

**HB**

**93**

<TARGET><BILL>HB 93</BILL><SUBJECT>HB  
93</SUBJECT><COMM>SJUD29</COMM></TARGET>

# Representative Cathy Tilton

Alaska State Legislature – House District 12



## SECTIONAL ANALYSIS

### **HB 93: "An Act relating to the duties of probation officers; and relating to conditions of parole."**

**Section 1:** AS 33.05.040 is amended to add subsections making it clear that a probation or parole officer shall accommodate the diligent efforts of each probationer to secure and maintain steady employment when prescribing the times at which a probationer shall report; and permit each probationer to travel in the state to make diligent efforts to secure and maintain steady employment if the travel is not inconsistent with other terms and conditions of probation.

**Section 2:** AS 33.16.150(a) is amended to conform to Section 1, AS 33.05.040, adding that a parolee shall report to a parole officer "at other times, and in the manner, prescribed by the board or the parole officer assigned to the parolee that accommodate the diligent efforts of the parolee to secure and maintain steady employment."

**Section 3:** AS 33.16.150(b) is amended to read that the parole board may require as a condition of special medical, discretionary, or mandatory parole, or a member of the board acting for the board under of this section may require as a condition of mandatory parole that a prisoner released on parole "may only refrain from traveling in the state to make diligent efforts to secure or maintain steady employment if the travel violates other conditions of parole."

Other minor changes are grammar updates, changing the word "such" to "that" throughout.



REPRESENTATIVE CATHY TILTON  
ALASKA HOUSE OF REPRESENTATIVES

## House Bill 93

Probation & Parole

Summary of Changes: HB 93 Version N (2/8/16) versus HB 93 Version H

House Bill 93 Version N adds "or to participate in educational courses or training programs" after the phrase, "maintain steady employment" at the following places in HB 93 Version H:

- Page 2, lines 10, 14, and 31; and,
- Page 5, line 3

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
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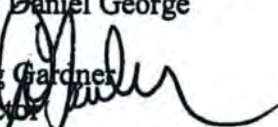
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 6, 2015

**SUBJECT:** Granting of a Travel Pass  
(Work Order No. 29-LS0404H; CSHB 93(STA))

**TO:** Senator Bill Stoltze  
Chair of the Senate State Affairs Committee  
Attn: Daniel George

**FROM:** Doug Gardner  
Director 

Mr. George asked whether Section 1 of CSHB 93(STA) at page 2, lines 12 - 14 creates a situation where a probation officer may feel compelled to grant a person on probation a travel pass.

The brief answer is that while this section of the bill requires that a probation officer permit a probationer to travel in the state to make diligent efforts to secure employment only if the travel is not inconsistent with other terms of probation set by the court, a probation officer likely maintains the discretion to decline travel in most circumstances, and can always seek the court's guidance to resolve close questions.

### Discussion

Section 1 of CSHB 93(STA) provides:

- \* Section 1. AS 33.05.040 is amended to read:
- Sec. 33.05.040. Duties of probation officers.** A probation officer shall
- (1) furnish to each probationer under the supervision of the officer a written statement of the conditions of probation and shall instruct the probationer regarding the same;
  - (2) keep informed concerning the conduct and condition of each probationer under the supervision of the officer and shall report on the probationer to the court placing that [SUCH] person on probation;
  - (3) use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition;

(4) keep records of the probation work, keep accurate and complete accounts of all money collected from persons under the supervision of the officer, give receipts for money collected and make at least monthly returns of it, make the reports to the court and the commissioner required by them, and perform other duties the court may direct;

(5) perform [SUCH] duties with respect to persons on parole as the commissioner shall request, and in that [SUCH] service shall be termed a parole officer;

**(6) accommodate the diligent efforts of each probationer to secure and maintain steady employment when prescribing the times at which a probationer shall report;**

**(7) permit each probationer to travel in the state to make diligent efforts to secure and maintain steady employment if the travel is not inconsistent with other terms and conditions of probation.** [Italics added for emphasis.]

Take for example, a person on probation for felony DUI, with conditions of probation that include seeking and maintaining employment, but also completing an alcohol treatment program, and not consuming alcohol. Let's assume that this person completes alcohol treatment, and has generally performed well on probation. Let's also add to the hypothetical that this person is a tradesperson, and that an opportunity to work on a remote construction project in a community where there is no full time law enforcement, etc., presents itself. If the probation officer declines to allow the person to travel for this employment opportunity, the statute seems to allow discretion to the probation officer to decline the travel, based on the officer's concern that, while the job opportunity is good, there is no way to monitor whether this offender is consuming alcohol, etc., and therefore the travel is inconsistent with the person's sobriety and community safety. The probation officer's decision would of course be a judgment call, that either the probationer or the probation officer could ask the sentencing court to review on an expedited basis, where the court would decide the issue.

I can think of many hypotheticals where travel requests could present close questions for a probation officer to decide based on the officer's experience, training, and the probationer's performance on probation in accordance with their terms and conditions of probation. However, because the probation officer can always seek the court's assistance in reviewing a travel request, a probation officer is unlikely to feel compelled to allow travel to a probationer for employment where, in the probation officer's judgment, the travel is inconsistent with the probationer's terms and condition of employment.

29-LS0404\N  
Martin  
2/8/16

SENATE CS FOR CS FOR HOUSE BILL NO. 93( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES TILTON, LeDoux, Pruitt, Keller, Chenault, Hughes, Gara, Josephson,  
Johnson, Millett, Gattis, Saddler

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the duties of probation officers; and relating to conditions of  
2 parole."

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

4 \* Section 1. AS 33.05.040 is amended to read:

5 **Sec. 33.05.040. Duties of probation officers.** A probation officer shall

6 (1) furnish to each probationer under the supervision of the officer a  
7 written statement of the conditions of probation and shall instruct the probationer  
8 regarding the same;

9 (2) keep informed concerning the conduct and condition of each  
10 probationer under the supervision of the officer and shall report on the probationer to  
11 the court placing that [SUCH] person on probation;

12 (3) use all suitable methods, not inconsistent with the conditions  
13 imposed by the court, to aid probationers and to bring about improvements in their  
14 conduct and condition;

1 (4) keep records of the probation work, keep accurate and complete  
 2 accounts of all money collected from persons under the supervision of the officer, give  
 3 receipts for money collected and make at least monthly returns of it, make the reports  
 4 to the court and the commissioner required by them, and perform other duties the court  
 5 may direct;

6 (5) perform [SUCH] duties with respect to persons on parole as the  
 7 commissioner shall request, and in that [SUCH] service shall be termed a parole  
 8 officer;

9 **(6) accommodate the diligent efforts of each probationer to secure**  
 10 **and maintain steady employment or to participate in educational courses or**  
 11 **training programs when prescribing the times at which a probationer shall**  
 12 **report;**

13 **(7) permit each probationer to travel in the state to make diligent**  
 14 **efforts to secure and maintain steady employment or to participate in educational**  
 15 **courses or training programs if the travel is not inconsistent with other terms and**  
 16 **conditions of probation.**

17 \* Sec. 2. AS 33.16.150(a) is amended to read:

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

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

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

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

27 (4) shall report

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

29 (B) at other times, and in the manner, prescribed by the board  
 30 or the parole officer assigned to the parolee **that accommodate the diligent**  
 31 **efforts of the parolee to secure and maintain steady employment or to**

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**participate in educational courses or training programs;**

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

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

(7) may not use, possess, handle, purchase, give, distribute, or administer a controlled substance as defined in AS 11.71.900 or under federal law or a drug for which a prescription is required under state or federal law without a prescription from a licensed medical professional to the parolee;

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

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

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

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

(12) shall provide a blood sample, an oral sample, or both, when requested by a health care professional acting on behalf of the state to provide the sample or samples, or an oral sample when requested by a juvenile or adult correctional, probation, or parole officer, or a peace officer, if the prisoner is being released after a conviction of an offense requiring the state to collect the sample or samples for the deoxyribonucleic acid identification system under AS 44.41.035;

(13) from a conviction for a sex offense shall submit to regular periodic polygraph examinations; in this paragraph, "sex offense" has the meaning given in AS 12.63.100.

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

(b) The board may require as a condition of special medical, discretionary, or mandatory parole, or a member of the board acting for the board under (e) of this

1 section may require as a condition of mandatory parole, that a prisoner released on  
2 parole

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

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

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

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

14 (5) submit to periodic examinations designed to detect the use of  
15 alcohol or controlled substances; the periodic examinations may include testing under  
16 the program established under AS 33.16.060(c);

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

19 (7) refrain from opening, maintaining, or using a checking account or  
20 charge account;

21 (8) refrain from entering into a contract other than a prenuptial contract  
22 or a marriage contract;

23 (9) refrain from operating a motor vehicle;

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

26 (11) refrain from participating in any other activity or conduct  
27 reasonably related to the parolee's offense, prior record, behavior or prior behavior,  
28 current circumstances, or perceived risk to the community, or from associating with  
29 any other person that the board determines is reasonably likely to diminish the  
30 rehabilitative goals of parole, or that may endanger the public; in the case of special  
31 medical parole, for a prisoner diagnosed with a communicable disease, comply with

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conditions set by the board designed to prevent the transmission of the disease;

**(12) refrain from traveling in the state to make diligent efforts to secure or maintain steady employment or to participate in educational courses or training programs only if the travel violates other conditions of parole.**

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 93  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB093CS(STA)-DOA-PDA-01-28-16  
Title: PROBATION AND PAROLE: WORK, TRAVEL  
ACCOM.  
Sponsor: TILTON  
Requester: (S) Judiciary

Department: Department of Administration  
Appropriation: Legal and Advocacy Services  
Allocation: Public Defender Agency  
OMB Component Number: 1631

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: Quinlan Steiner  
Division: Public Defender Agency  
Approved By: Sheldon Fisher, Commissioner  
Agency: Department of Administration

Phone: (907)334-4414  
Date: 01/28/2016 03:49 PM  
Date: 01/28/16

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. CSHB 93(STA)

**Analysis**

This bill requires probation and parole officers to allow probationers and parolees to travel for the purpose of the probationer or parolee obtaining or maintaining employment and requires that consideration of work schedules be given when setting reporting times.

The Public Defender Agency does not anticipate a financial impact from this legislation. The agency, therefore, submits a zero fiscal note.

CS change was grammatical, not substantive.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 93  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: CSHB093-DOC-PPDO-01-26-16  
Title: PROBATION AND PAROLE: WORK, TRAVEL  
ACCOM.  
Sponsor: TILTON  
Requester: (S)JUDICIARY

Department: Department of Corrections  
Appropriation: Population Management  
Allocation: Probation and Parole Director's Office  
OMB Component Number: 2684

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Prepared By: April Wilkerson, Director  
Division: Administrative Services - Department of Corrections  
Approved By: Remond Henderson, Deputy Commissioner  
Agency: Department of Corrections

Phone: (907)465-3460  
Date: 01/26/2016 12:00 PM  
Date: 01/26/16

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2016 LEGISLATIVE SESSION**

**BILL NO. CSHB 93**

**Analysis**

This legislation identifies instate traveling criteria and reporting times as it relates to conditions of probation and parole. These conditions are currently considered by the supervising Adult Probation Officers. This legislation will have no fiscal impact on the Department of Corrections operations.