilities. Further, the bill would require fees for utility services for prisoners. The bill would also amend the definition of "severely medically disabled" applicable to prisoners seeking special medical parole.

The purpose of the Alaska Correctional Industries Program would be amended to include vocational training, but would not require a vocational training program be established. The termination date for the Correctional Industries Commission and the program would be extended from 1999 to 2005 under this bill.

Passage of the Judiciary committee substitute will have no fiscal impact on the Department of Law.

Prepared by:	Joan M. Kasson <i>Joan M. Kasson</i>	Phone: <u>465-5370</u>
Division:	Administrative Services Division	Date: <u>1/29/97</u>
Approved by Commissioner:	Bruce M. Botelho, Attorney General <i>Bruce M. Botelho</i>	Date: <u>1/29/97</u>
Agency:	Department of Law	

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# FISCAL NOTE

No. 2

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill Version: CSSB 1 (JUD)

(S) Publish Date: 1-30-97

Revision Date: 1/28/97 Dept. Affected: Corrections  
 Title: "An act relating to living and working BRU: Institutions  
conditions of prisoners..." Component: \_\_\_\_\_  
 Sponsor: Senator Donley  
 Requester: Judiciary Committee COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	20.0	20.0	20.0	20.0	20.0	20.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( 1005 )	20.0	20.0	20.0	20.0	20.0	20.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	20.0	20.0	20.0	20.0	20.0	20.0
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Under Section 4 of this bill, a new Sec. 33.30.17 would require the Commissioner to establish a monthly prisoner utility fee, not to exceed \$2, that will be collected from those prisoners who possess at least one major electrical appliance. The Department projects that the additional bookkeeping duties required by this section will result in extra staff time that will cost an estimated \$20,000 each fiscal year. The Department also projects that this cost could be offset by \$20,000 in program receipts generated by the utility fees.

Prepared by: Bruce Richards  
 Division: Commissioner's Office  
 Approved by Commissioner: Margaret M. Pugh  
 Agency: Department of Corrections

Phone: 465-3307  
 Date: 1/28/97  
 Date: 1-28-97

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HOUSE CS FOR CS FOR SENATE BILL NO. 1(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Pearce, Green, Leman, Taylor, Kelly, Mackie, Phillips  
REPRESENTATIVES Mulder, Cowdery, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to living and working conditions of prisoners in correctional  
2 facilities operated by the state, and authorizing the commissioner of corrections  
3 to negotiate with providers of detention and confinement services under contract  
4 to apply those conditions and limitations on services to persons held under  
5 authority of state law at facilities operated under contract or agreement; relating  
6 to services provided to prisoners; amending the definition of 'severely medically  
7 disabled' applicable to prisoners seeking special medical parole; amending  
8 provisions of the correctional industries program; and extending the termination  
9 date of the Correctional Industries Commission and the program."

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

11 \* Section 1. Sections 4 - 6 of this Act may be known as the "Alaska No Frills Prison Act."

12 \* Sec. 2. INTENT. It is the intent of secs. 4 - 6 of this Act that conditions in facilities for

1 prisoners within the Department of Corrections not be substantially more favorable than  
 2 required by the constitutions of this state and the United States unless the commissioner of  
 3 corrections has reasonable grounds to believe such conditions are consistent with fostering  
 4 rehabilitative programs or rewarding good behavior within state prisons.

5 \* Sec. 3. AS 33.16.900(11) is amended to read:

6 (11) "severely medically disabled" means that a person has a medical  
 7 condition that substantially eliminates the physical ability to commit an offense  
 8 similar to the offense for which the person was convicted or to commit an offense  
 9 in violation of AS 11.41 that is punishable as a felony. [REQUIRES THE PERSON  
 10 SUFFERING FROM THE CONDITION TO BE CONFINED TO BED] and the person  
 11 is likely to

12 (A) remain subject to the medical condition [BE CONFINED  
 13 TO BED] throughout the entire period of parole; or

14 (B) die from the medical condition;

15 \* Sec. 4. AS 33.30.011 is amended to read:

16 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

17 (1) establish, maintain, operate, and control correctional facilities  
 18 suitable for the custody, care, and discipline of persons charged or convicted of  
 19 offenses against the state or held under authority of state law; each correctional  
 20 facility operated by the state shall be established, maintained, operated, and  
 21 controlled in a manner that is consistent with AS 33.30.015;

22 (2) classify prisoners;

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

25 (A) protect the public and the victims of crimes committed  
 26 by prisoners;

27 (B) maintain health;

28 (C) create or improve occupational skills;

29 (D) enhance educational qualifications;

30 (E) support court-ordered restitution; and

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

1 prisoners, facilitating their reintegration into society;

2 (4) provide necessary

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

6 (B) psychological or psychiatric treatment if a physician or  
7 other health care provider, exercising ordinary skill and care at the time of  
8 observation, concludes that

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

11 (ii) the potential for harm to the prisoner by reason of  
12 delay or denial of care is substantial;

13 (5) establish minimum standards for sex offender treatment programs  
14 offered to persons who are committed to the custody of the commissioner; and

15 (6) provide for fingerprinting in correctional facilities in accordance  
16 with AS 12.80.060.

17 \* Sec. 5. AS 33.30 is amended by adding new sections to read:

18 **Sec. 33.30.015. Living conditions for prisoners.** (a) On and after the date that  
19 is two years after the effective date of this Act, the commissioner may not

20 (1) make per capita expenditures for food for prisoners in a state  
21 correctional facility operated by the state that exceed 90 percent of per capita  
22 expenditures for food that is available to enlisted personnel in the United States Army  
23 stationed in the state;

24 (2) provide in a state correctional facility operated by the state

25 (A) living quarters for a prisoner into which the view is  
26 obstructed; however, the commissioner is not required to renovate a facility  
27 to comply with this subparagraph if the facility is being used as a correctional  
28 facility on the effective date of this Act, or if the facility was already built  
29 before being acquired by the department;

30 (B) equipment or facilities for publishing or broadcasting  
31 material the content of which is not subject to prior approval by the department  
32 as consistent with keeping order in the institution and prisoner discipline;

1 (C) cable television service other than a level of basic cable  
2 television service that is available as a substitute for services that are broadcast  
3 to the public in the community in which a correctional facility is located;

4 (3) allow a prisoner held in a state correctional facility operated by the  
5 state to

6 (A) possess in the prisoner's cell a cassette tape player or  
7 recorder, a video cassette recorder (VCR), or a computer or modem of any  
8 kind;

9 (B) view movies rated "R," "X," or "NC-17";

10 (C) possess printed or photographic material that

11 (i) is obscene as defined by the commissioner in  
12 regulation;

13 (ii) could reasonably be expected to incite racial, ethnic,  
14 or religious hatred that is detrimental to the security, good order, or  
15 discipline of the institution or violence;

16 (iii) could reasonably be expected to aid in an escape or  
17 in the theft or destruction of property;

18 (iv) describes procedures for brewing alcoholic  
19 beverages or for manufacturing controlled substances, weapons, or  
20 explosives; or

21 (v) could reasonably be expected to facilitate criminal  
22 activity or a violation of institution rules;

23 (D) receive instruction in person, or by broadcast medium, or  
24 engage in boxing, wrestling, judo, karate, or other martial art or in any activity  
25 that, in the commissioner's discretion, would facilitate violent behavior;

26 (E) possess or have access to equipment for use in the activities  
27 listed in (D) of this paragraph;

28 (F) possess or have access to free weights;

29 (G) possess in the prisoner's cell a coffee pot, hot plate, appliance  
30 or heating element for food preparation, or more than three electrical appliances  
31 of any kind;

32 (H) possess or appear in a state of dress, hygiene, grooming, or

1 appearance other than as permitted as uniform or standard in the correctional  
2 facility;

3 (I) use a computer other than those approved by the correctional  
4 facility; the use of a computer under this subparagraph may be approved only as  
5 part of the prisoner's employment, education, or vocational training and may not  
6 be used for any other purpose;

7 (J) smoke or use tobacco products of any kind.

8 (b) The commissioner may determine whether the provisions of (a) of this  
9 section shall apply to correctional facilities that are not operated by the state and may  
10 negotiate with a provider of services for the detention and confinement of persons held  
11 under authority of state law under contract or agreement whether the living conditions  
12 set out in (a) of this section shall apply to persons held under authority of state law at  
13 a facility operated under contract or agreement.

14 (c) On and after January 1, 1998, the commissioner may not allow a prisoner to  
15 possess a television in the prisoner's cell if the prisoner is classified as maximum custody  
16 under AS 33.30.011(2).

17 (d) The commissioner may allow a prisoner who, under AS 33.30.011(2), has  
18 been classified as other than maximum custody to possess a television in the prisoner's  
19 cell only if the prisoner

20 (1) either is incapable of obtaining or has attained a high school diploma  
21 or general education development diploma or the equivalent;

22 (2) is actively engaged in an educational, vocational training, or  
23 employment program;

24 (3) has satisfied or is on a regular and current payment schedule for all  
25 restitution orders entered by the court as part of the prisoner's sentence and, if  
26 applicable, is actively engaged in a treatment plan or counseling, psychiatric, or  
27 rehabilitation program ordered by the court or the department as part of the prisoner's  
28 sentence; and

29 (4) pays for the expense of providing the television and, in addition to  
30 the utility service fee required by AS 33.30.017, pays for the expense of providing any  
31 cable television service.

32 (e) The commissioner shall use

1 (1) appropriate technology to screen programs received by prisoners  
2 under (d) of this section;

3 (2) Alaska farm products and salmon to the greatest extent practicable  
4 for food for prisoners in a state correctional facility operated by the state.

5 **Sec. 33.30.017. Fees for utilities services for prisoners.** (a) The commissioner  
6 shall establish a reasonable utility fee for electrical utilities that are used by prisoners  
7 who are confined in a state correctional facility.

8 (b) The commissioner shall

9 (1) charge each prisoner who possesses at least one major electrical  
10 appliance the utility fee established in (a) of this section; the commissioner may deduct  
11 the utility fee monthly from the account established for a prisoner into which money due  
12 the prisoner for labor is paid; if a prisoner is indigent, the commissioner shall make the  
13 deduction from any amount credited to the indigent inmate's account;

14 (2) if available from legislative appropriation, expend money deducted  
15 and collected under (1) of this subsection to offset the cost of the department's utility  
16 expenses; the commissioner shall annually report on the amounts that are collected and  
17 expended under this paragraph.

18 (c) The provisions of (b) of this section do not apply to prisoners

19 (1) who are

20 (A) developmentally disabled; or

21 (B) severely medically disabled, as that term is defined in

22 AS 33.16.900;

23 (2) who are housed in a mental health unit or psychiatric unit of a state  
24 correctional facility; or

25 (3) while placed in a state correctional facility awaiting classification  
26 under classification procedures for the purpose of making the appropriate assignment of  
27 the prisoner.

28 \* **Sec. 6.** AS 33.30.071(c) is amended to read:

29 (c) Medical services for a prisoner who is unconscious or in immediate need of  
30 medical attention before admission to a correctional facility or commitment by a court  
31 to the custody of the commissioner of corrections shall be provided by the law  
32 enforcement agency having custody of the prisoner. The law enforcement agency may

1 require the prisoner to compensate the agency for the cost or for a portion of the cost  
 2 of medical services provided for any [A] preexisting medical condition [NOT ARISING  
 3 OUT OF THE PRISONER'S ARREST].

4 \* Sec. 7. AS 33.30.191(a) is amended to read:

5 (a) It is the policy of the state that prisoners be productively employed for as  
 6 many hours each day as feasible [, NOT TO EXCEED 40 HOURS A WEEK UNLESS  
 7 OVERTIME HAS BEEN SPECIFICALLY APPROVED BY THE COMMISSIONER].

8 \* Sec. 8. AS 33.30 is amended by adding a new section to read:

9 **Sec. 33.30.193. Standard applicable to allowing prisoners access to and use**  
 10 **of legal reference materials and legal assistance.** If the commissioner imposes a  
 11 restriction on access to and use of legal reference materials by or legal assistance of  
 12 a prisoner in a state correctional facility, a court may not enter an order giving relief  
 13 to the prisoner unless the court first finds, by a preponderance of the evidence, that  
 14 enforcement or application of the restriction hinders the prisoner from having access  
 15 to and use of the legal reference materials or legal assistance

16 (1) in order to gain meaningful access to a court for the purpose of  
 17 challenging

18 (A) the prisoner's conviction or sentence; or

19 (B) the conditions of the prisoner's confinement; or

20 (2) in circumstances in which a state court has specifically determined  
 21 that a provision of the state constitution necessarily requires a prisoner to have access  
 22 to and use of the legal reference materials or legal assistance.

23 \* Sec. 9. AS 33.30.231(c) is amended to read:

24 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the  
 25 security and orderly administration of the correctional facility and to protect the public,  
 26 the commissioner shall monitor or record the [MAY AUTHORIZE THE USE OF  
 27 MONITORING OR RECORDING EQUIPMENT TO LISTEN TO A] telephone  
 28 conversations [CONVERSATION] of prisoners. The commissioner shall post a  
 29 [PRISONER INCARCERATED FOLLOWING CONVICTION OF A CRIME, IF A]  
 30 warning [IS POSTED] by each [THE] telephone informing prisoners [THE  
 31 PRISONER] that calls [A CALL] may be monitored or recorded. The monitoring or  
 32 recording may be conducted on all calls or selectively or in some other limited

1 manner as determined by the commissioner to be appropriate. A recording of a  
 2 telephone call made under this subsection shall be kept confidential, and access to the  
 3 recording and its contents is limited to persons who are acting within the scope of their  
 4 official duties and whose access to specific recordings has been authorized by the  
 5 facility superintendent. A telephone call between an attorney and a prisoner or  
 6 between the office of the ombudsman and a prisoner may not be monitored or recorded  
 7 except when authorized by a court.

8 \* Sec. 10. AS 33.32.010 is amended to read:

9 **Sec. 33.32.010. Purpose of chapter.** It is the purpose of this chapter to [:]

10 (1) develop and operate agricultural, industrial, and service enterprises  
 11 employing prisoners under the jurisdiction of the commissioner of corrections;

12 (2) provide realistic work experience and vocational training for  
 13 prisoners under conditions as much like those that prevail in private industry as possible,  
 14 consistent with proper penal administration, and to direct their efforts toward financial  
 15 responsibility, acquiring or improving effective work habits and occupational skills, and  
 16 increasing the probability of opportunities for employment after release; and

17 (3) operate a work program for prisoners that will be as nearly self-  
 18 supporting as possible by generating a sufficient amount of money from the sale of  
 19 products and services to pay all or most of the expenses of the program.

20 \* Sec. 11. AS 33.32.015(b) is amended to read:

21 (b) The commissioner of corrections may

22 (1) subject to AS 36.30 (State Procurement Code), use, purchase, lease,  
 23 equip, and maintain buildings, machinery, and other equipment, and may purchase  
 24 materials and enter into contracts that [, WHICH] may be necessary for the correctional  
 25 industries program;

26 (2) provide for prisoners to be employed in rendering services and  
 27 producing articles, materials, and supplies needed by a state agency, a political  
 28 subdivision of the state, an agency of the federal government, other states or their  
 29 political subdivisions, or for use by nonprofit organizations;

30 (3) if the Correctional Industries Commission established in AS 33.32.070  
 31 approves, employ prisoners to provide services or products as needed by private industry  
 32 if the services or products have potential for contributing to the economy of the state and

1 will have minimal negative impact on an existing private industry or labor force in the  
2 state;

3 (4) authorize a prisoner to engage in vocational training or in  
4 productive employment within or outside a correctional facility, or enter into a contract  
5 under AS 33.30.191 for the employment of a prisoner if the Correctional Industries  
6 Commission determines that the employment will have minimal negative impact on an  
7 existing private industry or labor force in the state; and

8 (5) subject to the provisions of AS 36.30 (State Procurement Code), enter  
9 into joint cooperative ventures with private industry for the establishment and operation  
10 of "Free Venture" industries under AS 33.32.017 [,] if the Correctional Industries  
11 Commission determines at the time of inception that the "Free Venture" industry will not  
12 compete with an existing private industry or labor force in the state.

13 \* Sec. 12. AS 33.32.015 is amended by adding a new subsection to read:

14 (c) This section does not require the commissioner of corrections to establish and  
15 administer a vocational training program under the correctional industries program.

16 \* Sec. 13. AS 33.32.050(c) is amended to read:

17 (c) The commissioner of corrections shall disburse a prisoner's [PRISONERS']  
18 payments in amounts determined to be appropriate under procedures adopted by the  
19 commissioner based on the following order of priority:

20 (1) for support of the prisoner's [PRISONERS'] dependents, if any;

21 (2) to reimburse the state for compensation awarded under AS 18.67  
22 resulting from the prisoner's criminal conduct;

23 (3) to pay a civil judgment resulting from the prisoner's criminal conduct;

24 (4) for the payment of fees for the prisoner's utilities services under

25 AS 33.30.017:

26 (5) for the purchase of clothing and commissary items for the prisoner's  
27 personal use;

28 (6) [(5)] to pay a restitution or fine of the prisoner ordered by a  
29 sentencing court.

30 \* Sec. 14. Section 7, ch. 53, SLA 1982, as amended by sec. 1, ch. 25, SLA 1987, by sec. 4,  
31 ch. 77, SLA 1991, and by sec. 10, ch. 93, SLA 1995, is amended to read:

32 Sec. 7. AS 33.32 is repealed July 1, 2005 [1999].

RECEIVED  
MAR 07 1997

Daniel Hykes  
Spring Creek Correctional Center  
POB 5001  
Seward, AK 99501

The House Judiciary Committee  
C/o Alaska House of Representatives  
Juneau, AK 99801  
Attn: The Honorable Joseph Green, Chairman

Dear Representative Green:

It has come to my attention that the House Judiciary Committee will be holding a teleconference hearing concerning SB 1 on 3/7/97. I believe I could offer the Committee considerable constructive insight with respect to this proposed legislation. Unfortunately I could not participate in the teleconference unless you could make special arrangements for me to call you collect at an appointed time.

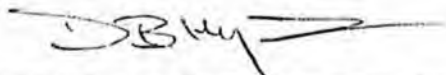
I would be willing to participate if you should decide to have this facility summon me at the appropriate time. If you choose not to do so, I understand. Such hassles are common, and if SB1 passes without amendments, it will further restrict our ability to communicate with legislators. (E.g. I would be unable to speak with you confidentially.)

Therefore I would like to submit for the Committee's consideration the enclosed two page summary of the most significant problems with SB 1. There is more I'd like to say, but I had to summarize what I could in 2 pages. The main amendment most people I know would like to see is the prohibition against computers removed from the bill. Such would accomplish a great amount of good, consistent with the professed spirit of the bill.

Before coming to prison on false charges I worked for the State and Federal governments as a biologist, and am a scientific researcher. When I had computer and printer access (at other prisons) I compiled reports for the Legislators and Governor's office offering my professional insights on matters like how to help solve the State's budget problems. This goofy typewriter now makes it virtually impossible to offer such assistance; but I will do what I can to help if you need any input. If you could amend SB 1 to permit me to have a printer I will put my professional skills at your disposal. (I derive purpose in life from helping others; and here I feel my skills are going to waste.) Allowing such could be accomplished by amending 33.30.015(a)(3)(B) to delete computers; and amend (a)(3)(I) to include computers and printers. I'm not sure if DOC would consider my working for you as "vocational" or not. And if "for one's own legal work" could be added to (a)(3)(I), along with "educational or vocational training" it could accomplish much good, and help solve overcrowding and budget problems.

Thank you for considering my input. Please let me know if I can do anything else for you or Alaska. God bless your endeavors.

Truly,





# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE  
committee name

committee on SB 1 D., dated 3/19/97  
bill/subject

WHERE DOES CHILD SUPPORT PLACE  
IN YOUR CONSIDERATION? AFTER MEDICAL  
BUT BEFORE PAYMENT FOR UTILITIES - ?  
WHERE WOULD VIEWING OF TELECAST  
CLASSES FOR EDUCATIONAL UP-GRADE  
OCCUR - IN PUBLIC ROOM ON COMMON-VIEW  
T.V. ? ~~I LIVE WITHIN A BUDGET BUT~~  
~~HAVE MORE INCOME THEN \$5 OR \$10 PER~~  
~~DAY.~~ REMEMBER, PELL GRANTS ARE NO  
LONGER AVAILABLE TO PRISONERS, + THE  
U OF AK CHARGES FULL PRICE.

Signed: JOAN BENNETT SCHRADER  
Testifier

Representing (Optional)  
P.O. Box 1264 KENAI, AK 99611  
Address

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE  
 committee name  
 committee on SB 1 D., dated 3/19/97  
 bill/subject

WHERE DOES CHILD SUPPORT PLACE  
 IN YOUR CONSIDERATION? AFTER MEDICAL  
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One of "recently converted Democrat" Donley's constituents praised him in the "Anchorage Daily News" for his "conservative" stand in sponsoring the "No Frills Prison Act" (SB 1). Yet SB 1 illustrates the difference between true conservatives and pseudo-conservatives who wish to only wear such politically correct labels.

Consider persecuting "enemies of the state" is a communist practice; hence "getting tough on crime" is conservative if it emphasizes individual responsibility. While conservatives advocate incentives for people to do good via internal motivation, socialists trust government (external force) to keep people in line. It's a subtle, but crucial distinction.

Now consider SB 1, which looks conservative, but is actually socialistic. Many of its provisions are actually offensive to the constitution and conservative constitutionalists. For example:

1) It's clear in legal caselaw that people are sent to prison as punishment, not for punishment. This is based on the constitutionalist principle that liberty is ones' most valuable possession. Any further deprivations are insignificant in comparison. Apparently SB1 pretends that depriving one of TV is the greatest possible punishment, which is a socialistic lie that might apply only to children and products of a media controlled society. This is not a conservative principle.

2) Legislative micro-management of the Executive branch constitutes a violation of the constitutional separation of powers doctrine. Also constitutionally the Legislature should promote freedom by restricting the other branches, rather than expanding their powers to oppress.

3) The Alaska Constitution requires efforts to promote rehab. While this is a professed purpose of the bill, its provisions are clearly contrary to it, (thus making it subject to legal challenges). Socialist programs that promote "uniformity" (like "school uniforms"), seek to make everyone indetical. Likewise SB1 fails to recognize everyone is different in their needs for motivation and rehabilitation. So while professing to promote good behavior and rehab, it does the opposite by failing to recognize individual differences.

A) Those with life-sentences have no reason to rehabilitate, hence only incentives for good behavior are applicable. Making prison so unpleasant that they "wont want to return" is meaningless since they will never get out. For them, SB1 serves only to torture them more than "life" already does, (thus raising 8th Amendment implications). Such deprivations will anger them more, causing worse behavior, (thus endangering others), since SB1 removes most all incentives for good behavior. So while the drafters claim SB1 promotes good behavior, it actually does the opposite by stripping DOC of its discretion to rewards individuals for their good behavior. Except for the TV provision, SB1 flatly outlaws most all things DOC presently uses to promote good behavior. Not only does it make it harder for DOC to promote rehab, the wisdom of making prison "more violent" is dubious at best.

B) However for those who will eventually be released, incentives for good behavior and rehab are both necessary. Rehabilitation is defined as "mainstreaming the individual back into society". SB1 fails to recognize that even by government's own estimates, there are hundreds of people wrongly imprisoned in Alaska, many of which are appealing their convictions and/or sentences. For such, "rehab" means getting enough justice to be released. But SB1 gives DOC the power to prohibit one from working on his own legal case. Hindering one from gaining freedom that he is legally due, is anti-constitutional, (assuming our laws are constitutional); and doing so discourages rehab. Instead it insures prisons will continue to be overcrowded with people who can't afford afford competent legal help.

C) For those who will eventually be released, cultivation of marketable job skills is an essential element of rehab. While SB1 allows TVs to promote "rehab", it outlaws computers. Wouldn't you prefer ex-cons to have computer skills, as opposed to being just "TV addicts"? Computers have proven themselves to be among the most powerful educational tools ever devised. So SB1 should explicitly allow possession of computers and printers if it truly intends to promote rehab. Each prisoner released is more likely to be employed if he has computer skills. Thus being less likely to turn to crime for income, there will be less parole violations, which will mean less people being returned to overcrowded prisons.

D) People who have practiced good behavior as citizens, hence should not otherwise be in prison, are treated the same as the worst criminals; hence under SB1 they are deprived of rewards for their good behavior. And people who do not practice good behavior must be encouraged to do so. There is a difference between punishing wrongdoers, and rewarding good behavior. People who know what is right should not falsely presume everyone else also knows the truth. Those who desire to teach people the difference between right and wrong should promote policies that teach the difference, instead of taking away the rights of everyone because they might be abused by those who won't learn. By granting discretionary rights, people can learn to use them responsibly; and this is what rehab is really all about; isn't it?

4) DOC unconstitutionally hinders prisoners from fighting for their freedom and legal rights by prohibiting computer printers. They openly admit the policy is to prevent inmates from doing legal work. While many prisons in the "Lower 48" allow printers (and in some cases, even internet access), some state bureaucrats (possibly fearful of the truth, lest their wrongdoing be published) seek to silence all inmates. But Legislators who either oppose SB1's efforts to stifle prisoners, and/or possibly even adding an explicit provision to allow printers, could do much to promote freedom and constitutional liberties for all people. Due to the Executive branch hindering access to the courts, and stifling the free expression of many because it might be abused by a few, there is a constitutional challenge to the prohibition of printers currently pending in the courts. This is ironic, in that one professed purpose of the prohibition is to prevent inmates from filing "frivolous" lawsuits. This argument is bogus since the courts have the power to reject such suits, and also fine the filers. Furthermore DOC already has discretion to revoke privileges of those who abuse them, (unless SB1 strips them of such options, requiring that the rights of those who use them legitimately must all be forfeited so they are not abused by a few.)

But as it is, many of the provisions of SB1 are contrary to the legislative intent, thus leaving the bill open to constitutional attack. Hence the lawsuits that will inevitably result from SB1 will further burden the courts, offsetting efforts to curtail prisoner litigation. But such could be avoided if the legislature would just let DOC do its job without the interference of SB1. If such interference is needed to make real improvements, the legislature could use SB1 to restrict DOC from restricting prisoners from working on their own cases. This would help the state budget by reducing overcrowding by giving inmates the tools to speed up the judicial process, and keep legislators informed.

5) Some other things outlawed by SB1, are things DOC facilities already prohibit. Hence SB1 is a waste of legislative time that could be better spent on things like balancing the budget. Legislators who can see SB1 for what it really is are to be praised for taking a stand against such laws that sacrifice constitutional liberties on the altar of expanding and expensive governmental power.

0-LS0024R  
Luckhaupt  
3/20/97

**HOUSE CS FOR CS FOR SENATE BILL NO. 1( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATORS DONLEY, Halford, Pearce, Green, Leman, Taylor, Kelly, Mackie, Phillips  
REPRESENTATIVES Mulder, Cowdery, Green**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to living and working conditions of prisoners in correctional  
2 facilities operated by the state, and authorizing the commissioner of corrections  
3 to negotiate with providers of detention and confinement services under contract  
4 to apply those conditions and limitations on services to persons held under  
5 authority of state law at facilities operated under contract or agreement; relating  
6 to services provided to prisoners; amending the definition of 'severely medically  
7 disabled' applicable to prisoners seeking special medical parole; amending  
8 provisions of the correctional industries program; and extending the termination  
9 date of the Correctional Industries Commission and the program."

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

11 \* Section 1. Sections 4 - 6 of this Act may be known as the "Alaska No Frills Prison Act."

12 \* Sec. 2. INTENT. It is the intent of secs. 4 - 6 of this Act that conditions in facilities for

1 prisoners within the Department of Corrections not be substantially more favorable than  
2 required by the constitutions of this state and the United States unless the commissioner of  
3 corrections has reasonable grounds to believe such conditions are consistent with fostering  
4 rehabilitative programs or rewarding good behavior within state prisons.

5 \* Sec. 3. AS 33.16.900(11) is amended to read:

6 (11) "severely medically disabled" means that a person has a medical  
7 condition that substantially eliminates the physical ability to commit an offense  
8 similar to the offense for which the person was convicted or to commit an offense  
9 in violation of AS 11.41 that is punishable as a felony. [REQUIRES THE PERSON  
10 SUFFERING FROM THE CONDITION TO BE CONFINED TO BED] and the person  
11 is likely to

12 (A) remain subject to the medical condition [BE CONFINED  
13 TO BED] throughout the entire period of parole; or

14 (B) die from the medical condition;

15 \* Sec. 4. AS 33.30.011 is amended to read:

16 Sec. 33.30.011. Duties of commissioner. The commissioner shall

17 (1) establish, maintain, operate, and control correctional facilities  
18 suitable for the custody, care, and discipline of persons charged or convicted of  
19 offenses against the state or held under authority of state law; each correctional  
20 facility operated by the state shall be established, maintained, operated, and  
21 controlled in a manner that is consistent with AS 33.30.015:

22 (2) classify prisoners;

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

25 (A) protect the public and the victims of crimes committed  
26 by prisoners:

27 (B) maintain health;

28 (C) create or improve occupational skills;

29 (D) enhance educational qualifications;

30 (E) support court-ordered restitution; and

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

1 prisoners, facilitating their reintegration into society;

2 (4) provide necessary

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

6 (B) psychological or psychiatric treatment if a physician or  
7 other health care provider, exercising ordinary skill and care at the time of  
8 observation, concludes that

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

11 (ii) the potential for harm to the prisoner by reason of  
12 delay or denial of care is substantial;

13 (5) establish minimum standards for sex offender treatment programs  
14 offered to persons who are committed to the custody of the commissioner; and

15 (6) provide for fingerprinting in correctional facilities in accordance  
16 with AS 12.80.060.

17 \* Sec. 5. AS 33.30 is amended by adding new sections to read:

18 **Sec. 33.30.015. Living conditions for prisoners.** (a) On and after the date that  
19 is two years after the effective date of this Act, the commissioner may not

20 (1) make per capita expenditures for food for prisoners in a state  
21 correctional facility operated by the state that exceed 80 percent of per capita  
22 expenditures for food that is available to enlisted personnel in the United States Army  
23 stationed in the state;

24 (2) provide in a state correctional facility operated by the state

25 (A) living quarters for a prisoner into which the view is  
26 obstructed; however, the commissioner is not required to renovate a facility  
27 to comply with this subparagraph if the facility is being used as a correctional  
28 facility on the effective date of this Act, or if the facility was already built  
29 before being acquired by the department;

30 (B) equipment or facilities for publishing or broadcasting  
31 material the content of which is not subject to prior approval by the department  
32 as consistent with keeping order in the institution and prisoner discipline;

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(C) cable television service other than a level of basic cable television service that is available as a substitute for services that are broadcast to the public in the community in which a correctional facility is located;

(3) allow a prisoner held in a state correctional facility operated by the state to

(A) possess in the prisoner's cell a cassette tape player or recorder, a video cassette recorder (VCR), or a computer or modem of any kind;

(B) view movies rated "R," "X," or "NC-17";

(C) possess printed or photographic material that

(i) is obscene as defined by the commissioner in regulation;

(ii) could reasonably be expected to incite racial, ethnic, or religious hatred that is detrimental to the security, good order, or discipline of the institution or violence;

(iii) could reasonably be expected to aid in an escape or in the theft or destruction of property;

(iv) describes procedures for brewing alcoholic beverages or for manufacturing controlled substances, weapons, or explosives; or

(v) could reasonably be expected to facilitate criminal activity or a violation of institution rules;

(D) receive instruction in person, or by broadcast medium, or engage in boxing, wrestling, judo, karate, or other martial art or in any activity that, in the commissioner's discretion, would facilitate violent behavior;

(E) possess or have access to equipment for use in the activities listed in (D) of this paragraph;

(F) possess or have access to free weights;

(G) possess in the prisoner's cell a coffee pot, hot plate, appliance or heating element for food preparation, or more than three electrical appliances of any kind;

(H) possess or appear in a state of dress, hygiene, grooming, or

1 appearance other than as permitted as uniform or standard in the correctional  
2 facility;

3 (I) use a computer other than those approved by the correctional  
4 facility; the use of a computer under this subparagraph may be approved only as  
5 part of the prisoner's employment, education, or vocational training and may not  
6 be used for any other purpose;

7 (J) smoke or use tobacco products of any kind.

8 (b) The commissioner may determine whether the provisions of (a) of this  
9 section shall apply to correctional facilities that are not operated by the state and may  
10 negotiate with a provider of services for the detention and confinement of persons held  
11 under authority of state law under contract or agreement whether the living conditions  
12 set out in (a) of this section shall apply to persons held under authority of state law at  
13 a facility operated under contract or agreement.

14 (c) On and after January 1, 1998, the commissioner may not allow a prisoner to  
15 possess a television in the prisoner's cell if the prisoner is confined in a maximum  
16 security facility.

17 (d) The commissioner may allow a prisoner who is not confined in a maximum  
18 security facility to possess a television in the prisoner's cell only if the prisoner

19 (1) either is incapable of obtaining or has attained a high school diploma  
20 or general education development diploma or the equivalent;

21 (2) is actively engaged in an educational, vocational training, or  
22 employment program;

23 (3) has satisfied or is on a regular and current payment schedule for all  
24 restitution orders entered by the court as part of the prisoner's sentence and, if  
25 applicable, is actively engaged in a treatment plan or counseling, psychiatric, or  
26 rehabilitation program ordered by the court or the department as part of the prisoner's  
27 sentence; and

28 (4) pays for the expense of providing the television and, in addition to  
29 the utility service fee required by AS 33.30.017, pays for the expense of providing any  
30 cable television service.

31 (e) The commissioner shall use

32 (1) appropriate technology to screen programs received by prisoners

1 under (d) of this section;

2 (2) Alaska farm products and salmon to the greatest extent practicable  
3 for food for prisoners in a state correctional facility operated by the state.

4 **Sec. 33.30.017. Fees for utilities services for prisoners.** (a) The commissioner  
5 shall establish a reasonable utility fee for electrical utilities that are used by prisoners  
6 who are confined in a state correctional facility.

7 (b) The commissioner shall

8 (1) charge each prisoner who possesses at least one major electrical  
9 appliance the utility fee established in (a) of this section; the commissioner may deduct  
10 the utility fee monthly from the account established for a prisoner into which money due  
11 the prisoner for labor is paid; if a prisoner is indigent, the commissioner shall make the  
12 deduction from any amount credited to the indigent inmate's account;

13 (2) if available from legislative appropriation, expend money deducted  
14 and collected under (1) of this subsection to offset the cost of the department's utility  
15 expenses; the commissioner shall annually report on the amounts that are collected and  
16 expended under this paragraph.

17 (c) The provisions of (b) of this section do not apply to prisoners

18 (1) who are

19 (A) developmentally disabled; or

20 (B) severely medically disabled, as that term is defined in

21 AS 33.16.900;

22 (2) who are housed in a mental health unit or psychiatric unit of a state  
23 correctional facility; or

24 (3) while placed in a state correctional facility awaiting classification  
25 under classification procedures for the purpose of making the appropriate assignment of  
26 the prisoner.

27 \* Sec. 6. AS 33.30.071(c) is amended to read:

28 (c) Medical services for a prisoner who is unconscious or in immediate need of  
29 medical attention before admission to a correctional facility or commitment by a court  
30 to the custody of the commissioner of corrections shall be provided by the law  
31 enforcement agency having custody of the prisoner. The law enforcement agency may  
32 require the prisoner to compensate the agency for the cost or for a portion of the cost

1 of medical services provided for any [A] preexisting medical condition [NOT ARISING  
2 OUT OF THE PRISONER'S ARREST].

3 \* Sec. 7. AS 33.30.191(a) is amended to read:

4 (a) It is the policy of the state that prisoners be productively employed for as  
5 many hours each day as feasible [, NOT TO EXCEED 40 HOURS A WEEK UNLESS  
6 OVERTIME HAS BEEN SPECIFICALLY APPROVED BY THE COMMISSIONER].

7 \* Sec. 8. AS 33.30 is amended by adding a new section to read:

8 **Sec. 33.30.193. Standard applicable to allowing prisoners access to and use**  
9 **of legal reference materials and legal assistance.** If the commissioner imposes a  
10 restriction on access to and use of legal reference materials by or legal assistance of  
11 a prisoner in a state correctional facility, a court may not enter an order giving relief  
12 to the prisoner unless the court first finds, by a preponderance of the evidence, that  
13 enforcement or application of the restriction hinders the prisoner from having access  
14 to and use of the legal reference materials or legal assistance

15 (1) in order to gain meaningful access to a court for the purpose of  
16 challenging

17 (A) the prisoner's conviction or sentence; or

18 (B) the conditions of the prisoner's confinement; or

19 (2) in circumstances in which a state court has specifically determined  
20 that a provision of the state constitution necessarily requires a prisoner to have access  
21 to and use of the legal reference materials or legal assistance.

22 \* Sec. 9. AS 33.30.231(c) is amended to read:

23 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the  
24 security and orderly administration of the correctional facility and to protect the public,  
25 the commissioner shall monitor or record the [MAY AUTHORIZE THE USE OF  
26 MONITORING OR RECORDING EQUIPMENT TO LISTEN TO A] telephone  
27 conversations [CONVERSATION] of prisoners. The commissioner shall post a  
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31 recording may be conducted on all calls or selectively or in some other limited

1 manner as determined by the commissioner to be appropriate. A recording of a  
2 telephone call made under this subsection shall be kept confidential, and access to the  
3 recording and its contents is limited to persons who are acting within the scope of their  
4 official duties and whose access to specific recordings has been authorized by the  
5 facility superintendent. A telephone call between an attorney and a prisoner or  
6 between the office of the ombudsman and a prisoner may not be monitored or recorded  
7 except when authorized by a court.

8 \* Sec. 10. AS 33.32.010 is amended to read:

9 **Sec. 33.32.010. Purpose of chapter.** It is the purpose of this chapter to [:]

10 (1) develop and operate agricultural, industrial, and service enterprises  
11 employing prisoners under the jurisdiction of the commissioner of corrections;

12 (2) provide realistic work experience and vocational training for  
13 prisoners under conditions as much like those that prevail in private industry as possible,  
14 consistent with proper penal administration, and to direct their efforts toward financial  
15 responsibility, acquiring or improving effective work habits and occupational skills, and  
16 increasing the probability of opportunities for employment after release; and

17 (3) operate a work program for prisoners that will be as nearly self-  
18 supporting as possible by generating a sufficient amount of money from the sale of  
19 products and services to pay all or most of the expenses of the program.

20 \* Sec. 11. AS 33.32.015(b) is amended to read:

21 (b) The commissioner of corrections may

22 (1) subject to AS 36.30 (State Procurement Code), use, purchase, lease,  
23 equip, and maintain buildings, machinery, and other equipment, and may purchase  
24 materials and enter into contracts that [, WHICH] may be necessary for the correctional  
25 industries program;

26 (2) provide for prisoners to be employed in rendering services and  
27 producing articles, materials, and supplies needed by a state agency, a political  
28 subdivision of the state, an agency of the federal government, other states or their  
29 political subdivisions, or for use by nonprofit organizations;

30 (3) if the Correctional Industries Commission established in AS 33.32.070  
31 approves, employ prisoners to provide services or products as needed by private industry  
32 if the services or products have potential for contributing to the economy of the state and

1 will have minimal negative impact on an existing private industry or labor force in the  
2 state;

3 (4) authorize a prisoner to engage in vocational training or in  
4 productive employment within or outside a correctional facility, or enter into a contract  
5 under AS 33.30.191 for the employment of a prisoner if the Correctional Industries  
6 Commission determines that the employment will have minimal negative impact on an  
7 existing private industry or labor force in the state; and

8 (5) subject to the provisions of AS 36.30 (State Procurement Code), enter  
9 into joint cooperative ventures with private industry for the establishment and operation  
10 of "Free Venture" industries under AS 33.32.017 [,] if the Correctional Industries  
11 Commission determines at the time of inception that the "Free Venture" industry will not  
12 compete with an existing private industry or labor force in the state.

13 \* Sec. 12. AS 33.32.015 is amended by adding a new subsection to read:

14 (c) This section does not require the commissioner of corrections to establish and  
15 administer a vocational training program under the correctional industries program.

16 \* Sec. 13. AS 33.32.050(c) is amended to read:

17 (c) The commissioner of corrections shall disburse a prisoner's [PRISONERS']  
18 payments in amounts determined to be appropriate under procedures adopted by the  
19 commissioner based on the following order of priority:

20 (1) for support of the prisoner's [PRISONERS'] dependents, if any;  
21 (2) to reimburse the state for compensation awarded under AS 18.67  
22 resulting from the prisoner's criminal conduct;

23 (3) to pay a civil judgment resulting from the prisoner's criminal conduct;

24 (4) for the payment of fees for the prisoner's utilities services under  
25 AS 33.30.017;

26 (5) for the purchase of clothing and commissary items for the prisoner's  
27 personal use;

28 (6) [(5)] to pay a restitution or fine of the prisoner ordered by a  
29 sentencing court.

30 \* Sec. 14. Section 7, ch. 53, SLA 1982, as amended by sec. 1, ch. 25, SLA 1987, by sec. 4,  
31 ch. 77, SLA 1991, and by sec. 10, ch. 93, SLA 1995, is amended to read:

32 Sec. 7. AS 33.32 is repealed July 1, 2005 [1999].

## House Judiciary Committee

Senate Rules

Re SB 1 No Frills

Paul Sweet

745-2245

Palmton/Wasilla

Wants to know  
when hearing

Matsui Li



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## CHANGES IN THE DRAFT CS SB 1 (JUD) PREPARED BY SENATOR DONLEY

- 1) **Representative Rokeberg**  
Page 3, Line 21  
Delete "90"  
Insert "80"

**Rationale:** Gives the department a higher standard when budgeting for food service costs. In 1995 the Department of Corrections spent \$4.71 per person on food service costs while \$5.91 was spent on per day food service costs at Elmendorf Air Force base. This equates to a 80.5% ratio based on those figures.

- 2) **Representative Croft**  
Page 3, line 23 following "the state":  
Insert ";

Page 3, line 23 following "state":  
Delete "use Alaska farm products and salmon to the greatest extent practicable;"

Page 6, lines 2 & 3 following "this section";  
Insert "(2) Alaska farm products and salmon to the greatest extent practicable for food for prisoners in a state correctional facility operated by the state."

**Rationale:** Section #5 of the bill stipulates that commissioner may not provide certain things for prisoners. In this section however, the language requests the commissioner to use Alaskan products in its food service preparation. This amendment removes this language and places it into a new sub-section of the bill which should make the language easier to read.

- 3) **Representative Croft**  
Page 4, line 9 following "or "NC-17""  
delete "or that do not have a rating".

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Produced in House

**Rationale:** Concern is the existing language will be preclude inmates from watching certain movies which have no rating. Another concern raised is whether the language would preclude inmates from watching "home movies". The removal of this language should clear up those concerns.

**#4) Representatives Croft & Porter**

Page 4, lines 26 - 28

Section (E) of the previous version is broken into two separate sections (sections E & F of this version) which specifically define the prohibition of free weights.

**Rationale:** Removes confusion whether inmates may have access to free weights in those activities listed in (D) of the section.

**#5) Representative Porter**

Page 5, lines 14-18

Inserts language which precludes televisions in individual cells in maximum security facilities. Previous language precluded only those individuals classified as maximum custody under AS 33.30.011 (2).

**Rationale:** clearly defines which prisoners may have a TV in their cell.

**#6) Representative Bunde**

Page 6, line 6

Delete "The fee may not exceed \$2 a month."

**Rationale:** Removes the cap on how much the Department of Corrections may charge for fees for utility services. This gives the department the latitude to establish the most appropriate fee and allows them to charge accordingly in future years.

**7) Department of Law/Representative Croft**

Page 7, Line 17 after the word "prisoner's"

Insert "conviction or"

**Rationale:** According to the Department of Law a prisoner may gain access to the court to challenge the terms of their sentence and the terms of their conviction. This is a federal constitutional standard.

AMENDMENT

BY REPRESENTATIVE CROFT/#1

OFFERED IN HOUSE JUDICIARY

TO: CSSB 1(FIN) am

Page 4, line 10, following ""NC-17":

Delete ","

Insert ";"

Page 4, line 10, following ""NC-17,"" through line 11:

Delete "or that do not have a rating;"

AMENDMENT

BY REPRESENTATIVE CROFT /#2

OFFERED IN HOUSE JUDICIARY

TO: CSSB 1 (FIN) am

Page 3, line 23 following "the state":

Insert ";

Page 3, line 23 following "state and":

Delete "use Alaska farm products and salmon to the greatest extent practicable;"

Page 6, line 2 following "this section.":

Insert "(f) The commissioner shall use Alaska farm products and salmon to the greatest extent practicable for food for prisoners in a state correctional facility operated by the state."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT #3

TO: CSSB 1(FIN) am

- 1 Page 3, line 24, following "practicable;":
- 2       Insert "when requested by the Legislative Budget and Audit Committee, the
- 3 commissioner shall demonstrate compliance with the requirements of this paragraph;"

AMENDMENT

#4

OFFERED IN THE HOUSE  
TO: CSSB 1 (FIN) AM

BY: CROFT

1 Page 7, Line 16 after the word "sentence":

Insert -  
or conviction



# SENATOR DAVE DONLEY

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## ALASKA STATE LEGISLATURE

Sponsor Statement  
for  
Senate Bill 1 (FIN) AM  
"The Alaska No Frills Prison Act"

In 1994, voters overwhelmingly adopted the "Rights of Victims of Crime" state constitutional amendment. Before the adoption of that amendment, the state constitution required that prison administration be based on two factors; rehabilitation and protecting the public. The constitutional amendment added additional constitutional mandates to our state's prison system. Criminal administration is now based on five factors including: **protecting the public, community condemnation of the offender, the rights of the victims of crimes, restitution from the offender, and the principal of reformation.**

Last year a similar version of "The Alaska No-Frills Prison Act" passed the State Senate 14-4 and passed State House 26-11 on the last day of session. However the Senate did not take action to concur with changes made to the bill in the House and it did not become law.

Senate Bill 1 seeks to implement the requirements of the new state constitutional provisions in several ways.

Senate Bill 1 protects the public safety by prohibiting participation or instruction in martial arts or any other activity that would facilitate violent behavior. Such activities serve no rehabilitation purpose and can make a prisoner an even more serious danger.

Senate Bill 1 enhances rehabilitation opportunities for prisoners by increasing vocational training opportunities.

Senate Bill 1 helps fulfill the mandate of the new "community condemnation" constitutional language by removing or prohibiting certain luxuries from Alaskan prisons.

Some of the "luxuries" prohibited or removed under Senate Bill 1 include cassette tape players, VCRs and computers in inmate living quarters, premium cable television, and possession of pornographic material.

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Senate Bill 1 (FIN) AM  
Sponsor Statement  
Page 2

The legislation adds a new cost saving provision by instituting a fee (not more than \$2 a month) for use of electrical utilities. The bill also allows the department to recoup costs for certain health care services provided to prisoners.

Senate Bill 1 will reduce state costs for prisoner medical expenses by requiring inmates to reimburse the state for either the full or partial costs of treatment for any pre-existing medical condition. Also the term "severely medically disabled" is amended by Senate Bill 1 allowing the department greater flexibility in granting "special medical paroles". Parole would only be granted if the inmate's physical ability to commit an offense similar to the offense for which the inmate was convicted or an offense punishable by a felony is substantially eliminated. The parole of only one such prisoner could save the state as much as \$500,000.

The legislation incorporates standards regarding the possession of televisions in inmate's cells which clearly define the circumstances for possessing a television. Inmates who pay for their own television and cable service and are incapable of obtaining or have attained a high school or general education development diploma would still be allowed to possess a television in their living quarters as an incentive for:

- actively engaging in an educational, vocational training, or employment program;
- satisfying restitution orders or complying with a regular and current payment schedule for all restitution orders entered by court as part of the prisoner's sentence and, if applicable, actively engaging in court or department ordered rehabilitation programs.

The legislation removes the prohibition against monitoring phone calls of prisoners in pre-trial facilities, except for calls to their legal counsel. An additional provision mandates that prisoners shall be productively employed for as many hours each day as feasible.

The Department of Corrections has stated that a new prison is needed in Alaska to ease the overcrowding and accommodate Alaska's ever increasing prison population. Unfortunately, past governors and legislatures neglected to address the prison capacity problem. Now, more than ever, Alaskans understand that prison overcrowding is a serious problem. Most Alaskans would support the state building more correctional facilities if they didn't feel that prisons were currently too soft.

Senate Bill 1 is a balanced cost saving proposal in compliance with the Alaska Constitution's requirements for public safety, community condemnation, and rehabilitation.

DD/jja



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**Sectional Analysis**  
for  
**Senate Bill 1 (FIN) am "The No Frills Prison Act"**

**Section #1** - refers to Sections 4-6 of this act as the "Alaska No Frills Prison Act".

**Section #2** - provides intent language that conditions in Alaskan prisons not be substantially more favorable than what is required by the Alaska and United States constitutions unless the commissioner of corrections has reasonable grounds to believe that such conditions foster rehabilitative programs and rewards for good behavior.

**Section #3**- amends the definition of "severely medically disabled" inmates. Parole could granted in instances where:

- 1) the inmate suffers from a medical condition that reduces the likelihood of that inmate committing an offense similar for which the inmate was convicted.
- 2) the inmate suffers from a medical condition that reduces the probability of that inmate committing an offense punishable as a felony.
- 3) the inmate suffers from a medical condition and is likely to suffer from that condition for the remainder of the parole.
- 4) the inmate is likely to die from the medical condition.

**Rationale:** expands the definition of "severely medically disabled" inmates to allow the Department of Corrections to parole certain inmates. Parole would only be granted under this clause if the inmate's physical ability to commit an offense similar to the offense for which the inmate was convicted of an offense punishable by a felony is substantially eliminated. When the department began "furloughing" individuals under the existing "severely medically disabled" clause, only 5 or so individuals qualified for release. With this expanded definition, the department expects that certain individuals could qualify as "severely medically disabled" saving the state a significant amount in medical costs. The parole of only one such prisoner could save the state as much as \$500,000.

**Section #4** - Requires the Commissioner to establish, maintain, operate, and control each correctional facility in a manner consistent with Section #4 of the bill. It also requires the Commissioner to determine who is responsible for medical costs when inmates are provided medical services. Also adds language

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requiring the commissioner to incorporate policies that will protect victims of crime in addition to other existing programs.

**Rationale:** defines the duties of the Commissioner with respect to section #4 of the bill which places limits on certain luxuries including access to premium cable television, free weights and pornographic material. The section also requires the Commissioner to establish programs to better protect the rights of crime victims.

**Section #5 - mandates that the Commissioner shall:**

when providing food service, not exceed 90% of what the United States Army expends for food service to its enlisted personnel stationed in Alaska and use Alaska farm products and salmon to the greatest extent practicable.

**Rationale:** gives the Department clear parameters when budgeting for food services costs. Currently, the Department of Corrections spends less on food service costs per capita than the United States Army. In 1995 the Department of Correction spent \$4.71 per person on food service costs while \$5.91 was spent on per day food services costs at Elmendorf Air Force base.

This section also mandates that the Commissioner may not provide:

- a) living quarters in which the view into the quarters is obstructed; certain state facilities already in operation would be exempt from this provision. Additionally, any facility (built before the effective date of this legislation) acquired by the state in the future would also be exempt.
- b) access to equipment or facilities for publishing or broadcasting material whose content is not consistent with facility guidelines or discipline.
- c) access to premium cable television service.

This section also prohibits:

- a) possessing a tape cassette player or video cassette recorder, or a computer in individual living quarters.
- b) viewing "R", "X", or "NC-17" rated movies.
- c) possessing printed or photographic material which;
  - 1) is defined by the Commissioner as obscene
  - 2) is detrimental to the security, good order and discipline of the institution
  - 3) could be reasonably be expected to aid in an escape or in the theft or in destruction of property
  - 4) describes procedures for brewing alcohol, or making of controlled substances, weapons or explosives
  - 5) facilitates criminal activity or a violation of institutional rules
- d) participating or receiving instruction in any activity, in the opinion of the commissioner, that would facilitate violent behavior.
- e) using or possessing free weights.
- f) possessing a coffee pot, hot plate, appliance, or heating element in their living quarters or more than three electrical appliances.
- g) possessing apparel or appearing in a state of dress that is not consistent with the guidelines of the facility.

- h) using a computer other than those approved by the institution, the use may only be part of an educational, vocational or employment program.
- j) use of tobacco products.

The commissioner determines whether the provisions of this section apply to half-way houses and correctional facilities not run by the state.

On January 1, 1998 the commissioner may not allow televisions in a prisoner's cell if that prisoner has been classified as maximum custody.

The commissioner may also allow a prisoner in a medium or minimum security prison to possess a television in their individual living area as long as the prisoner:

- 1) is incapable of obtaining or has attained a high school diploma or general education development diploma.
- 2) is engaged in a educational, vocational training, or work program.
- 3) has satisfied all restitution orders or is on a regular and current payment schedule for all restitution orders entered by the court and, if applicable, engaged in court or department ordered counseling programs.
- 4) pays for the cost of providing the television and cable service.

**Rationale:** helps better implement the constitutional standards adopted in 1994 of "community condemnation" and "victim restitution" for penal administration by limiting certain "frills" and making court order restitution to victims.

This language also permits the Commissioner of Corrections to allow television in personal living quarters as an incentive for good behavior. Television is a powerful incentive to motivate prisoners compliance with important rehabilitation programs. Under existing law, little can be done to force inmate compliance with court ordered restitution or rehabilitation programs. The potential removal of a very visible, powerful behavioral reward like television will increase inmate compliance with court orders.

This section also mandates that the commissioner shall charge a fee of \$2 a month for prisoners who possess electrical appliances to help offset the costs of providing electrical utilities. Prisoners who are developmentally disabled, severely medically disabled, housed in a mental health or psychiatric unit or awaiting classification are exempt from this provision.

**Rationale:** conveys a message to the public that the department is fiscally responsible and makes inmates responsible for themselves.

The Commissioner has two years to implement, following the effective date of this act, all provisions of this section.

**Section #6** - allows a law enforcement agency to recoup medical costs for medical services provided to prisoners in their care. The agency may require inmates to compensate the agency for the cost or for a portion of the cost of medical services provided for any preexisting medical condition.

**Section #7** - states that it is the policy of the department to have prisoners be productively employed for as many hours each day as feasible.

**Rationale:** establishes a strong work ethic which will better prepare inmates for their post-institution life. "Reformation" is one component of penal administration used to rehabilitate inmates. This section helps implement this principle by requesting that the department actively employ as many inmates as feasible.

**Section #8** - allows the commissioner to limit access and use of legal materials and legal assistance in a correctional facility. The section further stipulates the court may not enter an order to gain relief from such limits without first finding the restrictions hinder the inmate from gaining meaningful access to the court for the purpose of challenging:

- a) the prisoner's sentences; or
- b) the conditions of the prisoner's confinement.

The court may also provide relief to these restrictions if a state court specifically determines that a provision of the state constitution necessarily requires a prisoner to have access to and use of the legal reference materials or legal assistance.

**Rationale:** places clear guidelines on when inmates may file lawsuits in an effort to curtail "recreational litigation". Numerous states have been facing astronomical increases in law suits filed by prisoners. No monetary damages are awarded in 95% of these suits.

**Section #9** - removes the prohibition against monitoring of phone calls in pre-trial facilities.

**Rationale:** better defines the circumstances in which the department may monitor telephone conversations of inmates. This section would help remove the abuse of telephone systems in pre-trial facilities.

**Section #10 & 11** - allows the department, at its discretion, to provide vocational training for inmates.

**Rationale:** provides vocational training opportunities to those individuals who lack necessary job skills.

**Section #12** - states that the commissioner of corrections is not required under this bill to establish or administer a vocational training program under correctional industries.

**Rationale:** removes liability from the department in situations where it is not possible to provide vocational training programs.

**Section #13** - gives the commissioner the authority to collect fees for electrical services as referenced in Section #5 of the bill.

**Rationale:** conforms with the requirements set out in Section #5 of the bill regarding charges for utilities.

**Section #14** - extends the sunset date for the Correctional Industries Program from the year 1999 to the year 2005.

**Rationale:** allows the department to develop a stable and long range plan to provide more marketable products and work opportunities for inmates.

DD/jja

<u>Institution</u>	<u>TV</u>	<u>Cable</u>	<u>VCR</u>	<u>Books</u>	<u>Magazines</u>
6th Avenue	dayrooms	no	no	5	5
Anvil Mountain	dayrooms	yes (basic)*	no	no limit	no limit
Cook Inlet Pretrial	dayrooms	no	no	5	5
Fairbanks	dayrooms (basic)*	## yes (basic)*	no	5	5
Hiland Mountain	honor status	no	no	limit varies w/program	
Ketchikan	dayrooms	yes (basic)*	no	5	5
Lemon Creek	dayrooms <sup>4</sup> buy own	yes (prem)	no	10	
Matsu Pretrial	dayrooms	no	no	5	5
Palmer (medium)	honor status	no	yes	varies	varies
Palmer (minimum)	buy own	yes (prem)	yes	varies	varies
Spring Creek	yes buy own	yes (basic)*	no	10	10
Wildwood	yes buy own	yes (prem)	no	no limit	no limit
WW Pretrial	## dayrooms	no	no	5	5
YKCC (Bethel)	## Dayrooms	yes (basic)*	no	5	5

\* basic cable is used at these sites because broadcast tv is either unavailable or unable to penetrate the structure of the facility.

~~NB: One inmate at FCC has his own tv by court order.~~

BY GARRY BOULARD

# WHAT'S TOUGH ENOUGH

In response to the public's perception  
that prison life is too easy,  
new policies are designed  
to make life there  
as unpleasant as possible.

Alabama hasn't seen anything like it since the heyday of the 1960s civil rights movement: journalists and TV camera crews flying in from all parts of the world, spirited and sometimes angry public debate and well-known civil liberty groups filing lawsuits against the state itself.

But the center of Alabama's most recent cyclone is not the church in Montgomery where Martin Luther King Jr. exhorted his followers to give of themselves for the civil rights movement nor is it Selma where those same followers confronted a violent and bloody local reaction.

Today the controversy in Alabama is about the men in uniforms moving along the state's highways and the chains that bind them: Alabama has reinstated the chain gang, one of the most powerful, and some say brutal, symbols of the Southern past.

The man in charge of the program, Prison Commissioner Ron Jones, says it is all part of an effort to hold down prison costs.

"The tougher prison time gets, the more likely it is that you'll see the number of repeat prisoners decrease," says Jones, who has the solid backing of Alabama's Governor Fob James for his chain gang idea. "And as that number decreases, so will the enormous costs of running our prisons."

## CONSTITUTIONAL CHALLENGES

Although Jones' chain gangs have won the enmity of the Southern Poverty Law Center (SPLC) of Alabama, which has filed a class action suit to end them, one other state—Arizona—has also brought back chain gangs. And Florida is planning a similar effort next year.

Of course, the chain gang concept may prove to be short-lived if the lawsuit against it succeeds. Rhonda Brownstein, a staff attorney with the SPLC in Montgomery, said she expects the courts to prohibit such prison practices because they are a form of 'cruel and unusual punishment' that is unconstitutional under the Eighth Amendment.

Brownstein said the SPLC suit would also challenge, on the same cruel and unusual punishment basis, Alabama's practice of chaining to hitching posts prisoners who refuse to work. "They have just gone way overboard with all of this stuff. I think if we defeat them on it, it will provide a precedent for other states," she said.

But the legal challenges haven't stopped Jones' chain gangs, where prisoners are connected by lightweight leg irons in crews of five as they dig ditches and clean up the debris along the state's highways. There are currently some 800 repeat offenders working on such gangs, but Jones hopes to bring that number up to about 1,200 by the early part of next year.

Because the nation's prison population is growing rapidly, the chain gangs represent only the most recent, if still highly controversial, answer to holding down costs. They also represent a trend toward making life tougher for prisoners as one solution to recidivism.

## PRISON POPULATION BURGEONS

Just the sheer number of inmates seems to demand some sort of new approach. As of 1995, the number of people in the nation's prisons topped the 1 million mark, up from about 400,000 in 1984. At the same time, average state spending on "corrections" has more than tripled, from about \$6 billion in 1984 to just under \$20 billion today, constituting nearly 10 percent of the average state's spending in 1994.

And in some states, the growth rate of the prison population has far exceeded that of the general population. The number of

*Garry Boulard, a free-lance writer from New Orleans, writes regularly for the Los Angeles Times, the Christian Science Monitor and State Legislatures magazine.*

supporting the death penalty and other harsh sentences."

New York's new sentencing legislation, which passed both houses by overwhelming margins in June, redirects nonviolent, drug-addicted inmates to treatment programs. In the process, it will free up at least 3,000 prison beds annually, making it virtually certain now that violent offenders will be imprisoned.

In North Carolina, concerns about prison overcrowding and budget busting prompted the General Assembly last year to pass a measure by Representative Phil Baddour that balances the number of people sentenced to prison with the actual number of available prison bed spaces. Using a "felony punishment chart," judges under the new legislation determine, among other things, the seriousness of a convict's crime, his past criminal record and then how much prison space is available.

Now in North Carolina, violent and repeat offenders are automatically incarcerated, while first and second offenders who committed certain nonviolent felonies might be given suspended sentences if they complete such alternative punishment as boot camp, house arrest or intensive probation.

Baddour—ironically defeated in 1994 by an opponent who portrayed him as soft on crime—said his measure was an attempt to punish violent offenders while keeping an eye on rising prison costs. "Once you have the decision that first-degree murder is at the top and way down at the bottom is an infraction like jaywalking, with a lot of stuff in between, you can rank crimes according to their seriousness and then see how much prison space you have left," he said.

Similar presumptive sentencing rules, which are essentially devices to gain control over the nation's rapidly escalating prison popula-

tions, have been enacted in 17 other states.

But Charles Logan, a professor of sociology at the University of Connecticut and author of *Private Prisons—Cons and Pros* thinks the states can afford to build more prisons and house inmates longer if they adopt what he called a "cost benefit analysis frame."

"There should be with prison policy an estimation of the costs and payoffs," Logan explained. "But that does not necessarily mean that you would have less use of prisons. It might mean instead that the states simply will become more cautious in using their prisons too broadly."

#### DIVERGENT VIEWS ON TOUGH TIME

There are, of course, widely divergent views on the wisdom of making prison life harder and longer, even for the most dangerous convicts. Many lawmakers, alarmed over what they see as rising crime rates in their own districts, believe prisons should be as brutal as possible. "The people who run the prisons want happy prisoners. I want prisoners to be so miserable that they won't even think of coming back," said Representative Mark McInnis of Mississippi, where lawmakers last year in a special session voted to prohibit inmates from possessing or using weight equipment, compact disc players and televisions among other items. Lawmakers also approved a measure requiring inmates to wear striped uniforms with the word "convict" showing clearly on their backs.

Others believe the "get-tough" prison reform approach is a smoke screen that only hides a bigger problem that the states simply cannot afford—more and more prisoners and prisons. "I think you have to wonder at some point where it is all going to end," said Jenni

Gainsborough, a spokeswoman for the National Prison Project of the American Civil Liberties Union, who believes states should concentrate more on alternatives to prison. "Do we just keep packing them in or do we try to find some sort of alternative? Surely, any rational person can see that the present trends simply can't continue."

Jim Gondoles, executive director of the American Correctional Association, thinks the only way to approach prison issues today is comprehensively, taking into consideration the seriousness of an inmate's crime and the probable effects of both increased punishment and tougher prison time and rehabilitation. "If you don't include other things in your approach, things like education and skills classes or even drug rehabilitation, then you're not taking a balanced approach and it is going to show in the results—prison violence, which is costly to the state, and a much higher rate of recidivism, which is also expensive," Gondoles said.

Tilman Bishop, a Colorado senator who introduced a bill taking away privileges from inmates who file frivolous lawsuits, thinks prisons will become more severe places because of a growing perception among the public that violence and crime are worse than before. "There is a concern that crime is out of control and that the people responsible for it come to prison and live the

1996

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# PRISONS GO PRIVATE

prisoners in Florida, for example, has more than doubled from 26,000 in 1984 to nearly 56,000 last year. Missouri's prisoners went from 8,300 a decade ago to more than 17,000 today, while New York's inmate numbers grew from over 30,000 a decade ago to nearly 67,000 today.

"Prisons are becoming one of the fastest growing budget items in the states today," said James Wooten, president of Safe Streets Alliance in Washington, a group that supports longer sentences for violent offenders and truth-in-sentencing initiatives. "But we are finding that the longer time a violent criminal serves in prison, the far less likely it is that that person will commit the same or a similar kind of crime again. That means, over time, you can reduce your prison costs because you won't be seeing as many repeat offenders."

## VIOLENCE REGETS LONGER, TOUGHER TIME

Although many prison officials and civil libertarians dispute the beneficial effects of longer sentences and harsher prison time for repeat offenders, a consensus among the states appears to be emerging: Make those guilty of violent crimes serve longer and tougher time while offering alternative solutions to other types of offenses.

New York may be a case in point. With a prison population of just under 67,000, New York has had one of the largest inmate growth rates in the nation, a 400 percent increase from 1974 when the state housed about 15,000 prisoners. The state's prison budget has also jumped from more than \$4 million annually to more than \$17 million today.

But this spring, Governor George Pataki proposed doing away with a series of 1973 laws enacted by then-Governor Nelson Rockefeller that mandated stiff prison sentences for drug offenders.

"Pataki's proposal was an absolute breakthrough for us," said Charles "Skip" Carriere, a spokesman for Assembly Speaker Sheldon Silver. "We had been trying for years to get sentencing reform through the Legislature, but because it was a conservative, tough-on-crime Republican who broached the idea, we finally reached an agreement."

Indeed, after Pataki's proposal was first aired, Robert Gangi, director of the Correctional Association of New York, told *The New York Times*, "It's another case of the Nixon-going-to-China syndrome. Pataki is considered a hard-liner, if you will, a hawk, on those issues. He's already proved his stripes by

increasingly, privatization is being seen as an alternative to the traditional publicly run prison, offering a possible way to accommodate current calls for incarceration while keeping prison costs down.

"Privatization is increasing by about 25 percent to 30 percent a year," said Charles Logan, a professor of sociology at the University of Connecticut, "even though it is still only a small percentage of the national total." The number of privately run prison facilities has jumped from less than five a decade ago to more than 30 today, according to a study by the Center for Law and Democracy in Washington, D.C. The inmates they house have increased from about 2,000 a decade ago to just under 50,000 today. That number is expected to rise to 65,000 by 1996.

"The private sector can do it less expensively because its motivation is entirely different," said Richard Crane, an attorney in Nashville, Tenn., and former counsel for the largest prison privatization firm in the country, Corrections Corporation of America.

Crane argues that because showing a profit is the only thing that matters to business, private prisons are more likely to be cost-efficient and able to do more with less money. That argument has proved so persuasive that Corrections Corporation now runs four prisons in Texas where it has entered into contracts with the state government promising to keep costs 10 percent below previous state-run prison budgets.

A recent study by the Tennessee General Assembly appears to support Crane's argument. Comparing two similar prisons in neighboring South Carolina, both built at the same time and each housing just over 1,000 inmates—one publicly run, the other private—the study concluded that the privately run prison cost \$150,000 less a year in operational costs than its public counterpart.

Privatized prisons have also won high marks from lawmakers and even prison advocacy groups for working with inmates to resolve conflicts and iron out complaints and problems before they lead to larger and sometimes deadly disputes.

Some experts believe that private management can also respond more effectively to the get-tough approach if that means keeping prisoners incarcerated for longer periods of time. "The longer you keep an inmate in prison, the

more expensive it gets," said Charles W. Thomas, director of the Private Corrections Department at the University of Florida. "So, in that sense, I think privately run prisons can respond in a more cost-effective manner to the get-tough movement."

Thomas also contends that, as the get-tough movement produces more prison facilities, private management may also be seen as a more viable alternative simply because "the private sector has a much smaller lag time between the awarding of a contract to build a new prison and actually opening it, than the public sector does. On average, private prisons are up and running in about 12 to 18 months, while it may take up to 36 months for the public sector to do it."

But Crane, among other privatization supporters, opposes much of the new prison reform legislation coming from the states. "It's a bad management device," he said. "If you take away things like TV and weights and smoking from an inmate, you've essentially taken everything away from him—and that means this person is going to be a whole lot harder to control."

Of course, not everyone agrees that private prisons are the best way to go, with or without a get-tough movement. Jim Schmitz with the American Federation of State, County and Municipal Employees faults private prisons for their "high employee turnover rates." Said Schmitz: "That is one of the pitfalls when all you do is think about the bottom line and saving money. You end up with a large number of underpaid employees in high-stress jobs who are frequently leaving. Because public employees get higher wages and benefits, they tend to stay with their jobs in prisons longer, which is less expensive overall."

Professor Logan, however, thinks private prisons can be both cost effective and tougher.

"The solution is to make things more strict, but not necessarily more harsh," he said. "If tougher prison time means less probation and parole, less discretionary release, all of which move in the direction of making the system more fair and consistent, then private prisons are a better way to go because one of the things they are most concerned about is having things run smoothly. They have proved that they can be tough, without inciting the prisoners to riot, which is a pretty important thing."

good life," said the Colorado Republican, whose measure was overwhelmingly approved by the legislature last spring. "It is now up to us as lawmakers to address those concerns and see what needs to be improved upon or taken away or just changed."

Legislatures in more than a dozen states including Arizona, Mississippi, Texas, California and Michigan have passed or introduced measures reducing prisoner access to weight lifting equipment, television and telephones. In this effort, though, the states may be taking their cue from federally managed prisons. According to a recent survey conducted by the Corrections Compendium, roughly 60 percent of all federal prisons have eliminated some prison privileges.

That survey, in fact, showed that state prison systems in Oregon, Texas, Kansas and Utah have even banned smoking in their facilities while California, Idaho, Michigan, Oklahoma and South Dakota have restricted smoking to designated areas of prison property.

And nearly all federal and state prisons are being affected this year by the loss of Pell grants for prisoners who want to take college classes. In 1994, more than 28,000 inmates received such grants nationally for programs in paralegal training and computer technology. This year, as part of President Clinton's Omnibus Crime Bill of 1994, that funding has dried up and most of the programs in the prisons have ended.

Even in Alabama, where the chain gangs would seem to offer the ultimate "get tough" solution, new policy is designed to make life as unpleasant as possible. "We work these men 12 hours a day, 60 hours a week and they have to do it," said Commissioner Jones. "And during that time they have none of the privileges enjoyed by the other prisoners—no television, no telephone, no basketball, no visitors."

Jones also thinks his get-tough approach could prove to be more economical. Already, through staff layoffs and scaled-down programs, Jones estimates that he's reduced the average costs per prisoner in Alabama from \$9,500 in 1994 to \$9,000 this year, which is substantially lower than the national per inmate cost of about \$16,000. "And I think we can get it down to about \$8,500 by 1996," he added.

But not all states want to duplicate Alabama's example. Prison officials worry what the effects of harder time might be from a management perspective. Even within Alabama there is opposition. "We are right now on the verge of a major riot," said Alabama Representative John Rogers. "And it isn't just the prisoners who are angry. The staff workers are also demoralized. They are being ordered to push and push, even though they know it could result in violence that will hurt them too."

Still others worry that state spending on prisons shows no end in sight. "We can continue to move in this direction, but, if we do, we have to realize it is going to cost more and more," said Professor Logan. "We have to be willing to make a large

commitment that we will not see any benefits from in a long time."

But in the absence of any other sure solutions, that commitment may prove easier to make than many imagine. "If anyone has a better approach to all of this than we do, I wish he'd come forward—because none of us has a perfect solution," said McInnis of Mississippi. "We're just trying to battle crime the best way we know how by showing that if you're going to commit a crime, you're going to have to pay for it. I don't know any other way to go about it." ■

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# Jailhouse CROCK

*Today's prison inmates are flooding the courts with suits designed to kill time, improve prison life—or just plain annoy the hell out of the rest of us.*

*He preferred chunky-style peanut butter. He got a sandwich made with creamy. So he sued....*

*He wanted to attend church service naked. The warden said no. So he sued....*

*His entire adult life he'd been dealing heavy drugs. Now people were forcing him to stop. So he sued....*

**T**HAT THE above lawsuits were filed at all seems absurd enough. What's truly mind-boggling to many observers is that these lawsuits are among the tens of thousands filed each year from inside prison.

And at guess-who's expense.

"This is one of the most under-recognized problems in criminal justice today," says James Gomez, who, as director of California's Department of Corrections, supervises the state's massive prison network. "These suits create an administrative logjam and drain the system of funds."

The number of suits has soared from a few hundred per year in the 1960s to some 50,000 in 1993 (the last year for which figures were available). Far from being just another of life's harmless outrages, the flurry of prison lawsuits has far-reaching side effects. Like a malignant cancer, the bogus actions crowd out other types of claims, forcing people with legitimate complaints to wait many extra months for their day in court. In the federal courts of Arizona and Iowa, prisoners account for 48 percent of all civil litigation; Missouri and Arkansas check

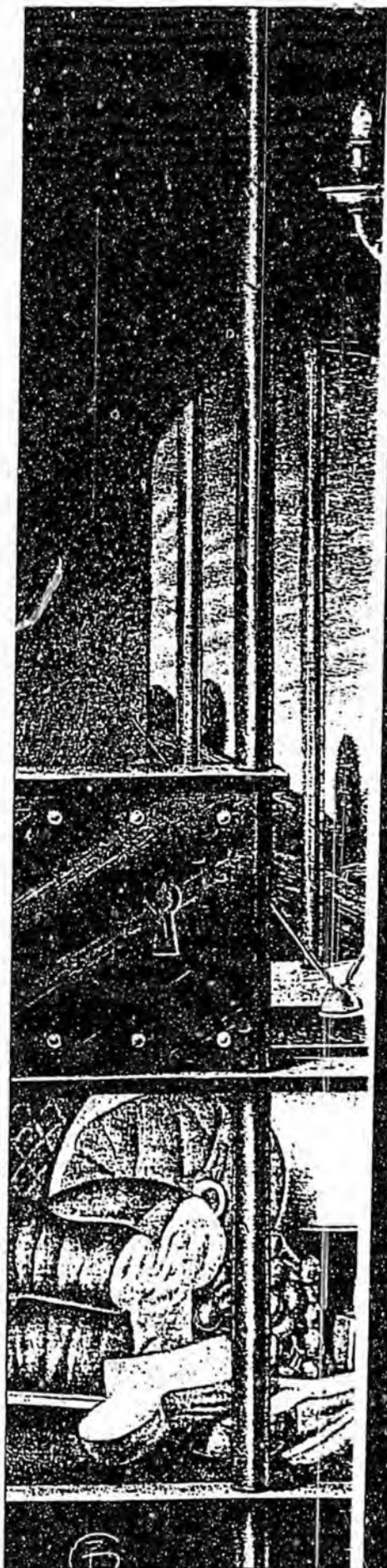
in at 46 and 42 percent, respectively. At one point in mid-1994, Illinois had over 1,200 ongoing cases.

Defending the suits requires an enormous withdrawal from already overburdened state treasuries. Former New York Attorney General Oliver Koppell once estimated that a fifth of his departmental budget went toward prisoners' lawsuits. This, in turn, has a direct bearing on the number of new cases that are plea-bargained or shelved entirely because the legwork to pursue them is not considered cost-effective. The upshot? "Dangerous thugs go back on the streets much sooner than they ought to," noted Koppell.

Once law-enforcement budgets are stretched to capacity, the money to fight jailhouse lawsuits must be siphoned out of general funds. When this happens, the pinch is felt everywhere. Florida's efforts to rebuild from Hurricane Andrew were hampered, at least in part, by the need to divert increasing sums to the processing of lawsuits brought by its inmates, according to Kim Tucker, a senior attorney who has overseen many of the cases on Florida's behalf.

The fact that many of the suits are dismissed or decided in the state's favor is beside the point. "For us and the taxpayers the cost is the simple fact of litigation—the actual running of the lawsuits through multiple years in court," says Tucker. "Even where we win, we lose." On average, each action ends up costing Florida taxpayers \$50,000.

"The things that really are important to the good citizens don't get done



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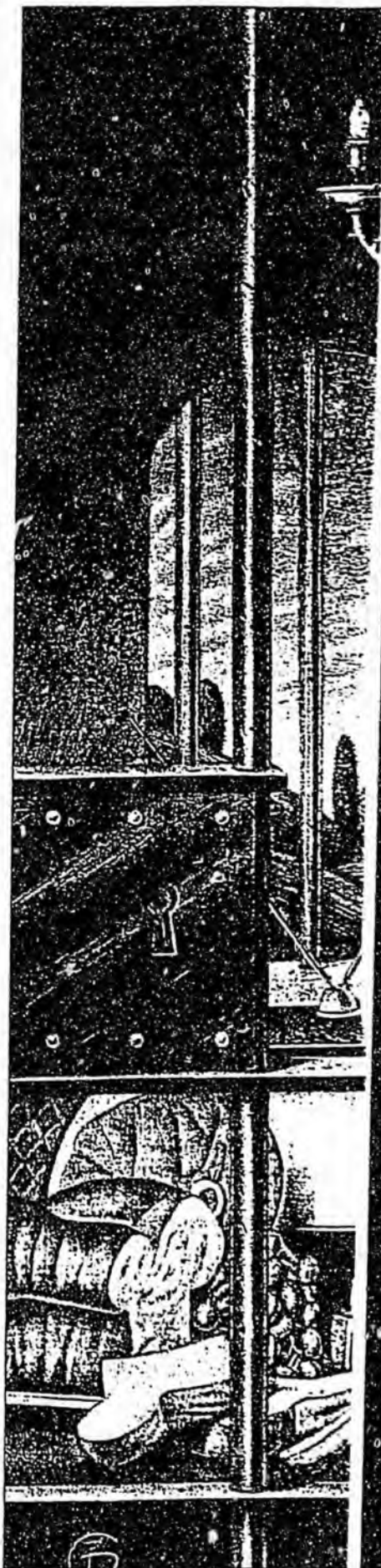
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"The things that really are important to the good citizens don't get done





because of some clown down at the prison who raped your sister, abused your daughter, robbed your store," says Arizona attorney general Grant Woods. "We thought we put them away to protect society, but they're still ruining things for everyone else."

**M**UCH of the litigation is generated by lifers or men on death row—cons who have little or nothing to lose by jamming court dockets with an endless stream of paperwork. (Inmates with a shot at parole are less likely to make waves for fear of being labeled troublemakers.) These convicts file suits simply to kill time or alleviate boredom. "[Filing lawsuits] gives them an opportunity to travel outside the prison system," says California's Gomez. "They may get to visit different cities, stay in hotels, do things they'd normally never have a chance to do. At the very least, they get to leave the grounds to attend court."

For others, glamour plays a role. If the case catches the eye of the media, reaches the appeals stage, or changes prison policy, the convict wins celebrity status. Sometimes a suit filed from prison ends up rewriting the law. The best-known examples are *Escobido* (where suspects won the right to have counsel present at questioning) and *Miranda* (the case that inspired

the familiar litany of "rights" now read to someone upon arrest).

Granted, the legislation resulting from those cases is considered an important addition to civil rights. But too often the men at the heart of such cases become jailhouse legends whose crimes, and victims, tend to be forgotten.

Even when the results are less dramatic, the suit can pay huge chest-thumping dividends. For many cons, lawsuits constitute payback time, an opportunity to turn the tables on cops, guards, wardens and others who enjoy authority over them.

"They want to stick it to the system," says Nevada Attorney General Frankie Sue Del Papa, citing actions that frivolously hinged on the shape of  
*Please turn to page 51*

#### WHAT THEY SUE FOR

- Special meats and shellfish
- Access to automobiles
- Premium mattresses
- Controlled substances
- Chunky-style peanut butter
- Male strippers and prostitutes
- Salad at lunch
- Better shoes and clothing

# JAILHOUSE

Continued from page 33

a birthday cake or the color of a pair of prison-issued long johns.

"We've had one inmate state publicly that his purpose was to break the State of Nevada." In 95 percent of the cases, these "frequent filers" get no damage awards for themselves, says Del Papa, "so that tells you something about their motives. It's recreational litigation."

According to a special report by ABC's *20/20*, the modern-day record for jailhouse litigation is held by Florida's Robert Procup, who has filed more than 300 nuisance lawsuits costing the state a total of some \$15 million. Procup, serving a life sentence for killing his business partner then cementing him into a storage cubicle, has sued because he didn't get a salad at lunch; because his shoes wore out; because he didn't have a TV in his room.

Of course, some convicts have a more pragmatic agenda: making their prison stays more comfortable by enhancing the "country-club" atmosphere that has taxpayers up in arms. A sampling of the top items on the cons' wish list:

*Expanded conjugal-visit privileges.* One prisoner successfully sued to have his trysts at a local hotel because he felt the accommodations provided by the prison were "not conducive to romance."

*Special meals, including costly shellfish and prime cuts of beef.* These suits typically are brought on the grounds that standard prison fare is either unhealthy, incompatible with a con's "special dietary needs" or against someone's religious beliefs.

*Access to automobiles.* An inmate with six months remaining on his sentence sued for the right to drive a car outside the prison compound twice a week. He said he feared that his driving skills had deteriorated markedly during his seven years in prison, and he didn't want to be a "public menace" once he got out. He won his case, provoking actions by other inmates suddenly concerned about their driving.

*Controlled substances.* Some inmates have had success demanding powerful prescription narcotics like Percodan and Demerol to treat a variety of dubious medical conditions. Says one bemused jailer, "We end up

handing them stuff for free that's better than what they had to steal on the street!"

And so it goes. Unhappy with being dubbed "the B.O. bandit" by the FBI, a bank robber sues the agency for defamation of character. A convicted child molester goes to court because prison officials wouldn't let him receive a publication glorifying sex between adults and children. Another con alleges brutality after a guard conks him with a flashlight; what the con neglects to mention in his complaint was that at the time of the incident, he had just stabbed the guard with an ice pick. An Indianapolis man sues to collect the life-insurance proceeds of the woman he was sent to jail for murdering.

"The audacity of some of these characters is amazing," says Sam Knott, a leading voice in the victims'-rights movement since his daughter was murdered in 1986. "They're turning hard time into play time, and we're letting them get away with it."

**T**HE OBVIOUS question is *why?* Why do we sit still for it? "The Constitution is on their side," explains eminent San Diego appeals court Judge Richard Huffman. "The right to bring suit for some perceived injustice supersedes almost every other consideration."

Several states that tried to plug the dike by stipulating that no prisoner be allowed to have more than two suits pending at one time saw their meager efforts run aground in the higher courts. When Florida sought relief from Robert Procup's nonstop litigating, the state's position was upheld in the lower court, then overturned on appeal.

Making matters worse, the normal constraints that work to mitigate this syndrome in society-at-large are absent in the prison environment. A private citizen who undertakes litigation has to pay filing fees, attorneys' per diems and other associated expenses. Most of us won't stay the course unless the issue is one of grave personal concern. Too, in most jurisdictions, a private citizen faces penalties for bringing frivolous litigation. At the very least, he will be compelled to pay court costs for the other side.

None of this is much of a factor in jail. For convicts, the filing process is as painless as signing an affidavit claiming insolvency. The state waives all fees—and even pays postage. For the same reasons, cons couldn't care less about losing cases. "With nothing

t stake," says Arizona's Woods, "they can go file their lawsuits and who knows, maybe they'll hit the jackpot."

As for legal expertise, the U.S. Supreme Court in 1977 ordered every state prison to provide inmates access to an up-to-date law library. As one attorney general laments, "Prisoners in this state have a better law library than I have in my office." Incoming prisoners are shown the ropes by seasoned cons who practically live their lives studying case law. The savvy old-timers circulate standardized legal forms, teaching novices to simply white out the name of the previous litigant and fill in their own name wherever applicable.

The result is a system turned on its ear. As one state attorney general puts it, "The worst of the worst in our society get special privileges across the board."

Recently, high-ranking officials of several states hardest hit by prison litigation formed a task force. Their activities show some early promise. Now, at least in a handful of jurisdictions, if the court decides that a suit is frivolous—as in the case of the inmate who tried to sue because he didn't get his dental floss—officials can dock the inmate's so-called good time. Nevada officials have come up with an "early intervention" approach where the courts take a preliminary peek at the case to determine if it's off the wall. Del Papa also is hopeful about new federal legislation, the Prison Litigation Reform Act, that was wending its way through Congress at press time. Sources in the Nevada attorney general's office said in early January that the legislation had passed the Senate and was temporarily stalled in the house. (The bill had been attached to budget legislation and thus got bogged down in the partisan give-and-take over the government's balancing act.) The legislation came out of several meetings Del Papa and some of her disgruntled colleagues have had with Utah Sen. Orrin Hatch and others sympathetic to the problem.

Meanwhile, things get curiouser and curiouser. Prison administrators are wringing their hands over a landmark June 1994 Supreme Court ruling that animal sacrifice is legal, so long as it's part of a religious ceremony. Presumably it's only a matter of time before prisoners start asking for live goats to kill, and the knives to kill them with.

At some point, concludes Sam Knott, "we as a society better say, this bull must stop."

—By Steve Salerno

## Copayment System Reduces Sick Call Visits in Kansas

The Kansas Department of Corrections has a contract for medical services with a private provider at an annual cost of roughly \$16.6 million. So when it implemented a system of copayments for its inmates, the DOC didn't expect those copayments to offset the costs of the medical contract. But it did want to put individual inmates in a position of accountability and responsibility for their decisions to visit sick call.

In the year since the \$2 copayment for a visit to a primary care provider was implemented, the DOC has seen a significant reduction in the number of sick call visits it experiences each month.

"In fiscal year 1994, the Department experienced an average of 15,172 sick call visits every month," says Bill Miskell, public information officer for the Kansas DOC. "In the first month that we implemented

### Savings at a Glance...

**Idea:** Require inmate copayments for medical services.

**Result:** Inmates are held accountable for sick calls.

**Bottom line:** Sick call visits are reduced by 65 percent.

these fees, that number decreased to 5,003 sick call visits."

Although Miskell says that the major costs of medical care in the prison population are not related to sick call visits, they are a very time- and staff-consuming aspect of the operation.

"You're still going to have to treat cancer, AIDS, and other major conditions, but you do limit the number of people who are standing in line waiting to go to sick bay who really don't need to be there," he says. "When inmates only make \$5 a

month, they're going to be less likely to spend \$2 unless they have a real reason to go to sick call."

Miskell stresses, however, that no inmate is ever denied access to medical service because of an inability to pay. If an inmate initiates a visit to sick call but does not have the \$2 for the copayment, they are still able to see the health care provider and the charge is debited to their accounts. In addition, the DOC does not charge inmates when they are referred to sick call by a member of the correctional staff or medical personnel.

Kansas has an inmate population of 7,180 housed in nine facilities throughout the state. Eight of these institutions have medical facilities on-site. The one facility that houses offenders on work-release does not have a medical component and inmates are responsible for obtaining and paying for their own routine medical care.

## Copayment for Creature Comforts

In Arizona, inmates who want to watch television or listen to the radio must own their own equipment to do so — because the state no longer furnishes its institutions with these appliances. Now the Arizona Department of Corrections has received legislative approval to start charging inmates a fee to offset the utility costs for operating such appliances.

According to Public Information Officer Michael Arra, this latest fee imposition is a way to defray costs as well to impose some responsibility on the inmates for paying their own way. Once the initiative is finalized, the DOC will begin to charge a flat fee of \$2 a month for all inmates who own electrical appliances, regardless of the number of appliances they own. Such appliances include television sets, radios, and cassette players, as well as oscillating fans and hair dryers. The fees will be deducted directly from inmate trustee accounts. The legislation that allows these fees to be imposed was enacted in 1995.

"We've done a number of things to convey the message to inmates that they have to learn to take responsibility for themselves as well as to convey the message to the public that we are a fiscally responsible corrections department," says Arra. "The public knows that the Arizona prison system is a place where there are few creature comforts for inmates and a place where inmates have to work and pay some of their own way."

Since October 1994, inmates in Arizona have been required to contribute to their own health care costs through a system of copayments. A self-initiated visit to a health care provider costs an inmate \$3.

According to Arra, the copayment was instituted for several reasons, including reducing inmate abuse of the health care delivery system, placing some ownership for medical care with the inmates themselves, and returning some funds to the general fund to reduce the increasing costs of inmate health care.

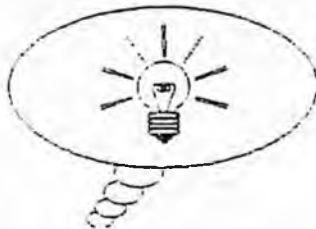
Arra notes that during the period from October 15, 1994, to June 30, 1995, Arizona collected \$105,700 in inmate medical copayments.

Arizona currently has about 22,000 offenders incarcerated in its system, the majority of whom have jobs either in prison support operations or in the Arizona correctional industries system.

Prison support jobs pay inmates between 10 cents and 50 cents an hour; prison industry jobs pay slightly more. Inmates who work for industries that are a joint venture with private enterprises are paid as much as minimum wage. These inmates are required, however, to give back 30 percent of their wages for room and board, restitution, family support and mandatory savings.

For more information, contact Michael Arra at 602/542-3133.

# IDEAS THAT WORK



On July 8, 1996, at the National Governors' Association Annual meeting, Wisconsin Gov. Tommy Thompson announced the release of *Ideas That Work*, a series of seven publications.

*Ideas That Work* began last year, when Governor Thompson asked the members of the National Governors' Association to submit programs (current programs or new reforms) that they felt worked in their home state. Subject areas included: Crime/Public Safety; Business/Environment; Self-Supportive (Welfare); Job Creation; Tax Policy; Infrastructure; and Education Reforms.

*Ideas That Work* has more than 500 ideas from around the country. The cost of a single publication is \$30, or \$180 for a complete volume set. *Ideas That Work* can be ordered at 1-301-498-3738.

**State revenues are perched on the edge of a steep and steady decline.**

- Do we apply a meat axe approach to cutting the bureaucracy?
- Do we initiate new taxes on Alaskans to sustain state spending at its current pace?
- Or do we initiate reasonable spending cuts now to avoid imposing new burdens on Alaska's citizens?

**If you have an idea for Common Sense For Alaska Newsletter, contact Kym Swift at (907) 276-7648**

## How to keep prison healthy

Inmates in Nevada are required to pay \$4 for initial "walk-in" appointments with institutional physicians, nurse practitioners, dentists, optometrists, or psychiatrists. After health care has been provided, charges are posted to the inmate's account and are reflected in monthly statements sent to the inmate. If an inmate does not have sufficient funds to cover the charges, his or her account is frozen until enough funds are submitted (through work programs) to cover the charge. The collection rate is approximately 52 percent.

Savings have resulted primarily from reduced demand for health care services. Since the program conception, there has been a 50 percent decrease in the demand for health care services by inmates statewide and a 76 percent decrease at the maximum-security prisons.

In Alaska last year, the Department of Corrections spent \$14,739,700 for "Inmate Health Care".

Source: *Managing Prison Health Care and Costs*, National Institute of Justice, May 1995

Money Watch is published quarterly by Common Sense For Alaska  
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# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

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Wayne Scott  
Executive Director

January 23, 1997

The Honorable Dave Donley  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Donley:

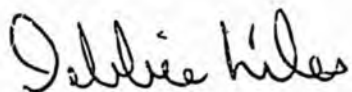
This letter is in response to your inquiry regarding our Tobacco Free Policy. Texas Department of Criminal Justice (TDCJ) went to a totally tobacco free policy which became effective March 1, 1995. This policy covers all property owned or leased by our department, with the exception of individual family dwellings, and is applicable to offenders and employees alike. I have included a copy of our Board Policy 02.02 for your review. Board Policy 02.02, "TDCJ Tobacco-Free Policy" was adopted November 18, 1994, by the Texas Board of Criminal Justice (TDCJ). The TBCJ is our governing board which is responsible for the overall management of our agency. Although adopted in November of 1994 the policy did not become effective until March 1, 1995.

In the months between the adoption and effective date of our tobacco-free policy, efforts were made to ensure the effective and orderly implementation of its provisions. Our agency initiated contact with the American Cancer Society (ACS), and sent several of our staff members through their "Fresh Start Program." The "Fresh Start Program" is a stop smoking initiative developed by the ACS to assist individuals in breaking the tobacco habit. TDCJ staff participating in the program became trainers, who in turn came back to our agency and presented "Fresh Start" to our employees who desired to participate. The Health Services Division of TDCJ presented the "Fresh Start Program" to our offender population.

In summary, our tobacco free policy has now been in existence for almost two years. We have not experienced any significant problems in association with the tobacco ban. TDCJ has encountered only isolated incidents of employees and offenders possessing "contraband" tobacco. However, we do believe the time between the adoption and the effective date in which the "Fresh Start Program" was presented, was extremely beneficial in assuring a smooth implementation.

I hope this overview of TDCJ's implementation of our tobacco free policy is helpful. We wish you the best of luck in administering your program should you choose to proceed with it. If there is any additional information you need please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Liles".

Debbie Liles  
Assistant Director for  
Management Support

DL/cs

# State to State

## MINNESOTA CRIME BILL ELIMINATES INMATE SMOKING, ESTABLISHES MEDICAL COPAYMENTS

Minnesota's 1996 Omnibus Crime Bill will eliminate smoking privileges for all but a few inmates, and inmates seeking health care will be assessed copayments for requested medical, dental and mental health services.

The bill establishes that effective August 1, 1997, no inmate in a state correctional facility may possess or use tobacco or a tobacco-related device. The only exceptions granted will be the use of tobacco by adults as part of "traditional Indian spiritual or cultural ceremony," according to *Hotline*, a department newsletter.

A number of DOCs have banned inmate smoking for various reasons, including safety and health-related concerns, with varying success. Some have said that banning smoking only creates a new form of contraband, citing prices of up to \$20 for a pack of cigarettes. Recently, Georgia Corrections Commissioner Wayne Garner returned smoking privileges to inmates, saying the ban had become an "absolute nightmare."

Charging inmates for health care services is another growing trend and one that is not free from controversy. Minnesota inmates will be charged \$3 for health care services each time services are initiated by the inmate. Officials in other states with copayments have asserted that some inmates tend to abuse available medical services and that the nominal fees reduce unnecessary visits, thereby reducing overall health care costs. Opponents have argued that many inmates are indigent and cannot afford the copayment, stressing the possibility that states will see higher health care costs down the road if inmates are discouraged from seeking preventive care.

## MARYLAND GOVERNOR SUSPENDS PRISON CONSTRUCTION, CUTS INMATE EDUCATION

The American Correctional Association reports that Gov. Parris Glendening of Maryland has decided to suspend funding for new prison construction despite a "substantial increase" in the state's inmate population in recent years. Glendening reportedly approved only the completion of the Western Correctional Institution, a 1,296-bed medium security facility near Cumberland scheduled to open this spring. The governor's budget plan calls for no new prison construction over the next five years, the ACA reports.

In another move to trim the state's budget, Glendening has ordered some educational programs at existing state prisons to be abolished, this according to a February 14 report in the *Washington Post*. The cuts will eliminate 49 teachers and one administrator who oversee high school equivalency exam preparation and vocational training courses.

Some members of the state's General Assembly have vowed to restore funds taken from penal education, and Gov. Glendening has indicated that he is open to change if lawmakers can recommend other budget cuts.

## VERMONT PRISON CONDITIONS CASE WINS IMPROVEMENTS

Following extensive investigations in 1993, lawyers from the American Civil Liberties Union's National Prison Project together with local attorney Mitchell Pearl, filed suit against the State of Vermont, claiming that conditions in its prison deprived prisoners of basic constitutional rights to medical and mental health care and safe environmental conditions. The suit is now well-known for challenging a Vermont behavior modification program for sex offenders, which was the subject of a further filing last year that called for an end to the "physical and sexual abuse" of prisoners taking part in the program.

The ACLU reports that as a result of a settlement signed in Burlington on April 11 substantial improvements will be made over the next two years. Independent experts will be monitoring the prisons and making reports on the state's progress in providing prisoners with adequate medical and mental health care, fire safety and environmental safety. The reports will be made public.

"We believe the state is strongly motivated to do what is needed to address these problems and avoid future class action litigation," said National Prison Project attorney Margaret Winter. "We expect the prisoners to play an important role in reporting to the independent experts or day-to-day conditions in the facilities."

Within the sex offender treatment program, the state has called a halt to "simulated rapes and other abusive practices that were being carried out in the name of therapy," the Prison Project reports. Under the terms of the settlement, prisoners are free to sue again if the state ever resumes these practices.

## LOUISIANA INMATES BUILD "SAFE" WEIGHT TRAINING EQUIPMENT

Prison Enterprises of Louisiana has introduced new weight lifting equipment designed to prevent the possibility of free weights being used as weapons. The three pieces of equipment, which are being built by inmates, have no removable parts.

According to Donald McNeal, Assistant Warden at Louisiana's Dixon Correctional Institute, incidents of violence involving free weights have occurred in the past. "Inmates have struck one another with loose weights during arguments," he said. Richard Stadler, Secretary of the Louisiana Department of Public Safety & Corrections, feels the new weights will make a safer environment for both inmates and officers, and he has encouraged wardens to consider the new equipment for use in their institutions.

Source: "The P.E.N.," *The Prison Enterprises Newsletter*, Spring 1996

**TABLE II: INMATE**

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
<b>U.S. SYSTEMS</b>	
ALABAMA	Yes, in designated smoking areas.
ALASKA	<i>No response</i>
ARIZONA	<i>No response</i>
ARIZANSAS	Yes, in all facilities. Restricted in hospital & punitive segregation.
CALIFORNIA	No, not in any facility. In prison yards or other outdoor areas designated for smoking by each institution head.
COLORADO	Yes, in all facilities. Only in cells or rooms.
CONNECTICUT	Depends on facility. Only in specified designated areas. All smoking is prohibited at designated "smoke-free" facilities.
DELAWARE	No, not in any facility. Only designated outdoor areas.
DISTRICT OF COLUMBIA <i>Min-security facility</i>	No. Inmates cannot smoke inside any building or govt. vehicle.
<i>Max-security facility</i>	Yes. Must smoke in cells or designated smoking areas.
FLORIDA	Yes, in designated smoking areas.
GEORGIA	<i>No response</i>
HAWAII	Depends on facility. Restricted to open-air areas. No smoking in enclosed, air-conditioned buildings.
IDAHO	Depends on facility. 6 of 7 facilities have designated smoking/non-smoking areas. 1 is completely non-smoking.
ILLINOIS	Depends on facility. Permitted in all but Boot Camp Facilities. All facilities have restricted smoking areas. Smoke-free housing unit wings at some facilities.
INDIANA	Yes, in all facilities (except juvenile).
IOWA	Depends on facility. Only outside.

<sup>1</sup> Various legislators have expressed dissatisfaction with access to recreational equipment including weight lifting equipment.

TABLE II: INMATE

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
KANSAS	Depends on facility. Prohibited at reception & diagnostic unit & 3 facilities. Where smoking is allowed, it is restricted to inmate cellrooms. All correctional facilities will become smoke-free on 07/01/95. Facilities that now allow smoking are offering smoking cessation programs.
KENTUCKY	Depends on facility. Certain areas of certain institutions. New institutions will be smoke free for staff & inmates.
LOUISIANA	Yes, in all facilities. In dormitories allowed to smoke in the dayroom, but not in the bed area. Extended lock-down, admin. segregation & disciplinary detention inmates not allowed to smoke.
MAINE	No response
MARYLAND	Yes, in all facilities. Only in designated areas. Smoking policy is under review due to changes in regulation that impose statewide restrictions on smoking.
MASSACHUSETTS	Yes, in all facilities. All facilities allow smoking in the yard or designated site w/in the facility. Most living areas, program space & common areas are smoke free.
MICHIGAN	Depends on facility. Only 1 non-smoking facility. All other facilities have at least a few non-smoking cells, otherwise they may smoke in their cells.
MINNESOTA	Depends on facility. Restricted to individual cells or the recreation yard.
MISSISSIPPI	Yes, in all facilities. Only in designated areas.
MISSOURI	Yes, in all facilities. Only in immediate living area or outdoors.
MONTANA	No, not in any facility. All buildings smoke-free except for at least 1 designated smoking area in each.
NEBRASKA <i>Comm. Corr. Center Lincoln</i>	Yes. Inmates may smoke in a room occupied by 4 inmates who smoke. During all other times they must smoke outside the facility.
<i>Lincoln Corr. Center</i>	Yes. Only on the outside of the compound & inmate cells. No smoking w/in the facility buildings except by inmates in their cells. Segregation areas, except the Protective Custody Unit, are totally non-smoking.
<i>Hastings Corr. Center</i>	Yes. Outside & in assigned sleeping bays (3 of 4 bays allow smoking).
<i>Omaha Corr. Center</i>	Yes. Outside at all facilities. Inside smoking not allowed in State Buildings. The only exception to this is inmates may smoke in their own cell if the cell is a designated smoking cell.

Corrections COMPENDIUM, June 1995

**TABLE II: INMATE**

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
NEVADA	Yes, in all facilities except Nevada Medical Facility.
NEW HAMPSHIRE	Depends on facility. Inmates may smoke in cells only — not in common areas, education, visiting or dining room.
NEW JERSEY	Yes, in all facilities. In authorized smoking areas only.
NEW MEXICO	Yes, in all facilities. Areas are posted for non-smoking.
NEW YORK	Yes, in all facilities. In housing areas & outside.
NORTH CAROLINA	Depends on facility. Prohibited in dormitory area, medical area & kitchen areas.
NORTH DAKOTA	Yes, in all facilities. Only in living quarters (individual cells).
OHIO	Depends on facility. Some institutions are totally non-smoking, others have smoke restricted & permitted areas. Segregation areas are all non-smoking (disciplinary control, local control & admin. control).
OKLAHOMA	Yes, in all facilities. Only in designated areas.
OREGON	Depends on facility. Some facilities are non-smoking now, some are making the transition 04/01/95. All facilities will be smoke free by 10/01/95.
PENNSYLVANIA	Yes, in all facilities. Not in dining halls, most work areas, treatment areas & school. Most smoking is outside or in cells.
RHODE ISLAND	Yes, in all facilities. In cells & designated areas.
SOUTH CAROLINA	Depends on facility. Prohibited in Max units. In other facilities, prohibited in program service, food prep serving, recreation/gym, medical/dental, classrooms, libraries & chapels. Prohibited in meetings, counseling sessions & offices unless agreed upon by office occupants. Institution heads may designate non-smoking areas in dormitory areas.
SOUTH DAKOTA	Depends on facility. There are facilities that allow smoking in cells, facilities that allow smoking outdoors only & a facility & grounds that is entirely smoke-free.

TABLE II: INMATE

SYSTEM	CAN INMATES SMOKE IN FACILITIES? WITH WHAT RESTRICTIONS?
TENNESSEE	Yes, in all facilities. Of 20 facilities, 7 have designated non-smoking inmate housing units.
TEXAS	No, not in any facility. Effective 03/01/96, the use of tobacco products no longer allowed at any facility.
UTAH	No, not in any facility. None of the prison facilities allow smoking. If caught trying to illegally get tobacco into the facility, inmates are subject to disciplinary action.
VERMONT	Yes, in all facilities. Not inside the buildings.
VIRGINIA	Yes, in all facilities. In designated areas.
WASHINGTON	Yes, in all facilities (each is different). Smoking areas are clearly identified. Some facilities only allow smoking outside. Camps only allow smoking outside. No smoking in Intensive Management & segregation Units.
WEST VIRGINIA	Depends on facility. Restricted areas.
WISCONSIN	Depends on facility. Restricted to designated smoking areas only.
WYOMING	Depends on facility.
FEDERAL BUREAU OF PRISONS	All areas of BOP facilities & vehicles are no smoking unless specifically designated as smoking by Warden. Ordinarily, an outdoor area away from combustible materials is designated a smoking area. At all Low, Med, High, & Admin. institutions (except medical referral centers), Wardens identify outdoor smoking areas & may designate limited number of indoor smoking areas.
<b>CANADIAN SYSTEMS</b>	
ALBERTA	<i>No response</i>
B.C.	Yes, in all facilities. Limited to outdoors or in cells if adequate outdoor ventilation is available.
MANITOBA	Yes, in all facilities. Restricted to living location (cells) only or outside. No smoking in eating, visiting, gym & all other common areas.

Corrections COMPENDIUM, June 1995

# IADOC NEWS RELEASE



## Arizona Department of Corrections

Michael Arra  
Public Information Officer

(602) 542-3133

1601 W. Jefferson St.  
Phoenix, Arizona 85007

December 27, 1994

### TONS OF WEIGHT EQUIPMENT DONATED

There are no more weights in Arizona's prisons and high schools and other organizations are the better for it.

The Arizona Department of Corrections has completed its goal of removing all weights and weight lifting equipment from all prisons around the state. Part of the process involved identifying organizations that would receive donations of the weights, which turned out to be the easiest part of the job. Response to the news that the Department would be donating the equipment away was great. Numerous high schools, middle schools, and non-profit organizations with athletic programs or strength and conditioning programs responded. Some of them include Mothers Against Gangs of Phoenix; the Eloy Boxing Club of Eloy; PREHAB of Arizona in Mesa; and Howenstine High School, which will use weights to train students for the Special Olympics.

The prisons making the donations and the schools or organizations receiving the weights are:

ASPC- Florence:

Mothers Against Gangs  
Florence Middle School  
Florence High School  
Camp Verde High School  
Youth Haven School  
Supai Middle School  
Eloy Boxing Club  
Santa Cruz Union High School

JUN 24 1991 10:44

# IADOC NEWS RELEASE



## Arizona Department of Corrections

Michael Arra  
Public Information Officer

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1601 W. Jefferson St.  
Phoenix, Arizona 85007

Globe Unified School District

ASPC- Eyman:

Carl Hayden High School  
Florence Recreation Department  
Florence High School  
Coolidge Intermediate School  
McCray Junior High School  
PREHAB of Arizona

ASPC-Tucson:

Catalina High School  
Desert View High School  
Santa Rita High School  
John A. Valenzuela Youth Center  
Marana High School  
Sahuaro High School  
Howenstine High School

ASPC-Perryville:

Phoenix Union/Metro Tech  
Tolleson Union High School  
Peoria High School  
Avondale Jr. High School

ASP-Yuma:

Antelope High School- Wellton  
San Pasqual Valley High- Winterhaven

ASPC-Douglas:

Douglas Public Schools  
Bisbee Public Schools  
Tombstone Public Schools  
Elfrida Public Schools

ASPC-Winslow:

Winslow High School  
Verde Valley High School

ASP-Fort Grant:

Willcox High School  
Bonita School District

# ADOC NEWS RELEASE



## Arizona Department of Corrections

Michael Arra  
Public Information Officer

(602) 542-3133

1601 W. Jefferson St.  
Phoenix, Arizona 85007

- ASPC-Safford: Thatcher High School  
Pima High School  
Superior High School
- ASPC-Phoenix: Phoenix Day School for the Deaf  
Estrella Junior High School  
Arizona State Hospital  
Blue Ridge High School  
Camp Verde High School
- ASP-Globe: Miami High School  
Globe High School
- SACRC-Tucson: Tucson High School

The donated weight equipment's value was estimated to be in the hundreds of thousands of dollars. Weight equipment had been purchased over many years with money from the Department Athletic and Recreation Funds at each prison site.

It has been a long term objective of Corrections Director Sam Lewis to remove all weights from Arizona prisons, and a recent study determined they were the cause of approximately \$600,000 in medical services provided to inmates with weight lifting injuries last year. Weights also were frequently used by inmates to cause serious injury to other inmates in assaults, and for use in causing damage to state property during past prison disturbances.

Recipients of weight donations around the state have expressed overwhelming gratitude. From the Arizona Department of Corrections' perspective, the weights are now at places where they can do much more good than they ever could in the prisons.

# # #

For further information contact: Michael A. Arra, 542-3133

*DAVE*



FOR TODAY  
TCN: 70479  
RE: SB 1  
TO: 2864

**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**CHANGES IN THE DRAFT CS SB 1 (JUD)  
PREPARED BY SENATOR DONLEY**

- 1) **Representative Rokeberg**  
Page 3, Line 21  
Delete "90"  
Insert "80"

**Rationale:** Gives the department a higher standard when budgeting for food service costs. In 1995 the Department of Corrections spent \$4.71 per person on food service costs while \$5.91 was spent on per day food service costs at Elmendorf Air Force base. This equates to a 80.5% ratio based on those figures.

- 2) **Representative Croft**  
Page 3, line 23 following "the state":  
Insert ";

Page 3, line 23 following "state":  
Delete "use Alaska farm products and salmon to the greatest extent practicable;"

Page 6, lines 2 & 3 following "this section";  
Insert "(2) Alaska farm products and salmon to the greatest extent practicable for food for prisoners in a state correctional facility operated by the state."

**Rationale:** Section #5 of the bill stipulates that commissioner may not provide certain things for prisoners. In this section however, the language requests the commissioner to use Alaskan products in its food service preparation. This amendment removes this language and places it into a new sub-section of the bill which should make the language easier to read.

- 3) **Representative Croft**  
Page 4, line 9 following "or "NC-17""  
delete "or that do not have a rating".

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

**MEMBER:** Senate Finance Committee • Legislative Budget & Audit Committee  
• Senate Community & Regional Affairs Committee

**Rationale:** Concern is the existing language will be preclude inmates from watching certain movies which have no rating. Another concern raised is whether the language would preclude inmates from watching "home movies". The removal of this language should clear up those concerns.

**#4) Representatives Croft & Porter**

Page 4, lines 26 - 28

Section (E) of the previous version is broken into two separate sections (sections E & F of this version) which specifically define the prohibition of free weights.

**Rationale:** Removes confusion whether inmates may have access to free weights in those activities listed in (D) of the section.

**#5) Representative Porter**

Page 5, lines 14-18

Inserts language which precludes televisions in individual cells in maximum security facilities. Previous language precluded only those individuals classified as maximum custody under AS 33.30.011 (2).

**Rationale:** clearly defines which prisoners may have a TV in their cell.

**#6) Representative Bunde**

Page 6, line 6

Delete "The fee may not exceed \$2 a month."

**Rationale:** Removes the cap on how much the Department of Corrections may charge for fees for utility services. This gives the department the latitude to establish the most appropriate fee and allows them to charge accordingly in future years.

**7) Department of Law/Representative Croft**

Page 7, Line 17 after the word "prisoner's"

Insert "conviction or"

**Rationale:** According to the Department of Law a prisoner may gain access to the court to challenge the terms of their sentence and the terms of their conviction. This is a federal constitutional standard.



HJUD 4316



# Alaska State Legislature

Please enter into the record my testimony to the House Judiciary  
committee name

committee on SB 1, dated 3-21-1997  
bill/subject

The did go to Colman Cove,  
to take prisoners out to work base  
fields for little leagues ect.

We had not no pet prisoners  
didn't know what we were going to  
get to work for us.

this idea of using half way  
houses to get prisoners to work  
for us half way houses. We have  
no half way houses in valley and  
I don't know what ward any.

Signed

Testifier

Representing (Optional)

PO Box 1562

Palmer 99645

Address

745-2245

Phone No.

House Judiciary Committee

904 488 6333

Florida

re: no. frills

SB 1 -

[ Frank Sausen

Dir. of Institutions

[ 269 7405