

SB

223

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 223
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An Act referencing the award of good time and BRU Administration and Operations
restricting release on mandatory..." Component All
 Sponsor Senator Donley
 Requestor Senate Judiciary Committee Component No. 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	60.3	60.3	60.3	60.3	60.3	60.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous				341.3	648.0	648.0
TOTAL OPERATING	60.3	60.3	60.3	401.6	708.3	708.3

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	60.3	60.3	60.3	401.6	708.3	708.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	60.3	60.3	60.3	401.6	708.3	708.3

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached.

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

Phone: _____
 Date/Time: 2/8/02 4:10 PM
 Date: 2/8/02

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 223

ANALYSIS CONTINUATION

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 SB 223. 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 SB 223 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 SB 223 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 \$5,500 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 \$46,800 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. each year. Estimating the average sentence for these inmates at five years, they would not be eligible for the one-third statutory good time deduction and would remain incarcerated for an additional 450 days (one-twelfth deduction) at a cost of \$40,500 per inmate (half at institution rate / half at CRC rate = \$90 per day).

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SSSB 223
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to good time and relea BRU Legal and Advocacy Services
mandatory parole..." Component Public Defender Agency
 Sponsor Senator Donley
 Requestor (S) JUD Component No. 1831

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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 (Specify Type—Do not abbreviate)						
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)
 See attached sheet.

Prepared by: Barbara Brink, Director Phone (907) 334-4418
 Division Public Defender Agency Date/Time 2/8/02 4:40 PM
 Approved by: Jim Duncan, Commissioner Date 2/8/2002
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SSSB 223

ANALYSIS CONTINUATION

This legislation would increase punishment for prisoners who fail to obtain a high school degree or equivalent. The bill would make prisoners sentenced to a term or terms of imprisonment of two or more years without high school diplomas or GEDs receive far less good time for mandatory release parole than prisoners who either came to jail with a degree or earned one while incarcerated. To earn one-third off in good time a prisoner must either attain a high school diploma or GED equivalent before incarceration or while incarcerated if the program is "made available" to the prisoner, or be "incapable of attaining" a diploma or its equivalent, or does not speak English as the primary language and because of his/her "age or social background", cannot reasonably be expected to obtain a diploma or equivalent. If the prisoner is not eligible for one-third off under the criteria above, the prisoner is eligible to receive only one-twelfth off for good time. 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 who decides 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 (AS 12.55.015(a)(10)), prisoners can be ordered by the court to participate in rehabilitative programs if they are made available by the Department of Corrections. 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 of 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 approved by the Alaska Court of Appeals in Webb v. State, 963 P.2d 1074 (Alaska App. 1998) and Gwalthney v. State, 964 P.2d 1285 (Alaska App. 1998).

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




SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

DATE: February 7, 2002

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: Senator Dave Donley 

RE: Work Draft CSSSSB 223() "J" Version, "An Act limiting the award of good time and restricting release on mandatory parole for prisoners serving certain sentences who fail to attain certain minimum educational standards; providing that prisoners having attained or attaining those educational standards receive good time awards and availability of release on mandatory parole of one-third of the term of imprisonment rounded off to the nearest day; and providing for an effective date."

Attached for your consideration is a work draft of CSSSSB 223, version "J." Version J contains one change from the original version first introduced to the committee.

The newest version changes the minimum amount of good time from 1/12th (8 %) to 1/6th (17%) to put Alaska in line with the national standard of 15%, or a minimum of 85% of total time served.

Attached with the proposed work draft is a sponsor statement reflecting the changes in this new version, a current list of statutes, as well as a list of states that require the minimum of 85% of total time to be served. Thank you for considering this legislation and if you have any questions, please do not hesitate to call my office.

DD:jg

cc: Senate Judiciary Members

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

22-LS0997J
Luckhaupt
2/5/02

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 223()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting the award of good time and restricting release on mandatory parole for
2 prisoners serving certain sentences who fail to attain certain minimum educational
3 standards; providing that prisoners having attained or attaining those educational
4 standards receive good time awards and availability of release on mandatory parole of
5 one-third of the term or terms of imprisonment rounded off to the nearest day; and
6 providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. The changes made to AS 33.16.010 and AS 33.20.010 by this Act
10 apply to persons convicted of crimes committed on or after the effective date of this Act.

11 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement
for Work Draft CSSSB 223 ()
"Requiring Literacy as an Eligibility for
Parole or Good Time Credit"
02/07/02

Senate Bill 223 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 receiving the current statutory one-third (about 33%) maximum amount of good time sentence reduction or mandatory parole. If a person fails to qualify for the current one-third good time reduction due to failure to obtain a G.E.D., they will still be eligible for one-sixth (about 17%) reduction in sentence for good behavior. The 1/6th minimum reduction is still more generous than the national standard 15% maximum reduction (which requires that at least 85% of a 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 223 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 a portion of their "good time" credit.

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. Alaska has one of the most liberal "good time" provisions in the nation. Alaska's one-third sentence reduction for "good time" equates to requiring offenders to serve only 67% of their sentences. This is quite low compared to federal statutes that 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.

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

Senate Bill 223
Sponsor Statement
Page 2

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.

Under SB 223 prisoners would not be subject to a reduction in good time if the inmate:

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

The Department of Corrections' fiscal note estimates that SB 223 would increase overall inmate sentences. I doubt the impact would be anywhere near as much as the Department guesses. Instead I think a greater number of inmates will seek to obtain a G.E.D.

SB 223 is pro-active legislation designed to reduce crime and the recidivism rate in Alaska through encouraging literacy among imprisoned criminal offenders. Lower recidivism means safer Alaskan communities.

DD/jg

States with 85 percent of term of imprisonment

Arizona
California
Connecticut
Deleware
Florida
Georgia
Illinois
Iowa
Kansas
Kentucky
Louisiana
Maine
Michigan
Minnesota
Mississippi
Missouri
New Jersey
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennslyvania
South Dakota
South Carolina
Tennessee
Utah
Virginia
Washington

Distributed by Senator Donley CSSSSB 223

Distributed by Senator Donley CSSSSB223 ()

Chapter 33.16. PAROLE ADMINISTRATION

***ADMINISTRATIVE CODE.

For Alaska board of parole, see 22 AAC 20.

Collateral Refs -

59 Am. Jur. 2d, Pardon and Parole, Sec. 1 et seq.

67A C.J.S., Pardon and Parole, Sec. 1 et seq.

Decisions -

Cited in *Wilson v. State*, 944 P.2d 1191 (Alaska Ct. App. 1997).

Sec. 33.16.010. Parole.

(a) A prisoner who is serving a term or terms of two years or more is eligible for mandatory parole.

(b) A prisoner who is eligible under AS 33.16.090 may be granted discretionary parole by the board of parole.

(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 term or terms of imprisonment are two years or more.

(d) A prisoner released on special medical, discretionary, or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150. Parole may be revoked under AS 33.16.220.

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

History -

(Sec. 2 ch 88 SLA 1985; am Sec. 1, 2 ch 77 SLA 1987; am Sec. 2, 3 ch 70 SLA 1995)

Amendment Notes -

The 1995 amendment, effective September 3, 1995, inserted "special medical," in subsection (d) and added subsection (e).

Editors Notes -

Sections 1 and 2, ch. 47, SLA 1988, provide that the provisions of subsections (a) and (c) of this section, as amended by ch. 77, SLA 1987, apply retroactively to prisoners incarcerated on or after September 13, 1987, irrespective of the law in effect at the time the prisoner committed the offense for which the prisoner was incarcerated.

History Reports -

For House letter of intent related to the enactment of this section, see 1985 House Journal, p. 821.

Decisions -

Mandatory parole, as its name suggests, is required by statute, and a parolee has no right to refuse mandatory release from prison. *State v. Staael*, 807 P.2d 513 (Alaska Ct. App. 1991).

Parolee was not entitled to an in-person hearing before standard conditions of parole could be imposed, and his parole was properly revoked after he violated standard conditions of parole by leaving the state and failing to report. *State v. Staael*, 807 P.2d 513 (Alaska Ct. App. 1991).

Distributed by Senator Donley CSSSSB223 ()

Jurisdiction of board over parolee. - Where defendant was charged with a violation while he was still on mandatory parole under this section and notice of the violation was served and resolved at a parole revocation hearing while the board of parole retained jurisdiction over defendant under AS 33.16.200, the validity of the board's action did not hinge on whether defendant was deemed to have been technically on parole at the time of the hearing. *Gyles v. State*, 901 P.2d 1143 (Alaska Ct. App. 1995).

Quoted in *Wilson v. State*, 944 P.2d 1191 (Alaska Ct. App. 1997).

Cited in *State v. Stores*, 816 P.2d 206 (Alaska Ct. App. 1991); *Morrison v. State*, 7 P.3d 955 (Alaska Ct. App. 2000).