

SB

1



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

MEMORANDUM

To: Senator Robin Taylor
Chair, Senate Judiciary Committee

From: Senator Dave Donley *DD*

Re: Hearing Request for SB 1 - "Literacy as an eligibility
For Good Time Credits"

Date: February 3, 1999

I request that you schedule Senate Bill 1, an act requiring convicted prisoners to obtain certain educational requirements before becoming eligible for sentence reductions, for a hearing in your committee.

Senate Bill 1 would require convicted prisoners 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.

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-intergrating 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.

If you have any questions, please contact James Armstrong of my staff at 3887.

DD/jja

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
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Vice-Chair, Senate Finance Committee • Chairman, Capitol Budget Subcommittee •
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/19/99

FURTHER: Finance

Date of 5-Day Notice: 3-11-99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/13/99

Judiciary Committee considered SENATE BILL NO. 1

"An Act relating to good time and release on mandatory parole."

and recommends:

- be replaced with _____ CS SB 1 234(H) (JUD)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
same title
- new title
- House Bill:
same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

AK Courts	3/12	x	
✓ Pub Defender	3/12	x	
Law	3/15	x	
Corrections	3/15		x

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 1(JUD)

Revision Date: _____
 Title: "An Act relating to good time and release on mandatory Parole"
 Sponsor: Senator Donley
 Requestor: (S) JUD

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ()	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Date: 3/23/99

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This bill would make prisoners without high school diplomas or GEDs ineligible for mandatory release parole unless they are either "incapable of obtaining" diplomas or equivalents or because they do not speak English as their primary language and because of their "age and social background", they cannot reasonably be expected to obtain a diploma or equivalent. However, the bill does not say who checks out the prisoners' high school and GED records, who decides whether prisoners are "incapable" of obtaining diplomas, or whether the Department of Corrections made programs available to prisoners.

Because of these uncertainties, the Public Defender Agency does not know if the courts would appoint the Agency to represent prisoners affected by this bill if it were enacted. Therefore, an indeterminate fiscal note is submitted.

Under current law, prisoners can be ordered by the court to participate in rehabilitative programs if they are made available by the Department of Corrections. AS 12.55.015(a)(10) If prisoners do not participate, their mandatory release parole can be "anticipatorily" revoked (revoked before the prisoner is released). AS 33.16.220(a) (Anticipatory revocation is equivalent to a loss of all a prisoner's "good time" credits.) The Parole Board makes the decision on whether mandatory release parole is revoked. The prisoner has a right to an appointed attorney -- usually the Public Defender Agency. The anticipatory revocation process was recently approved by the Alaska Court of Appeals in Webb v. State.

On the other hand, the Public Defender Agency does not represent prisoners in lawsuits or hearings about conditions of confinement, transfers, and in prison disciplinary matters. AS 18.85.100

Because we are uncertain about which of the above categories this legislation belongs in, we are submitting an indeterminate fiscal note.

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CS SB 1(JUD)

Revision Date/Time (Note if correction) 03/23/99 Dept. Affected Department of Corrections
 Title An Act conditioning the award of good time and BRU Administration and Operations
release on mandatory parole on the attainment of certain ... Component All
 Sponsor Senator Donley
 Requester Senate Judiciary Committee Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	58.8	58.8	58.8	58.8	58.8	58.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous				72.3	512.0	732.4
TOTAL OPERATING	58.8	58.8	58.8	131.1	570.8	791.2

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	58.8	58.8	58.8	131.1	570.8	791.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	58.8	58.8	58.8	131.1	570.8	791.2

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date/Time 3/31/99 11:10 AM
 Approved by Comm. Margaret M. Pugh *Margaret M. Pugh* Date 3/31/99
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 1(JUD)
PAGE 2 of 2
DATE 3/31/99

Assumptions:

1. The Dept. of Corrections estimates that approximately 200 inmates convicted per year will be subject to the diploma/G.E.D requirement contained in sections one and two of CS SB 1(JUD). This number was arrived at by assessing data submitted by the Dept. of Corrections to the Bureau of Justice for the Violent Offender Incarceration Act (VOIA) grant. The VOIA grant application does not count inmates who have received a life sentence or some crimes that would still bring a sentence of two or more years. Therefore the 200 inmate number is believed to be conservative as there are inmates who receive 2 year or greater sentences that are not included.

2. Assuming 35% of the 200 inmates would already have their diploma/G.E.D, the remaining 130 inmates would be subject to the requirements in CS SB 1(JUD) and would risk losing their statutory good time credit if they failed to obtain their diploma/G.E.D prior to their mandatory parole release date.

3. Assuming that eight percent of the 130 remaining inmates were incapable of obtaining a diploma/G.E.D the number would be reduced to 120. It is estimated that an additional 9 inmates would be eliminated because they do not speak english and due to their social background. The remaining number subject to the provisions of CS SB 1(JUD) would be approximately 111. Incapable is not defined in this legislation and is assumed by the Dept. of Corrections that it means mentally incapable.

It is estimated it will cost approximately \$4,625 in contractual services to administer the Test of Adult Basic Education (TABE) to assess the 111 inmates literacy/education level.

It is estimated it will cost approximately \$8,000 in contractual services per year to make determinations whether an inmate is capable of obtaining a diploma/G.E.D.

It is estimated it will cost approximately \$46,250 in contractual services for teaching/tutoring services in addition to current DOC expenditures for educational services.

It is estimated that approximately fifteen percent (16 inmates) of the 111 inmates participating will fail/refuse to obtain their diploma/G.E.D. Estimating the average sentence for these inmates at five years, they would not be eligible for their one-third statutory good time deduction and would remain incarcerated for an additional 608 days at a cost of \$45,782 per inmate (half at institution rate / half at CRC rate = \$75.30 per day).

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 1

Revision Date		Dept.	
Title	<u>Good Time and Release on Man. Parole</u>	Affected	<u>Alaska Court System</u>
		BRU	<u>Alaska Court System</u>
		Component	<u>Trial Courts</u>
Sponsor	<u>Senator Donley</u>		
Requester	<u>Senate Judiciary</u>	Component Serial No.	<u>769</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL

Estimate of any current year (FY99) cost: None

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 1 provides that before a prisoner serving a term of two years or more is eligible for release on mandatory parole or for a good time deduction, he or she must have obtained a high school diploma, a GED, or the equivalent or be incapable of obtaining a diploma or its equivalent. Because these provisions will increase the amount of time some prisoners will spend incarcerated, they may result in more cases going to trial. However, the extent of this increase, if any, is too speculative to estimate. If SB 1 should result in a significant increase in the number of criminal cases that proceed to trial the court system may return to the legislature for additional funding.

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>264-8265</u>
Agency	<u>Alaska Court System</u>	Date/Time:	<u>3/12/99 1:41 PM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date	<u>3/12/99</u>
Agency	<u>Alaska Court System</u>		

Doc Ellis

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 1

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to good time and release on BRU Criminal Division
mandatory parole." Component Criminal Justice Litigation
 Sponsor Senator Donley
 Requester Senate Judiciary Committee Component Serial No. 2202

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 1 would require that, in order to be eligible for mandatory parole, a prisoner would have to have a high school diploma or general education development diploma, unless the individual was incapable of obtaining the diploma. This bill would apply to those persons serving sentences of two years or longer who are convicted after the effective date of the act.

Prisoners are quite litigious. Any restriction that affects the length of their sentence can and is likely to be challenged through an application for post-conviction relief, which must be responded to by the state. The Department of Law has no way to estimate how many new applications for post-conviction relief passage of this bill might generate, and therefore cannot assign a cost without additional experience.

Prepared by Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date/Time 3/15/99, 9:16 AM
 Approved by Commissioner Richard M. Bielec Date 3/15/99
 Agency Department of Law

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 1

Revision Date: _____
 Title: "An Act relating to good time and release on mandatory Parole"
 Sponsor: Senator Donley
 Requestor: (S) JUD

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2 002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

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						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Date: 3/12/99

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This bill would make prisoners without high school diplomas or GEDs ineligible for mandatory release parole unless they are "incapable of obtaining" diplomas or equivalents. However, the bill does not say who checks out the prisoners' high school and GED records, who decides whether prisoners are "incapable" of obtaining diplomas, or whether the Department of Corrections must make the opportunity to obtain a GED available to prisoners.

Because of these uncertainties, the Public Defender Agency does not know if the courts would appoint the Agency to represent prisoners affected by this bill if it were enacted. Therefore, an indeterminate fiscal note is submitted.

Under current law, prisoners can be ordered by the court to participate in rehabilitative programs if they are "made available" by the Department of Corrections. AS 12.55.015(a)(10) If prisoners do not participate, their mandatory release parole can be "anticipatorily" revoked (revoked before the prisoner is released). AS 33.16.220(a) (Anticipatory revocation is equivalent to a loss of all a prisoner's "good time" credits.) The Parole Board makes the decision on whether mandatory release parole is revoked. The prisoner has a right to an appointed attorney -- usually the Public Defender Agency. The anticipatory revocation process was recently approved by the Alaska Court of Appeals in Webb v. State.

On the other hand, the Public Defender Agency does not represent prisoners in lawsuits or hearings about conditions of confinement, transfers, and in prison disciplinary matters. AS 18.85.100

Because we are uncertain about which of the above categories this legislation belongs in, we are submitting an indeterminate fiscal note.

1-LS0023VH
Luckhaupt
3/16/99

updated
3/19/99

*Halford statement -
Letter of intent - no
just for the record*

CS FOR SENATE BILL NO. 1()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act conditioning the award of good time and release on mandatory parole
2 on the attainment of certain minimum educational standards for prisoners serving
3 certain sentences."

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

5 * Section 1. AS 33.16.010(a) is repealed and reenacted to read:

6 (a) A prisoner is eligible for mandatory parole if the prisoner

7 (1) is serving a term or terms of two years or more; and

8 (2) either

9 (A) has attained a high school diploma, a general education
10 development diploma, or the equivalent before being incarcerated or while
11 incarcerated if the program was made available to the prisoner by the
12 department;

13 (B) is incapable of obtaining a diploma or its equivalent; or

14 (C) does not speak English as the prisoner's primary language

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and, due to the prisoner's age and social background, the commissioner ^{determines} ~~certifies~~ that the prisoner cannot reasonably be expected to meet an educational requirement.

* Sec. 2. AS 33.16.010(c) is amended to read:

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

* Sec. 3. AS 33.20.010(a) is amended to read:

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

(1) of two years or more [THAT EXCEEDS THREE DAYS] is entitled to a deduction of one-third of the term or terms of imprisonment rounded off to the nearest day if the prisoner follows the rules of the correctional facility in which the prisoner is confined and the prisoner either

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

(B) is incapable of attaining a diploma or its equivalent; or

(C) does not speak English as the prisoner's primary language and, due to the prisoner's age and social background, the commissioner ^{determines} ~~certifies~~ that the prisoner cannot reasonably be expected to meet an educational requirement;

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

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

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

* Sec. 4. AS 33.20.010 is amended by adding a new subsection to read:

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

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

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

* Sec. 5. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to persons ~~who~~ ^{are} convicted of crimes ~~committed~~ on or after the effective date of this Act.

committed

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

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act conditioning the award of good time and release on mandatory parole
2 on the attainment of certain minimum educational standards for prisoners serving
3 certain sentences."

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

5 * Section 1. AS 33.16.010(a) is repealed and reenacted to read:

6 (a) A prisoner is eligible for mandatory parole if the prisoner

7 (1) is serving a term or terms of two years or more; and

8 (2) has attained a high school diploma, a general education
9 development diploma, or the equivalent or is incapable of obtaining a diploma or its
10 equivalent.

11 * Sec. 2. AS 33.16.010(c) is amended to read:

12 (c) A prisoner who is not eligible for discretionary parole, or who is not
13 released on discretionary parole, shall be released on mandatory parole for the term of
14 good time deductions credited under AS 33.20 [,] if the prisoner is eligible under (a)

1 of this section [TERM OR TERMS OF IMPRISONMENT ARE TWO YEARS OR
2 MORE].

3 * Sec. 3. AS 33.20.010(a) is amended to read:

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

7 (1) of two years or more [THAT EXCEEDS THREE DAYS] is
8 entitled to a deduction of one-third of the term or terms of imprisonment rounded off
9 to the nearest day if the prisoner follows the rules of the correctional facility in which
10 the prisoner is confined and the prisoner attains or has attained a high school
11 diploma, a general education development diploma, or an equivalent diploma or
12 is incapable of attaining a diploma or its equivalent;

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

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

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

21 * Sec. 4. AS 33.20.010 is amended by adding a new subsection to read:

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

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

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

27 * Sec. 5. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to
28 persons convicted of crimes on or after the effective date of this Act.

1-LS0023VD
Luckhaupt
1/22/99

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

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Leman, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act conditioning the award of good time and release on mandatory parole
2 on the prisoner's attaining certain minimum educational standards."

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

4 * Section 1. AS 33.16.010(a) is repealed and reenacted to read:

- 5 (a) A prisoner is eligible for mandatory parole if the prisoner
- 6 (1) is serving a term or terms of two years or more; and
- 7 (2) has attained a high school diploma, a general education
- 8 development diploma, or the equivalent or is incapable of obtaining a diploma or its
- 9 equivalent.

10 * Sec. 2. AS 33.16.010(c) is amended to read:

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

1 MORE].

2 * Sec. 3. AS 33.20.010(a) is amended to read:

3 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
4 convicted of an offense against the state or a political subdivision of the state and
5 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction
6 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner
7 follows the rules of the correctional facility in which the prisoner is confined and the
8 prisoner attains or has attained a high school diploma, a general education
9 development diploma, or an equivalent diploma or is incapable of attaining a
10 diploma or its equivalent. A prisoner is not eligible for a good time deduction if the
11 prisoner has been sentenced to a

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

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

15 * Sec. 4. The changes made to AS 33.16.010 and AS 33.20.010 by this Act apply to
16 persons convicted of crimes on or after the effective date of this Act.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

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

Senate Bill 1 would require convicted prisoners 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.

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 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

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successfully re-intergrating 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.

Those prisoners who are incapable of obtaining a G.E.D. or who have already received a high school diploma or its equivalent would not be subject to the provisions of Sb 1.

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.

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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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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



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 criminal" 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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