

SB

1

SFIN

FILE

SB 1

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

1-LS0023M
Luckhaupt
1/21/00

CS FOR SENATE BILL NO. 1(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act referencing the award of good time and restricting release on mandatory
2 parole for prisoners serving certain sentences who fail to attain certain minimum
3 educational standards; relating to eligibility for a permanent fund dividend for
4 persons convicted of and incarcerated for certain offenses; and providing for an
5 effective date."

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

7 * Section 1. AS 33.16.010(c) is amended to read:

8 (c) A prisoner who is not eligible for discretionary parole, or who is not
9 released on discretionary parole, shall be released on mandatory parole for the term of
10 good time deductions credited under AS 33.20 [,] if the prisoner is eligible under (a)
11 of this section [TERM OR TERMS OF IMPRISONMENT ARE TWO YEARS OR
12 MORE].

13 * Sec. 2. AS 33.20.010(a) is amended to read:

1 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
2 convicted of an offense against the state or a political subdivision of the state and
3 sentenced to a term or terms of imprisonment

4 (1) of two years or more [THAT EXCEEDS THREE DAYS] is
5 entitled to a deduction of either

6 (A) one-third of the term or terms of imprisonment rounded off
7 to the nearest day if the prisoner follows the rules of the correctional facility
8 in which the prisoner is confined and the prisoner either

9 (i) attains or has attained a high school diploma, a
10 general educational development diploma, or an equivalent diploma
11 before being incarcerated or while incarcerated if the program is
12 made available to the prisoner;

13 (ii) is incapable of attaining a diploma or its
14 equivalent; or

15 (iii) does not speak English as the prisoner's primary
16 language and, due to the prisoner's age and social background, the
17 commissioner determines that the prisoner cannot reasonably be
18 expected to meet an educational requirement; or

19 (B) one-fourth of the term or terms of imprisonment
20 rounded off to the nearest day if the prisoner follows the rules of the
21 correctional facility in which the prisoner is confined and the prisoner does
22 not qualify for a one-third deduction under (A) of this paragraph;

23 (2) that exceed three days but less than two years is entitled to a
24 deduction of one-third of the term or terms of imprisonment rounded off to the
25 nearest day if the prisoner follows the rules of the correctional facility in which
26 the prisoner is confined. [A PRISONER IS NOT ELIGIBLE FOR A GOOD TIME
27 DEDUCTION IF THE PRISONER HAS BEEN SENTENCED TO A

28 (1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER
29 AS 12.55.125(a) AFTER JUNE 27, 1996; OR

30 (2) DEFINITE TERM UNDER AS 12.55.125(l)].

31 * Sec. 3. AS 33.20.010 is amended by adding a new subsection to read:

1 (c) A prisoner is not eligible for a good time deduction if the prisoner has been
2 sentenced to a

3 (1) mandatory 99-year term of imprisonment under AS 12.55.125(a)
4 after June 27, 1996; or

5 (2) definite term under AS 12.55.125(l).

6 * Sec. 4. AS 43.23.005(d) is amended to read:

7 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is
8 not eligible for a permanent fund dividend for a dividend year when

9 (1) during the qualifying year, the individual was sentenced as a result
10 of conviction in this state of a felony;

11 (2) during all or part of

12 (A) either of the two calendar years immediately preceding
13 that dividend year, the individual was incarcerated as a result of the
14 conviction in this state of a felony; or

15 (B) the qualifying year, the individual was incarcerated as a
16 result of the conviction in this state of a

17 [(A) FELONY; OR

18 (B)] misdemeanor if the individual has been convicted of

19 (i) a prior felony as defined in AS 11.81.900; or

20 (ii) two or more prior misdemeanors [CRIMES] as
21 defined in AS 11.81.900.

22 * Sec. 5. AS 43.23.028(a) is amended to read:

23 (a) By October 1 of each year, the commissioner shall give public notice of
24 the value of each permanent fund dividend for that year and notice of the information
25 required to be disclosed under (3) of this subsection. In addition, the stub attached to
26 each individual dividend check and direct deposit advice must

27 (1) disclose the amount of each dividend attributable to income earned
28 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
29 Constitution of the State of Alaska;

30 (2) disclose the amount of each dividend attributable to income earned
31 by the permanent fund from appropriations to that fund and from amounts added to

1 that fund to offset the effects of inflation;

2 (3) disclose the amount by which each dividend has been reduced due
3 to each appropriation from the dividend fund, including amounts to pay the costs of
4 administering the dividend program and the hold harmless provisions of AS 43.23.075;

5 (4) include a statement that an individual is not eligible for a dividend
6 when

7 (A) during the qualifying year, the individual was convicted of
8 a felony;

9 (B) during all or part of

10 (i) the qualifying year or the year preceding the
11 qualifying year, the individual was incarcerated as a result of the
12 conviction of a felony; or

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15 [(i) FELONY; OR

16 (ii)] misdemeanor if the individual has been convicted
17 of a prior felony or two or more prior misdemeanors [CRIMES];

18 (5) include a statement that the legislative purpose for making
19 individuals listed under (4) of this subsection ineligible is to

20 (A) obtain reimbursement for some of the costs imposed on the
21 state criminal justice system related to incarceration or probation of those
22 individuals;

23 (B) provide funds for services for and payments to crime
24 victims and for grants for the operation of domestic violence and sexual assault
25 programs;

26 (6) disclose the total amount that would have been paid during the
27 previous fiscal year to individuals who were ineligible to receive dividends under
28 AS 43.23.005(d) if they had been eligible;

29 (7) disclose the total amount appropriated for the current fiscal year
30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 * Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

1 persons convicted of crimes committed on or after the effective date of this Act.

2 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

1-LS0023M
Luckhaupt
1/21/00

CS FOR SENATE BILL NO. 1(FIN)

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**Offered:
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12 MORE].

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1 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
2 convicted of an offense against the state or a political subdivision of the state and
3 sentenced to a term or terms of imprisonment

4 (1) of two years or more [THAT EXCEEDS THREE DAYS] is
5 entitled to a deduction of either

6 (A) one-third of the term or terms of imprisonment rounded off
7 to the nearest day if the prisoner follows the rules of the correctional facility
8 in which the prisoner is confined and the prisoner either

9 (i) attains or has attained a high school diploma, a
10 general educational development diploma, or an equivalent diploma
11 before being incarcerated or while incarcerated if the program is
12 made available to the prisoner;

13 (ii) is incapable of attaining a diploma or its
14 equivalent; or

15 (iii) does not speak English as the prisoner's primary
16 language and, due to the prisoner's age and social background, the
17 commissioner determines that the prisoner cannot reasonably be
18 expected to meet an educational requirement; or

19 (B) one-fourth of the term or terms of imprisonment
20 rounded off to the nearest day if the prisoner follows the rules of the
21 correctional facility in which the prisoner is confined and the prisoner does
22 not qualify for a one-third deduction under (A) of this paragraph;

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27 DEDUCTION IF THE PRISONER HAS BEEN SENTENCED TO A

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4 after June 27, 1996; or

5 (2) definite term under AS 12.55.125(1).

6 * Sec. 4. AS 43.23.005(d) is amended to read:

7 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is
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9 (1) during the qualifying year, the individual was sentenced as a result
10 of conviction in this state of a felony;

11 (2) during all or part of

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13 that dividend year, the individual was incarcerated as a result of the
14 conviction in this state of a felony; or

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1 that fund to offset the effects of inflation;

2 (3) disclose the amount by which each dividend has been reduced due
3 to each appropriation from the dividend fund, including amounts to pay the costs of
4 administering the dividend program and the hold harmless provisions of AS 43.23.075;

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17 of a prior felony or two or more prior misdemeanors [CRIMES];

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19 individuals listed under (4) of this subsection ineligible is to

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21 state criminal justice system related to incarceration or probation of those
22 individuals;

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24 victims and for grants for the operation of domestic violence and sexual assault
25 programs;

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27 previous fiscal year to individuals who were ineligible to receive dividends under
28 AS 43.23.005(d) if they had been eligible;

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30 under (b) of this section for each of the funds and agencies listed in (b) of this section.

31 * Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

- 1 persons convicted of crimes committed on or after the effective date of this Act.
- 2 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Amended & Adopted

WORK DRAFT

WORK DRAFT

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1-LS0023VK
Luckhaupt
9/28/99

CS FOR SENATE BILL NO. 1()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

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1 "An Act referencing the award of good time and restricting release on mandatory
2 parole for prisoners serving certain sentences who fail to attain certain minimum
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4 (1) of two years or more [THAT EXCEEDS THREE DAYS] is
 5 entitled to a deduction of either

6 (A) one-third of the term or terms of imprisonment rounded off
 7 to the nearest day if the prisoner follows the rules of the correctional facility
 8 in which the prisoner is confined and the prisoner either

9 (i) attains or has attained a high school diploma, a
 10 general education development diploma, or an equivalent diploma
 11 before being incarcerated or while incarcerated if the program is
 12 made available to the prisoner;

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 14 equivalent; or

15 (iii) does not speak English as the prisoner's primary
 16 language and, due to the prisoner's age and social background, the
 17 commissioner determines that the prisoner cannot reasonably be
 18 expected to meet an educational requirement; or

19 (B) one-twelfth^{fourth} of the term or terms of imprisonment
 20 rounded off to the nearest day if the prisoner follows the rules of the
 21 correctional facility in which the prisoner is confined and the prisoner does
 22 not qualify for a one-third deduction under (A) of this paragraph;

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that fund to offset the effects of inflation;

(3) disclose the amount by which each dividend has been reduced due to each appropriation from the dividend fund, including amounts to pay the costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;

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(A) during the qualifying year, the individual was convicted of a felony;

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(5) include a statement that the legislative purpose for making individuals listed under (4) of this subsection ineligible is to

(A) obtain reimbursement for some of the costs imposed on the state criminal justice system related to incarceration or probation of those individuals;

(B) provide funds for services for and payments to crime victims and for grants for the operation of domestic violence and sexual assault programs;

(6) disclose the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible;

(7) disclose the total amount appropriated for the current fiscal year under (b) of this section for each of the funds and agencies listed in (b) of this section.

* Sec. 6. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to

- 1 persons convicted of crimes committed on or after the effective date of this Act.
- 2 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c). ✓

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: CS SB 1 (JUD)
Sponsor: Adams Date: 4/7/99
Logged In By: Mindy

1-LS0023VI.1
Luckhaupt
4/7/99

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: CSSB 1(JUD)

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 **""An Act providing an incentive good time award for certain inmates serving**
4 **certain sentences who complete certain minimum educational standards.""**

5 Page 1, line 5, through page 2, line 3:

6 Delete all material.

7 Page 2, line 4:

8 Delete **"* Sec. 2"**

9 Insert **"* Section 1"**

10 Renumber the following bill sections accordingly.

11 Page 2, line 11, through page 3, line 3:

12 Delete all material and insert:

13 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
14 convicted of an offense against the state or a political subdivision of the state and
15 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction
16 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner
17 follows the rules of the correctional facility in which the prisoner is confined. [A
18 PRISONER IS NOT ELIGIBLE FOR A GOOD TIME DEDUCTION IF THE
19 PRISONER HAS BEEN SENTENCED TO A

20 (1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER
21 AS 12.55.125(a) AFTER JUNE 27, 1996; OR

1 (2) DEFINITE TERM UNDER AS 12.55.125(I).J"

2 Page 3, line 4:

3 Delete "a new subsection"

4 Insert "new subsections"

5 Page 3, following line 4:

6 Insert a new subsection to read:

7 "(c) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3) and in addition
8 to the deduction provided under (a) of this section, a prisoner convicted of an offense
9 against the state or a political subdivision of the state and sentenced to a term or
10 terms of imprisonment of two years or more is entitled to an educational good time
11 deduction of 60 days from the prisoner's term or terms if the prisoner follows the
12 rules of the correctional facility in which the prisoner is confined, the prisoner attains
13 a high school diploma or a general education development diploma, or its equivalent
14 while incarcerated, and the prisoner has never previously attained a high school
15 diploma or a general education development diploma or its equivalent."

16 Reletter the following subsection accordingly.

17 Page 3, line 5, following "deduction":

18 Insert "under (a) or (c) of this section"

SENATE FINANCE
COMMITTEE

Amendment Number: 2

1-LS0023V.1

Bill Number: SB 1

Luckhaupt

Sponsor: Adams Date: 1/21/00

4/8/99

Logged In By: Mindy

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: CSSB 1(JUD)

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 **""An Act providing an incentive good time award for certain inmates serving**
4 **certain sentences who complete certain minimum educational standards.""**

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8 Delete **"* Sec. 2"**

9 Insert **"* Section 1"**

10 Renumber the following bill sections accordingly.

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12 Delete all material and insert:

13 **"(a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner**
14 **convicted of an offense against the state or a political subdivision of the state and**
15 **sentenced to a term of imprisonment that exceeds three days is entitled to a deduction**
16 **of one-third of the term of imprisonment rounded off to the nearest day if the prisoner**
17 **follows the rules of the correctional facility in which the prisoner is confined. [A**
18 **PRISONER IS NOT ELIGIBLE FOR A GOOD TIME DEDUCTION IF THE**
19 **PRISONER HAS BEEN SENTENCED TO A**

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21 **AS 12.55.125(a) AFTER JUNE 27, 1996; OR**

1 (2) DEFINITE TERM UNDER AS 12.55.125(I).]"

2 Page 3, line 4:

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5 Page 3, following line 4:

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13 a high school diploma or a general education development diploma, or its equivalent
14 while incarcerated, and the prisoner has never previously attained a high school
15 diploma or a general education development diploma or its equivalent."

16 Reletter the following subsection accordingly.

17 Page 3, line 5, following "deduction":

18 Insert "under (a) or (c) of this section"

19 Page 3, lines 10 - 11:

20 Delete all material.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement
For
CS for Senate Bill 1 (JUD)
Requiring Literacy as an Eligibility for
Parole or Good Time Credit

Senate Bill 1 would require convicted prisoners serving a term of two years or more to obtain a high school diploma or a general education development (G.E.D) diploma before becoming eligible for a good time sentence reduction or mandatory parole.

Under Alaska statute 33.20.10, a prisoner is entitled to a deduction of one-third of the term of imprisonment if the prisoner follows the rules of that correctional facility. This is known as a "good time" credit and applies to prisoners convicted of an offense against the state or a political subdivision of the state.

Alaska has one of the most liberal "good time" provisions in the nation. Alaska's one-third sentence reduction for "good time" is quite high compared to federal statutes which require federal offenders to serve at least 85% of the sentence imposed. Additionally thirty states also require at least 85% of the sentence be served.

Over ten states have adopted various policies that offer sentence reductions for participation in educational programs. These incentives link prison privileges and parole considerations to participation in educational programs.

National studies indicate that roughly two-thirds of today's prison inmates are functionally illiterate. These studies further point out a strong correlation between illiteracy and criminal behavior and show recidivism rates to be much higher for low-level literacy criminals.

In 1983, Alabama conducted an investigation on recidivism on 129 inmates who had taken post-secondary education courses while incarcerated. The recidivism

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee •
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

CS SB 1 (JUD)
Sponsor Statement
Page 2

had taken post-secondary education courses while incarcerated. The recidivism rate was 3.9% for those 129 individuals compared to a 25% rate for all others released by Alabama that same year.

SB 1 seeks to reduce the recidivism rate for Alaska's correctional facilities by encouraging prisoners to obtain their G.E.D. thereby increasing their chances of successfully re-integrating back into society when they are released. Those who choose not to obtain their G.E.D. would forfeit the opportunity to be released early under Alaska's very liberal "good time" credit provision.

Prisoners would not be subject to the provisions of SB 1 if the inmate:

- is incapable of obtaining a G.E.D.;
- has already received a high school diploma or its equivalent;
- does not speak English as their primary language; and
- due to their age and social background cannot reasonably obtain the educational requirement

SB 1 is pro-active legislation designed to reduce the recidivism rate through encouraging literacy among imprisoned criminal offenders. Lower recidivism means safer Alaskan communities.

DD/jja

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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Senator Donley
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 19, 1999

Dear Senator Donley,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 1.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

PolicyFax

Essay

by Oklahoma Council of Public Affairs ♦ Just call 510/208-8000

Topic Code 13

Illiteracy Fueling America's Juvenile Crime Problem

America presently has the highest juvenile crime rates in her history, and the demographic warning signs indicate the worst is yet to come.

As liberals continue to wall that poverty and low self-esteem are the root causes of crime, and as conservatives rightly point out that low God-esteem—often exacerbated by family breakdown—is a root cause of crime, it's time for policymakers on both sides of the aisle to address a frequently overlooked yet taxpayer-subsidized root cause: illiteracy.

Dr. Floyd Coppedge, an Oklahoma Democrat who serves as Gov. Keating's education secretary, is justifiably concerned about the connection he sees between the "low achievement levels" of many Oklahoma students "who receive high school diplomas even though only minimally education," and Oklahoma's juvenile crime problem. As Marva Collins, founder of Chicago's famous Westside Preparatory School, has pointed out, incarcerated juveniles in study after study have had one thing in common: they couldn't read. Longtime educator Michael Brunner, in his book *Retarding America: The Imprisonment of Potential*, says flatly that "reading failure is most likely a cause, not just a correlate, for the frustration that can and does result in delinquent behavior."

Why can't Johnny read? Because he's not receiving the reading instruction recommended by experience and by experimental research: intensive, systematic phonics.

You'll recall that phonics is the successful method used to teach beginners to read from time immemorial. The student learns the associations between letters and sounds, and soon he can read any word off the page. Despite this time-honored method producing high (by today's standards *phenomenal*) literacy, "progressive" educators around 1925 started using their speculative look-say/whole-word instruction, in which a word is supposed to be recognized and memorized as a whole, without any need to break it down by parts. This faulty method, which in its current incarnation goes by the name "whole language," is openly hostile to systematic phonics

instruction.

According to Professor Ken Goodman, one of America's most famous whole language evangelists, "whole language classrooms liberate pupils to try new things, to invent spellings, to experiment with a new genre, to guess at meanings in their reading, or to read and write imperfectly." In Professor Goodman's world, reading is—get this—"a psycholinguistic guessing game."

Sadly, the victims of this miseducation are the losers in this game. Whereas illiteracy was once, in John Adams' words, as rare as an earthquake or a comet; whereas Pierre DuPont de Nemours wrote in 1812 that fewer than four of every thousand Americans (0.4 percent) could not read well; whereas the U.S. Bureau of Education reported in 1910 that only 22 out of every thousand children ages 10 to 14 in this country (2.2 percent) were illiterate; today 22 percent of all American adults cannot read.

The Department of Education's comprehensive 1992 National Adult Literacy Survey represents 190 million U.S. adults with an average school attendance of 12.4 years. Yet 22 percent can't read, and another 57 percent read below an 8th-grade level, according to Regna Wood, a research consultant for the National Right to Read Foundation who has chronicled this problem in *National Review* and elsewhere. We've gone from a minuscule illiteracy rate in the days before compulsory schooling to a rate of more than one in a five when the average modern-day illiterate has done time in a tax-supported school.

Dr. Patrick Groff, professor of education emeritus at San Diego State University, says that whole language—the primary method used to teach reading in our public schools—may indeed be a major contributor to our juvenile crime problem, because it "is designed to guarantee failure for many students. In fact, the empirical evidence from 70 years of experimental research has led some scholars to equate it with academic child abuse." Yet the educational establishment, says Boston University president Dr. John Silber, continues to ignore "the disastrous results they produce."

Hilde Mosse, M.D., who has diagnosed children with reading disorders for over two decades as a school psychiatrist, says "the causative chain starts with the fact that the child is not taught reading properly." The child then "may feel that he is stupid and that he will never be able to achieve anything worthwhile in life, and in this way slide into delinquent behavior." No, Professor Goodman, this isn't a game.

Dr. Kathleen Wilcoxson, a fifth-grade teacher at Millard Fillmore Elementary School in Oklahoma City, has encountered "multitudes of children" thus damaged by whole language, many of them very bright children who are terribly frustrated. After nine months of intensive phonics instruction in her fifth-grade class, she says children normally have advanced two to four years.

Tragically, the anti-social aggression that leads to juvenile crime continues to be created in tens of thousands of classrooms across America, Brunner says, as teachers continue to use a teaching method "based upon theories of teaching and learning that cannot be validated by experimental research."

"There is no reason at any time to have any illiterates," Dr. Wilcoxson insists. After years of comparative research showing the superiority of intensive, systematic phonics, "we know how to teach children to read."

So why does this foolishness continue? Because whole language is a *political* movement with a left-leaning agenda which attracts many education professors who want to use education to remake society in their own image. Whole language advocate Michael Apple says it's one of the "wider social movements that aims at democratizing our economy, politics, and culture." Dr. Groff points out that some whole language advocates, such as Frank Smith, "disparage the very importance of literacy, on the grounds that it fails to make anyone smarter, more knowledgeable, more ethical, or more likely to obtain gainful employment."

Although reading failure is not the only cause of juvenile crime, Dr. Mosse and others say it is the major cause. Yet our tax-supported schools are perpetuating this heartrending failure, and that's downright criminal.



ABOUT THE AUTHOR

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NATIONAL CONFERENCE OF STATE LEGISLATURES
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**1993 – 1998 State Laws related to
“Truth in Sentencing”**

Florida S 1522 (1998) Prohibits shortening of a sentence if a defendant would serve less than 85 percent of term of imprisonment. Clarifies circumstances for departure from lowest permissible sentence. Requires department of corrections to report on trends in sentencing scores and practices; and that the Criminal Justice Estimating Conference project impact of proposes changes to the punishment code on future prison populations.

Illinois H 3500 (1998) Eliminates good conduct credits and requires entire sentence imposed to be served by prisoners sentenced for first degree murder and to natural life terms. Reduces good conduct credits to require 85 percent of sentence served for many other serious and violent felonies. Sets policy for revoking, suspending and reducing good conduct credits, including loss of credits for frivolous lawsuits. Establishes Truth-in-Sentencing Commission to study and suggest sentencing policy. Also requires judicial statement in sentencing as to the approximate time a defendant will serve.

Iowa H 2002 (1998) Adds attempted murder to crimes for which persons convicted must serve at least 85 percent of the sentence imposed.

Kansas S 262 (1998) Requires the court to state the sentence a defendant will serve, including maximum potential sentence reduction as a result of good time and the period of post-release supervision. Under sentencing grid, allows courts the option of sentencing specified offenders to non-prison treatment programs.

Kentucky H 455 (1998) Eliminates parole for violent, persistent felony offenders; and requires that all violent offenders serve 85 percent of the sentence imposed.

New York S 7820 (1998) Eliminates parole, requiring a determinate sentence for all violent felony offenders (including first such offense). Establishes periods of post-release supervision as part of the sentence and allows imprisonment of up to five years for violating conditions of supervision

Oklahoma H 1002 (1998 1st Extraordinary Session) Delays implementation of truth in sentencing legislation of 1997.

Wisconsin A 351 (1998) Creates new sentencing structure for felony offenses, increasing the maximum imprisonment time imposed. Abolishes parole, requiring 100 percent of sentence for all felony offenders plus a term post-prison extended supervision equal to at least 25 percent prison term. Creates a Criminal Penalties Study Committee to review, make recommendations on classification of criminal offenses, penalties for felonies and class A misdemeanors. Also creates a sentencing commission to develop advisory sentencing guidelines for judges

Alaska S 67 (1997) Truth in Sentencing Act requires the court to state and include in the sentencing report information on the minimum term that the defendant is expected to actually serve prior to release or parole.

Delaware S 131 (1997) Authorizes sentencing courts to require that a specified portion of a prison term be served without any form of early release, good time, furlough, work release, supervised custody or any other reduction of sentence.

Florida H 1371 (1997) The Prison Release Reoffender Punishment Act requires mandatory minimum sentences and that 100 percent of the court-imposed sentence be served for offenders who commit a qualifying offense within five years of release from prison. Offenses include weapon use in a criminal offense and various crimes against children.

Louisiana H 1915 (1997) Changes computation of good time for prisoners. Sets rate of 30 days for every 30 days good behavior and self improvement for some prisoners; for others convicted of a crime of violence the rate is three days for every 17 days good behavior.

New Jersey S 855 (1997) Requires a fixed, minimum term of 85 percent of sentence for first and second-degree violent crimes, plus a three to five year period of parole supervision. Violent crimes include those causing death, serious bodily injury, or use or threatened immediate use of a deadly weapon. Also includes any aggravated sexual assault or such assault using or threatening physical force.

North Dakota H 1089 (1997) Requires that violent offenders sentenced to life imprisonment with possibility of parole will serve a term computed as life expectancy based on a recognized mortality table, without parole eligibility until that requirement is met.

Oklahoma H 1213 (1997) Truth in Sentencing act requires that 85 percent of the sentence be served by serious, violent offenders. Non-violent offenders are required to serve 75 percent of sentence, some in community corrections, which is expanded locally under the act. Establishes sentencing commission to review impact of legislation, and so establishes planning process for future prison bed needs, including selection process for private prisons.

Alaska H 38 (1996) Eliminates good time for offenders serving mandatory 99-year sentences and requires that those offenders may apply just once for modification or reduction of sentence, after serving one-half of the mandatory or 30 years. Also adds, for purposes of considering prior convictions in imposing "three strikes" sentences, convictions in another jurisdiction for offenses having similar elements to applicable serious felonies.

Delaware H 507 (1996) Applies minimum sentence to habitual criminals convicted of a fourth felony, when the fourth conviction is for any one of more than 50 designated "violent felonies."

Florida S 156 (1996) Establishes eight-year revision cycle for crime and other public safety statutes and guiding principles for justice information technology. Redefines habitual and violent felony offenders to include felonies committed while serving prison sentence and limits gain time for such offenders to ensure 85 percent of sentence served. Also limits gain time for felonies involving weapon or firearm; and includes drug, sex offender, juvenile provisions.

Iowa H 2316 (1996) Requires persons to serve twice the maximum term for a "sexually predatory" serious or aggravated misdemeanor offense when they have one prior such conviction, and a mandatory ten year sentence and serve at least 85 percent of the sentence if they have two or more prior such convictions. Requires twice the maximum term or 25 years, whichever is greater, with sentence reductions limited so that no less than 85 percent of the sentence is served, for conviction of a "sexually predatory" felony. Also requires up to two years of community supervision (parole or work release) for sexually predatory offenders, as defined in the act to broadly include sexually violent or abusive crimes.

Iowa S 2114 (1996) Requires that persons imprisoned for forcible felonies serve 100 percent of the maximum sentence term, without eligibility for parole or work release. Also directs legislative council to establish sentencing task force.

South Dakota S 273 (1996) Eliminates good time and establishes minimum sentence that must be served before parole eligibility for each felony class. Number of felony convictions is a factor in sentence length. Less serious offenses and offenders may serve 25% of sentence before parole eligibility; more serious and frequent offenders will serve 75 and 100% of sentence. Requires DOC to keep conduct record of each inmate which can be used in considering parole release, but without sentence credits related to conduct.

Arkansas S 820 (1995) Offenders convicted of first-degree murder, kidnapping, aggravated robbery, rape and causing a catastrophe must serve 70% of sentence.

Connecticut S 927 (1995) Requires certain offenders serve at least 85% of the sentence imposed and directs the parole board to adopt guidelines and procedures for classifying people as violent offenders not limited to the elements of the offense or offenses for which they are convicted. Applies to offenders eligible for parole who used, attempted or threatened use of force against another person. (Previous law makes a capital felony, murder, or any offense committed with a firearm at or near school ineligible for parole.)

Florida H 687 (1995) "Stop Turning Out Prisoners Act" requires offenders to serve a minimum of 85% of the sentence imposed, with gain time limited accordingly. State prisoners sentenced to life imprisonment, including for capital felonies, will be incarcerated for the rest of their natural lives. All prison sentence offenses are affected.

Florida S 168 (1995) "Officer Evelyn Gort and All Fallen Officers Career Criminal Act" establishes three strikes-type penalties and includes 85% requirement for some. "Habitual felony offenders" have had 2 or more felonies and get terms from life to not exceeding 10 years; "habitual violent felony offenders" have had 1 or more previous violent crime convictions and get from life, with no release eligibility for 10 years, to 10-year sentences with no release eligibility for 5 years; "violent career criminals" have been convicted as an adult 3 or more times for violent crimes and get from life, with no release eligibility, to mandatory minimum of 10 years. "Violent career criminal," established in a separate proceeding, "gain time" limited to require 85% of sentence served. Courts must give written reasons for not imposing statutory sentences, addressing protection of the public.

Illinois S 187 (1995) Limits good conduct credits to require offenders serve at least 85% of sentence imposed. Also creates Illinois Truth-in-Sentencing Commission, charged with facilitating and monitoring implementation of 85% of sentence measure. 85% applies broadly to serious, violent crimes. Offenders imprisoned for first-degree murder receive no good conduct credit and will serve 100% of sentence.

Louisiana H 146 (1995) Requires certain offenders serve at least 85% of the sentence imposed before being eligible for parole. Life sentences must be commuted to fixed term of years to be eligible for parole consideration.

Louisiana S 1418 (1995) Requires established sentences must be served, without benefit of probation, parole or suspension of sentence and with good conduct limitations. Rape, 25 years; sexual battery, 10 years; aggravated sexual battery, 15 years.

Maine S 201 (1995) Reduces statutory meritorious good time to ensure that the term of imprisonment imposed closely approximates that which will be served. Applies to all crimes and prisoners.

Mississippi S 2175 (1995) Earned-time credits are limited to require that inmates serve at least 85% of prison term. Having served 85% and once released, inmates are placed under earned-release supervision until expiration of the full term. Inmates serving life sentences, except those imprisoned for life for capital murder, may petition for conditional release after age 65 and at least 15 years served. The law also establishes a reconstituted state parole board, and on July 1, 2000, transfers those duties, responsibilities to the Department of Corrections, eliminating the parole board, as such. All prison inmates affected.

Montana H 356 (1995) Simplifies and calls for phasing out all good time by 1997, pending recommendations of a sentencing commission, established in the legislation. Meanwhile, actual time served not substantially affected. Applies to all prison inmates.

New York S 5281 (1995) Sentencing Reform Act includes truth, 85%-type provisions and habitual offender measures. Also changes previous law for second felony offenders. Establishes determinate sentences under which offenders are not eligible for discretionary release and may not be paroled prior to serving six-sevenths of the set term. Determinate sentences are imposed on violent felony offenders with a prior felony conviction. Also creates commission to study the effects of the Sentencing Reform Act. The six-sevenths of sentence determinate sentences apply to Class B violent felony offenders who must serve 8 to 25 years; Class C violent felony offenders who are to serve 5 to 15 years; Class D violent felony offenders who must serve 3 to 7 years; and Class E violent felony offenses, which carry set sentences of 2 to 4 years. The parole sentence provisions for second nonviolent felony offenders applies to specified offenses including, but not limited to, criminal mischief, grand larceny, forgery, some controlled substance felony offenses.

North Dakota H 1218 (1995) Requires imprisoned, violent offenders must serve 85% of sentence. Violent offenders include those convicted of murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition, robbery, burglary or attempts to commit the offenses.

Ohio S 2 (1995) Establishes new framework for felony sentencing, sets principles to guide courts in imposing sentences and specifies presumptions for imposing prison terms for certain felonies. Some mandatory minimum sentences required under law, including for repeat violent offenders on whom the court must impose a prison term from the range authorized for the offense, which cannot be reduced by judicial release, earned credit or any other provision for release. Reclassifies drug trafficking and possession offenses. Specifies financial sanctions, residential and nonresidential prison alternatives. Sets sentencing procedure and sentence appeals. Establishes sentence of life imprisonment without parole as additional alternative to the death penalty in applicable cases.

Oregon H 3439 (1995) Creates mandatory minimum sentences for some crimes. Extends to 25 years the period of time that a person sentenced to life imprisonment for aggravated murder must serve before parole board considers rehabilitation, release. Includes many violent crimes, including murder, attempt or conspiracy to commit murder, manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, others.

South Carolina H 3096 (1995) Creates "no parole offenses." Requires that 80% of sentence must be served before eligibility for work release and 85% for early release, discharge or community supervision. "No parole offenders," must serve up to 2 years community supervision following prison term. "No parole offenses" are Class A, B or C felonies including many serious, violent crimes punishable by 20 years or more in prison. Life without parole sentence applies to "most serious offenses," including many serious violent felonies, drug trafficking, some bribery, embezzlement, certain accessory and attempt offenses.

Tennessee H 1762 (1995) Eliminates release eligibility for persons convicted of certain crimes and limits sentence credits to require at least 85% of sentence is served. Applies to 11 violent, often aggravated, crimes including murder, rape, rape of a child, kidnapping, robbery, sexual battery, arson, child abuse.

California (1994) Requires offenders in prison for violent felonies to serve 85 percent of the sentence imposed. Limits worktime credits to 15 percent of the sentence.

Missouri (1994) Requires certain categories of repeat or dangerous felony offenders to serve 50 percent, 80 percent, or 85 percent of a sentence. Retains parole release after those minimum sentences are served.

Virginia (1994 special session) Abolished parole and good conduct allowance for anyone convicted of a felony. Permits the court to add a post-release supervision term to the imposed prison sentence.

Arizona (1993) Requires inmates to serve 85 percent of their sentence, with 15 percent reduction possible through good behavior credits. Despite the lack of discretionary parole-release decision, offenders sentenced to prison are supervised upon release for a period of 15 percent of the sentence imposed.

Please call Donna Lyons at NCSL for more information.

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NCSL LEGISBRIEF

April/May 1999

Vol. 7, No. 21

TRUTH IN SENTENCING

By Donna Lyons

Reforms require certain violent offenders to serve 85 percent of the prison sentence imposed.

Crime control and public safety have prompted many new laws providing for "truth in sentencing." Generally, "truth" measures address the criminal sentence imposed by the court and the actual time an offender serves in prison. Recent reforms have required that certain serious or violent offenders serve at least 85 percent of the sentence given. Federal crime legislation has provided a grant incentive to states to review and implement policies to incarcerate violent offenders, including the 85-percent-of-sentence requirement.

Arizona, California, Missouri and Virginia were among states adopting "truth in sentencing" laws in the early 1990s. Arizona did so in 1993 as a complete revamp of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the 15 percent remaining. California legislation in 1994 also limited work credits that violent offenders can earn so that they serve at least 85 percent of the prison sentence. In special session in 1994, Virginia lawmakers abolished parole and good conduct allowances for any offender convicted of a felony. Courts may add a period of post-release supervision to the prison sentence.

Throughout the 1990s, other states passed similar measures. Notably, broad sentencing reform in Ohio reclassified all felony offenses, and addressed truth in sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth in sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less or are handled in community corrections programs. In recent years, Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. In 1998, Kentucky, New York and Wisconsin passed laws to abolish parole. Wisconsin's law applies to all felony offenders; New York eliminated parole for all violent, even first-time, offenders; and Kentucky's no-parole policy applies to persistent violent offenders.

Guidelines may also provide long, no-parole sentences for serious offenders.

Other types of sentencing reforms in states also have provided for long sentences without benefit of parole release for the most serious offenders. Minnesota was one of the pioneering states in establishing sentencing guidelines. Kansas,

Truth in Sentencing Laws 1993-1998
For all or broad categories of serious offenders

	85 Percent Requirement	No Parole	Other
Arizona	✓	✓	
Alaska			✓
California	✓		
Connecticut	✓		
Delaware			✓
Florida	✓	✓	✓
Illinois	✓	✓	
Iowa	✓	✓	
Kansas			✓
Kentucky	✓	✓	
Louisiana	✓		
Maine		✓	
Mississippi	✓		
Missouri	✓		
Montana			✓
New Jersey	✓		
New York	✓	✓	
North Dakota	✓		✓
Ohio		✓	✓
Oklahoma	✓		
Oregon			✓
South Carolina		✓	✓
South Dakota		✓	
Tennessee	✓	✓	
Wisconsin		✓	

Source: NCSL

Michigan and North Carolina are among states with more recent experience in structured sentencing. Often, guidelines have come about as a result of the work of sentencing commissions. Those commissions also develop and monitor truth in sentencing policies.

Congress addressed truth in sentencing as part of the Violent Crime Control and Law Enforcement Act of 1994. Funding at \$8 billion through the year 2000 was authorized for the Violent Offender Incarceration and Truth in Sentencing Incentive Grant (VOITIS) program. States receive money for construction or improvement of correctional facilities upon demonstration that truth in sentencing and related incarceration policies exist for violent offenders. Regulations were designed to accommodate various sentencing structures, including guidelines, as well as new laws that specify 85 percent of sentence policy. The Bureau of Justice Statistics reports that 27 states and the District of Columbia qualified in 1998 for VOITIS truth in sentencing funds.

A federal grant ties funds for prison construction to policies on sentencing violent offenders.

Research sponsored by the federal National Institute of Justice (NIJ) is under way to help states evaluate the effect of truth in sentencing on crime and the criminal justice system. The Rand Corporation in Santa Monica, Calif., is carrying out a multiyear, broad evaluation of "truth" laws. Rand's study is analyzing the impact on prosecutorial and judicial actions, correctional populations and costs, and crime rates. Another NIJ-funded study by the Urban Institute is analyzing effects on lengths of prison stay, as well as if and how criminal justice and corrections systems are adapting to "truth" policies. A report this year from the Bureau of Justice Statistics ties adoption of truth in sentencing laws to increases in time actually served behind bars and to growing state prison populations. Nationally, seven in 10 violent offenders are in a state that requires that 85 percent of the sentence be served, according to the report.

Today, seven of 10 violent offenders are in a state that requires 85 percent of the sentence to be served.

Proponents of 85 percent "truth" laws assert that credibility of the criminal justice system requires a closer relationship between the sentence imposed and time served. Indeed, there has been strong public and political support for longer, more determinate sentences for serious, dangerous offenders. Other observers suggest that laws that broadly provide for longer time in prisons will further increase state corrections populations and costs without a proportionate impact on public safety. NCSL has reported that state corrections appropriations are about 6 percent of state general funds in 1999.

Selected References

Bureau of Justice Statistics, Office of Justice Programs. "Truth in Sentencing in State Prisons." Washington, D.C., January 1999, NCJ #170032. Fax on demand (301) 519-5550, or call BJS clearinghouse at (800) 732-3277, or find at www.ojp.usdoj.gov/bjs/

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SENATE FINANCE COMMITTEE

SIGN-IN

SB 1

NO MANDATORY PAROLE RELEASE WITHOUT GED

NAME: LARRY PERSILY Subject/Bill No: SB 1

Co./Dept./Title: DEPUTY COMMISSIONER DEPARTMENT OF REVENUE Phone: 465-5469

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

(+) NAME: Bruce Richards Subject/Bill No: SB 1

Co./Dept./Title: Special Assistant Dept Corrections Phone: 465-3307

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: Marsha Pantlow Subject/Bill No: SB 1

Co./Dept./Title: DOLWD Phone: 465-8714

Address: PUB 25529 Zip: 99802

Do you wish to testify? Yes No Respond To Questions *-if needed regarding technicality of GED*

NAME: Nanci Jones Subject/Bill No: SB 1

Co./Dept./Title: PFD Director Phone: 2323

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions



Teleconference Participants

TCN: 10089

Participant Lists

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Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

ANCHORAGE (ANC)

1	Name: Mr. Michael Dean	Phone: 344 9121
	Address: PO Box 112923	Affiliation: self
	City /St /Zip: Anchorage AK 99511	Type: Testifier
	Bill: SB 85: CREDITED SERVICE FOR TEMP EMPLOYEES:PERS	

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	Address: 900 W 5th Ave #200	Affiliation: Public Def
	City /St /Zip: Anchorage AK 99501	Type: Testifier
	Bill: SB 1: NO MANDATORY PAROLE RELEASE WITHOUT GED	

KODIAK (KOD)