

LEG. FINANCE - BILLS 1985 - 1986 2341

CSHB 114 cont.

2341

1 or improve public services, lands, forests, parks, roads, highways,  
2 facilities, or education; community service may not confer a private  
3 benefit on a person except as may be incidental to the public benefit;

4 (4) "correctional facility" or "facility" means a prison,  
5 jail, camp, farm, half-way house, group home, or other placement  
6 designated by the commissioner for the custody, care, and discipline  
7 of prisoners; a "state correctional facility" means a correctional  
8 facility owned or run by the state;

9 (5) "court" means the supreme court, the court of appeals,  
10 the superior court, the district or magistrate court, or a justice or  
11 judge of a court;

12 (6) "crime against a person" means a crime as set out in  
13 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-  
14 330; or a crime against a person in this or another jurisdiction  
15 having elements substantially identical to those of a crime as set out  
16 in AS 11.41, except custodial interference under AS 11.41.320 and  
17 11.41.330;

18 (7) "department" means the Department of Corrections;

19 (8) "furlough" means an authorized leave of absence from  
20 actual confinement for a designated purpose and period of time;

21 (9) "health care provider" means

22 (A) a physician's assistant or nurse practitioner  
23 licensed to practice in the state and working under the direct  
24 supervision of a licensed physician or psychiatrist; or

25 (B) a mental health professional as defined in AS 47.-  
26 30.915;

27 (10) "municipality" means a municipality authorized by law  
28 to establish a correctional facility;

29 (11) "prisoner" means a person, other than a juvenile, held

1 under authority of state law in official detention as defined in  
2 AS 11.81.900(b);

3 (12) "temporary commitment" means detention of a person for  
4 any period under authority of state law, but does not include confine-  
5 ment upon conviction and judgment of a court of this state;

6 (13) "victim" has the meaning given in AS 12.55.185.

7 \* Sec. 7. AS 33.32.015(b) is amended to read:

8 (b) The commissioner of corrections may

9 (1) subject to the Fiscal Procedures Act (AS 37.05), use,  
10 purchase, lease, equip, and maintain buildings, machinery, and other  
11 equipment, and may purchase materials and enter into contracts, which  
12 may be necessary for the correctional industries program;

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

18 (3) if the Correctional Industries Commission established  
19 in AS 33.32.070 approves, employ prisoners to provide services or  
20 products as needed by private industry if the services or products  
21 have potential for contributing to the economy of the state and will  
22 have minimal negative impact on an existing private industry or labor  
23 force in the state;

24 (4) authorize a prisoner to engage in productive employment  
25 within or outside a correctional facility or enter into a contract  
26 under AS 33.30.191 for the employment of a prisoner if the Correction-  
27 al Industries Commission determines that the employment will have  
28 minimal negative impact on an existing private industry or labor force  
29 in the state; and

1           (5) subject to the provisions of AS 37.05, enter into joint  
2           cooperative ventures with private industry for the establishment and  
3           operation of "Free Venture" industries under AS 33.32.017, if the  
4           Correctional Industries Commission determines at the time of inception  
5           that the "Free Venture" industry will not compete with an existing  
6           private industry or labor force in the state.

7 \* Sec. 8. AS 33.32 is amended by adding a new section to read:

8           Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)

9           Upon recommendation of the Correctional Industries Commission estab-  
10          lished under AS 33.32.070, the commissioner may establish "Free Ven-  
11          ture" correctional industries for the sale of goods or services to the  
12          public or private sector. A "Free Venture" correctional industry is a  
13          correctional industry that is operated and managed in total or in part  
14          by a private industry or organization within a correctional facility  
15          under an agreement entered into under AS 33.32.015(b)(5).

16          (b) The commissioner shall provide security and inmate workers  
17          to the private industry or organization. The commissioner may also  
18          provide appropriate space and utilities to the private industry or  
19          organization.

20          (c) Unless the commissioner determines otherwise, the private  
21          industry or organization shall provide all machinery, tools, supplies,  
22          materials, transportation, training, supervisory personnel, management  
23          marketing, and insurance necessary for the operation of the "Free  
24          Venture" industry.

25          (d) In exchange for the inmate workers and other services pro-  
26          vided to it, the private industry or organization shall pay to the  
27          commissioner a weekly payment in an amount not less than the sum of  
28          the existing minimum hourly wage, established under AS 23.10.065,  
29          multiplied by the total number of hours worked during that week by

1 inmates employed in the "Free Venture" correctional industry.

2 (e) The private industry or organization shall indemnify, save  
3 harmless, and defend the state, its agents, officers, and employees  
4 from liability of any kind resulting from injuries or damages sus-  
5 tained by a person or property as a result of the manufacture, prepa-  
6 ration, or use of the goods or services of the "Free Venture" indus-  
7 try.

8 \* Sec. 9. AS 33.32.030 is amended by adding a new subsection to read:

9 (f) The provisions of this section do not apply to "Free Ven-  
10 ture" industries established under AS 33.32.017.

11 \* Sec. 10. AS 39.35.360(e) is amended to read:

12 (e) An employee of a detention facility provided by a local  
13 government unit to the territorial or state government under AS 33.-  
14 30.031 or former AS 33.30.060, who continues in state employment upon  
15 transfer of the facility to the state, is entitled to credited service  
16 for prior service with the facility if the employee remains in contin-  
17 uous employment with the state until July 1, 1976. To obtain credited  
18 service the employee is required to make retroactive contributions for  
19 the period of service between January 1, 1961, and the effective date  
20 of the transfer of the facility to the state.

21 \* Sec. 11. AS 44.65.050 is amended by adding a new subsection to read:

22 (d) The Department of Corrections and the Department of Trans-  
23 portation and Public Facilities may enter into agreements under this  
24 chapter for the construction, renovation, repair or alteration of  
25 state correctional facilities as defined in AS 33.30.301. An agree-  
26 ment entered into under this subsection is limited to an estimated  
27 cost of \$100,000 for each project as determined by the terms of the  
28 agreement.

29 \* Sec. 12. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.062, 33.30.070, 33.30.-  
2 080, 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,  
3 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.-  
4 225, 33.30.227, 33.30.250, 33.30.260, 33.30.282, 33.30.283, 33.30.284,  
5 33.30.286, 33.30.288, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and  
6 33.30.900.

7 \* Sec. 13. Regulations adopted under a statute amended or repealed by  
8 this Act continue in effect until amended or repealed by the commissioner  
9 of corrections, except to the extent that a regulation is inconsistent or  
10 in conflict with a provision of this Act.

SENATE CS FOR CS FOR HOUSE BILL NO. 114 (Judiciary)  
Sectional Analysis

This sectional analysis highlights the differences between CS for HB 114 (Judiciary) for which an analysis is included in your file.

Section 1. This is a new section which amends AS 09.10.140 by deleting imprisonment as a condition which will toll the statute of limitations for causes of action.

Section 6, Sec. 33.30.031. Correctional facilities provided through agreement with a private agency must be located in this state.

Section 6, Sec. 33.30.081 (e) - (h). A court may order transportation of prisoners for the purpose of testifying in civil actions and in criminal actions to appear as a witness, only if the court determines that the personal attendance is essential to the disposition of the action. Expenses associated with the transportation of a prisoner under these circumstances shall be paid by the party who requested the prisoner's appearance. Special provisions are included for indigent prisoners.

Section 6, Sec. 33.30.151 - 33.30.181. These new sections create provisions for the establishment of correctional restitution centers.

Section 6, Sec. 33.30.231. The commissioner may authorize the use of monitoring or recording equipment to listen to a telephone conversation of a prisoner, whether convicted or not, as long as a warning is posted that informs the prisoner that a call may be monitored or recorded. Previous version of bill limited this to convicted prisoners only.

Section 6, Sec. 33.30.291. The commissioner, on behalf of the state, may consent to the transfer or exchange of prisoners or take any other action necessary to initiate the participation of the state in a treaty between the U. S. and a foreign country.

Section 7. Free Venture industry will not compete with an existing private industry or labor force in the state.

COMMENTARY AND SECTIONAL ANALYSIS  
FOR THE 1985 AMENDMENTS TO ALASKA'S LAWS ON  
CORRECTIONAL FACILITIES AND THE IMPRISONMENT  
AND REHABILITATION OF OFFENDERS  
CS FOR HB 114 (JUDICIARY)

Introduction

This Act represents a comprehensive attempt to update Alaska's laws on correctional facilities and the imprisonment and rehabilitation of offenders. Many of these laws have not changed since Alaska became a state, while the legal and administrative problems confronted by Alaska's correctional system are dramatically different than they were 25 or even 10 years ago. This Act incorporates changes necessary to respond to both decisions by the courts and the practical necessities of administering the Alaska correctional system in the 1980's.

Section 1. AS 09.20.020, Disqualification of Jurors.

This section amends one of the two statutory bases for which a person is disqualified from serving as a juror. Under this section, a person convicted of a felony is disqualified from serving as a juror until the person is unconditionally discharged from any supervision. Under former AS 09.20.-020, a person was disqualified from serving as a juror if the person was convicted of a felony and had not had his or her civil rights restored. This is a technical amendment only.

This amendment to AS 09.20.020 is necessary to conform with new AS 33.30.191, which provides, as one of the effects of a felony conviction, disqualification from serving as a juror until the person's unconditional discharge.

Sections 2-3. AS 11.56.340 and AS 11.56.350, Unlawful Evasion in the First and Second Degrees.

These sections repeal and reenact criminal statutes relating to unlawful evasion from custody to provide specific references to AS 33.30.101--33.30.131 pertaining to furlough of prisoners. These sections make clear that failure of a prisoner on furlough to return to the place of confinement or residence within the time authorized by those having direct supervision over the prisoner constitutes the crime of unlawful evasion. The degree of the crime remains the same as provided for under existing law.

Section 4. AS 12.47.050(d), Disposition of Defendant Found Guilty But Mentally Ill.

Prior to amendment, AS 12.47.050(d) prohibited a prisoner found guilty but mentally ill who is receiving treatment from being released on furlough under AS 33.30.150, 33.30.250, or 33.30.260, or on parole. This section makes technical changes to reflect the new statutes pertaining to furlough

of prisoners, AS 33.30.101--33.30.131. It also creates an exception to this general rule by permitting a guilty but mentally ill prisoner to be furloughed to a secure setting for purposes of treatment.

Under AS 33.30.101(a)(3) and AS 33.30.121(a)(2), a prisoner requiring medical or psychiatric treatment outside of a correctional facility may be furloughed for this purpose. Permitting a prisoner found guilty but mentally ill to be furloughed to a facility such as the Alaska Psychiatric Institute is consistent with the clear intent to protect the public and at the same time to provide necessary treatment through a furlough to a secure setting.

Section 5. AS 33.30.011--33.30.301, Correctional Facilities and Programs.

This section adds new sections to provide an updated statutory scheme pertaining to correctional facilities and management and control of Alaska's prisoners. A brief analysis of each section and its intent follows:

ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

Section 33.30.011. Duties of Commissioner.

This section sets out the duties of the commissioner of corrections. Subsection (1) combines the responsibilities set out in former AS 33.30.010 and 33.30.040 and makes clear that management and control of correctional facilities, as well as the responsibility for providing for the custody, care, and discipline of prisoners, rests with the commissioner.

Subsections (2) and (3) incorporate the responsibilities set out in former AS 33.30.020 (classifying prisoners and establishing programs for their rehabilitation). Subsection (3) expands those responsibilities by setting out specific goals which the programs are reasonably calculated to achieve. In addition, it requires the commissioner to establish furlough programs which are addressed in sections 33.30.101--33.30.131.

Subsection (4) requires the commissioner to provide necessary medical services for prisoners, a responsibility provided for in former AS 33.30.050. Necessary medical services includes treatment for dental, visual and audio problems.

Subsection (5) requires the commissioner to provide necessary psychological or psychiatric treatment for prisoners under the standard articulated by the Alaska Supreme Court in Rust v. State, 582 P.2d 134, opinion on reh. 584 P.2d 38 (Alaska 1978). This subsection requires a physician or other health care provider to exercise professional judgment under

the Rust standard in determining the need for psychological or psychiatric care. Health care provider is defined in the definition section, 33.30.901 so as to be consistent with professional standards of medical practice and Alaska's mental health statutes (AS 47.30.915).

Section 33.30.021. Regulations.

This section requires the commissioner to adopt regulations to implement this chapter and thus does not constitute a substantive change from former AS 33.30.030.

Section 33.30.031. Contract for Care and Confinement of Prisoners.

Subsections (a) and (b) authorize the commissioner to determine the availability of state correctional facilities for state prisoners, and to contract with public or private entities to provide necessary facilities when state facilities are not available. These subsections are based on former AS 33.30.060, but expand the commissioner's authority to contract with a private agency to confine prisoners convicted of a misdemeanor. Former AS 33.30.060 did not permit the commissioner to contract with private agencies for the confinement of prisoners. In essence, this will permit contracting with a privately operated jail for misdemeanants, but such a facility

must provide a similar degree of care and discipline as that required in state facilities.

Subsection (b) also clarifies the authority of the commissioner to house prisoners (both felons and misdemeanants) who are on furlough in a privately operated facility (e.g. halfway house). Although this authority existed under a reasonable interpretation of a number of prior statutes, it was not expressly set out.

Subsection (c) mandates that any agreement with a private agency to provide necessary facilities is subject to the competitive bidding requirements set out in the Fiscal Procedures Act (AS 37.05).

Subsection (d) makes clear that a prisoner on furlough, a probationer, or a parolee who is housed in a privately operated correctional facility and who is working will be required to pay for all or part of the prisoner's living expenses, as well as contribute to court ordered fines and restitution, awards made to victims which arose out of the prisoner's criminal conduct, and to support the prisoner's dependents. A judgment, court order, or order of the child support enforcement agency to make child support payments has priority over other financial obligations as set out in AS 09.65.132. These requirements are fully set out in AS 33.30.131.

Subsection (e) permits the commissioner to enter into an agreement with other jurisdictions or another state agency in this state (e.g., juveniles in the custody of the commissioner of health and social services) to provide a correctional facility for persons in custody. This subsection incorporates the provisions of former AS 33.30.070 and various interstate compacts located in AS 33.36.

Section 33.30.041. Lease of Correctional Facility to Municipality.

This section is essentially a reenactment of former AS 33.30.080 and permits the commissioner to lease a state correctional facility to a municipality or to jointly operate such a facility with a municipality if determined to be in the best interest of the state.

ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

Section 33.30.051. Commitment to Commissioner.

This section is essentially identical to former AS 33.30.090 and reflects that convicted prisoners are committed to the custody of the commissioner.

Section 33.30.061. Commissioner to Designate Facility.

This section is based primarily on former AS 33.30.-100 and 33.30.110 and makes clear that it is the commissioner who determines which facility a prisoner is to be sent to serve a term of imprisonment or period of temporary commitment. While it is not explicitly stated, the authority of the commissioner to designate a facility for a prisoner under subsection (a) is intended to include the authority to order a prisoner transferred from one facility to another (included in former AS 33.30.120).

Subsection (b) makes clear that before the commissioner may designate an out-of-state facility for a prisoner to serve a term of imprisonment, the commissioner must determine that the prisoner's access to rehabilitation or treatment programs will not be substantially impaired.

Section 33.30.071. Responsibility for Prisoners Pending Commitment.

This section is based primarily on former AS 33.30.-130 and describes who is responsible for a state prisoner pending initial court appearance and clarifies what agency is responsible for providing medical services for a prisoner.

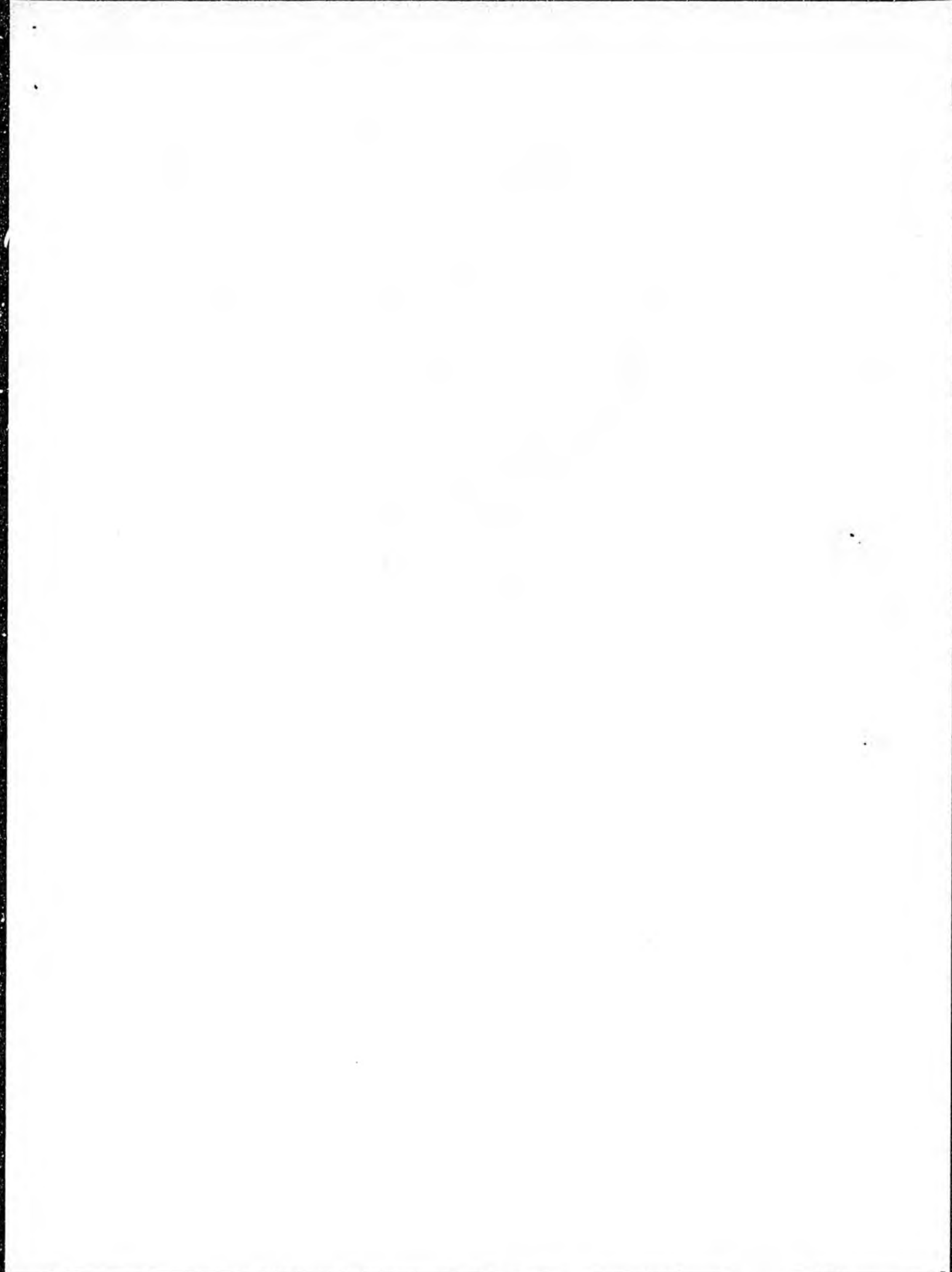
Pending arraignment, commitment by a court to the custody of the commissioner of corrections, or admission to a

state correctional facility a state prisoner is the responsibility of the commissioner of public safety. However, medical care remains the responsibility of the commissioner of corrections unless a prisoner in police custody is in immediate need of medical care prior to admission into a correctional facility. Under these circumstances, the law enforcement agency having custody of the prisoner is responsible for providing necessary medical care. However, the law enforcement agency is not precluded from requiring the prisoner to compensate the agency for medical services provided for a medical condition which existed prior to and did not arise out of the arrest.

This section also clarifies what has been a gray area in the past. If an intoxicated person is taken into protective custody under AS 47.37.170, or taken into custody for an emergency mental evaluation under AS 47.30.705, the state is responsible for the cost of care only if the person is admitted into a state facility. If the person is admitted into a municipal facility, then the municipality must bear the cost. This is a just way to share the burden of a statewide problem.

Section 33.30.081. Transportation of Prisoners.

This section reenacts former AS 33.30.130(b) and AS 33.30.160 reflecting that the commissioner of public safety



is primarily responsible for transporting state prisoners. It is recognized that the commissioner of corrections has been assuming an increasingly greater role in the transportation of non-high risk prisoners through an agreement with the commissioner of public safety. This section in no way disapproves of this practice. If the respective agencies and the legislature become satisfied that corrections personnel have received sufficient training to transport high risk prisoners while adequately protecting the public, it may well become an efficient and cost effective measure to statutorily transfer this responsibility to the commissioner of corrections in the future.

This section also codifies present practice whereby a state prisoner released from a state correctional facility is provided the fare for return transportation to the point of arrest by the commissioner of corrections. When the release is from a facility other than a state correctional facility, the fare for return transportation is provided by the commissioner of public safety.

Section 33.30.091. Designation of Programs.

This section sets out the criteria the commissioner should consider in assigning a prisoner to any program established for the treatment and care of prisoners. It also makes

clear that assignment of a prisoner to a pre-release furlough program is governed by AS 33.30.111.

The Alaska Supreme Court has held that where a prisoner has a serious particular identifiable medically-related problem associated with the prisoner's criminal behavior (i.e., alcohol, psychological or drugs), then the prisoner must be provided access to some program reasonably related to addressing the causes of these problems. See, Good v. State, 590 P.2d 420 (Alaska 1979); Abraham v. State, 585 P.2d 526 (Alaska 1978); Rust v. State, supra.

However, the case law also strongly supports the proposition that the commissioner of corrections has the discretion to determine what particular programs will be made available to a prisoner, especially a prisoner who does not have a serious medically-related problem associated with his or her criminal behavior, and the appropriate time the programs will be made available.

As long as a decision as to what type of program and when that program is provided is neither arbitrary nor vindictive, these decisions are left solely to the discretion of the commissioner. La Barbera v. State, 598 P.2d 947, 949 (Alaska 1979); Good v. State, supra, Brandon v. State, 581 P.2d 1116,

1119 n.11 (Alaska 1978); McGinnis v. Stevens, 543 P.2d 1221, 1237 (Alaska 1975).

This section is consistent with these principles.

Section 33.30.101. Furloughs.

This section sets out the purposes for which a prisoner may be granted a furlough and the factors which must be considered before a furlough is granted. Former AS 33.30.150, 33.30.250 and 33.30.260 described available furlough programs. This section and AS 33.30.111--33.30.141 address furlough programs in a much more comprehensive fashion. The types of furloughs available to prisoners (prerelease and short-duration) and the particular requirements are addressed in AS 33.30.111 and AS 33.30.121 and the commentary to these sections.

Section 33.30.111. Pre-Release Furloughs.

This section describes pre-release furloughs which will be the principal type of furlough granted to a prisoner. A pre-release furlough is an authorized absence from actual confinement for any of the purposes set out in AS 33.30.101.

Under subsection (b), a prisoner on a pre-release furlough will reside in a facility with varying levels of

restriction and supervision depending upon the needs of the prisoner and the risks to the public. This may range from a secure halfway house to furlough in a remote location in the state. Subsection (c) sets out minimum levels of restriction and supervision for all prisoners on a pre-release furlough to monitor the prisoner's performance and adequately protect the public.

Subsection (d) makes clear, in addition to other eligibility criteria established by the commissioner which must relate to risks to the public, that a prisoner is not eligible for a pre-release furlough until at least one third of the sentence has been served (similar to discretionary parole eligibility) or where the sentence is longer than five years when the prisoner is within three years of release. These time requirements reflect the view that the reintegration of a prisoner into society requires a portion of the sentence being served before a prisoner may venture into the community. In addition, subsection (d) precludes granting a prerelease furlough to a prisoner who is denied discretionary parole by the parole board for a period of at least one year following the denial unless the board expressly waives this restriction.

Under subsection (e) a prisoner who is denied a furlough must be provided a written explanation of the reasons for the denial.

Lastly, subsection (f) incorporates the portion of the victim's rights bill passed by the Thirteenth Alaska Legislature which requires that a victim of a crime against a person be permitted to comment on the proposed furlough and, upon request, be notified of the furlough if it is granted.

Section 33.30.121. Short-Duration Furloughs.

This section describes the second type of furlough which may be granted a prisoner, a short-duration furlough. A short duration furlough is one in which a prisoner may be released for a period not to exceed 12 hours at any one time, except for a family visitation (similar to former AS 33.30.150) or for medical treatment which may last only as long as the necessary treatment. A short-duration furlough may be granted to a prisoner at any time under regulations adopted by the commissioner. This is consistent with former law and recognizes the rehabilitative value of family visitations for low risk prisoners as well as the occasional practical necessity of furloughing a prisoner to a location outside a correctional facility for medical treatment.

Section 33.30.131. Prerelease or Short-Duration Furlough Involving Employment.

This section authorizes the commissioner to collect the earnings of a prisoner who is working outside a correctional facility while on a furlough to pay for the room and board of the prisoner as well as for court ordered fines and restitution, awards made to victims which arose out of the prisoner's conduct, and to support the prisoner's dependents. The priority for child support payments established in AS 09.-65.132 is recognized here.

The obligation of a prisoner on furlough to make payments for the purposes set out in this section is extended to probationers and parolees who are working and residing in a privately operated correctional facility under AS 33.30.031.

Section 33.30.141. Effect of Violation of Furlough Conditions or Failure to Return.

This section explains that the penalties for violating the conditions established for a prisoner's conduct while on furlough may range from criminal prosecution for unlawful evasion to immediate return to actual confinement in a correctional facility as well as disciplinary proceedings.

ARTICLE 3. GENERAL PROVISIONS

Section 33.30.151. Employment of Prison Inmates.

This section reenacts prior law relating to the employment of prisoners (former AS 33.30.225) and expands these provisions in a number of ways. It expands the kind of work a prisoner may do to include renovation, repair or alteration of existing correctional facilities as permitted by AS 44.65.-050(d), a provision located in section 10 of this bill. This will provide gainful employment to prisoners thus helping to alleviate the problem of prisoner idleness, and also provide a substantial cost savings to the state.

Former AS 33.30.225(b), which is reenacted in subsection (b) of this section, permitted the commissioner to enter into a contract with a public agency for the employment of prisoners in conservation projects. Subsection (b) however, expands the commissioner's authority, clarifying an area which has limited the department's ability to involve prisoners in productive employment. This subsection permits the commissioner to enter into a contract with any individual or agency for the employment of prisoners if the work to be performed will have minimal negative impact on an existing private industry or labor force in the state as determined by the Correctional Industries Commission under AS 33.32.015. This is not intended to result in the sole benefit of an individual who may see the opportunity for inexpensive labor. Rather, it is intended to expand the rehabilitative opportunities available to prisoners, increase their opportunity to have funds

available upon release from custody, and minimize the dangers inherent in inmate idleness.

As in former AS 33.30.225, this section permits the commissioner to discipline prisoners who refuse to work.

Section 33.30.156. Pay of Prison Inmates.

This section reenacts prior law regarding pay of prisoners who are working (former AS 33.30.227). In addition, this section makes clear that inmates who are paid by the department for working are not covered by workers' compensation. This is simply a clarification of policy previously established by the legislature when it enacted the correctional industries program (AS 33.32) in 1982.

Section 33.30.161. Transmission of Documents.

This section is substantially the same as former AS 33.30.185 and explains what documents must be delivered to the correctional facility where the prisoner will be confined. As in former AS 33.30.185, it requires the commissioner to adopt regulations providing for the security and confidentiality of delivered documents.

Section 33.30.171. Superintendent of Correctional Facility May Administer Oaths and Acknowledgments.

This section reenacts former AS 33.30.190 by authorizing a correctional superintendent or assistant superintendent to notarize a prisoner's legal papers at no charge to the prisoner.

Section 33.30.181. Telephone Access and Monitoring Inside Correctional Institutions.

This is a new section which addresses access to telephones for prisoners and monitoring of prisoner telephone calls. Under subsection (a), prisoners must be given reasonable access to a telephone. Reasonable access will be determined by the commissioner.

Subsection (b) provides a limitation on access to a telephone for prisoners who present a security threat or who are in punitive segregation for rule violations. Access for these prisoners is limited to calls to attorneys or in an emergency as determined appropriate by the commissioner.

Subsection (c) permits the commissioner to authorize the monitoring or recording of telephone calls of prisoners who have been convicted of an offense in order to preserve the

security and orderly administration of a correctional facility and to protect the public. The prisoner must be informed of the monitoring capability. Telephone calls made by or to a prisoner who has not been convicted or between a prisoner and an attorney may not be monitored except when authorized by a court.

Section 33.30.191. Effect of Judgment of Conviction on Civil Rights.

This section clarifies a gray area that has existed for several years under former AS 33.30.310 and 33.30.320. AS 33.30.310 provided that the civil rights of a person who received a sentence of imprisonment for a term less than for life were suspended during the term of the sentence. AS 33.30.320 provided that a person who received a life sentence was thereafter considered civilly dead.

Former AS 33.30.310 and 33.30.320 are representative of the type of statute adopted at one time by nearly all states, but which have since been repealed or modified by legislative action or court decision in the great majority of jurisdictions due in large part to the recognition of their adverse impact on the rehabilitation of prisoners and the evolving standards of treatment due prisoners. By 1973, only 13 states retained civil death statutes. See, Johnson v.

Rockefeller, 58 F.R.D. 42, 48-50, 49 n.10 (S.D.N.Y. 1973). The number is considerably less today. A major problem with these statutes has been the almost universal failure to delineate what rights are civil rights. Even when courts have indicated that a right is a civil right, they have held that not all civil rights are suspended because of other superceding rights which derive from state or federal constitutions. See, e.g., Bush v. Reid, 516 P.2d 1215 (Alaska 1973), where the Alaska Supreme Court held that although a parolee fell within the prescriptions of AS 33.33.310, he nonetheless had the right to file a civil action in court, notwithstanding this clearly being a civil right. See, also, Salisbury v. List, 501 F. Supp. 105 (D. Nevada 1980) and Hudson v. Rhodes, 579 F.2d 46 (5th Cir. 1978), where these two courts disagreed on the right of an inmate to marry.

In recognition of the need to clarify which specific civil rights are affected by a criminal conviction, this section thus clearly delineates two specific rights which are suspended as a result of conviction for a crime until the prisoner's unconditional discharge. They are the right to vote for a person who is convicted of a felony involving moral turpitude (consistent with AS 15.05.030), and the right to serve on a jury for a person convicted of a felony who has not been unconditionally discharged. In section 1 of this bill, AS 09.20.020

is amended to conform with the suspension of the right to serve on a jury provided for in this section.

The right to commence a civil action in a court (i.e., access to the courts) is a civil right which some courts have ruled is suspended as a result of conviction for a crime. See, e.g., Tabor v. Hardwick, 224 F.2d 526 (5th Cir. 1955). However, suspending this right raises substantial constitutional questions as reflected in the Alaska Supreme Court's decision in Bush v. Reid, supra, and Johnson v. Rockefeller, supra at 48. Under this section, access to the courts is no longer limited.

Making clear that a prisoner has the same right to commence a legal action as a normal citizen does not mean that the prisoner has the same right to personally appear in court, particularly in a court action which is unrelated to the prisoner's confinement. While the right of a prisoner to personally appear in court is ultimately up to the judge before whom the matter is pending, it is important to note that courts and legislatures have recognized the legitimate security interests of corrections and law enforcement officials in not having to transport prisoners to court, particularly in matters unrelated to their confinement. See, e.g., Hubbard v. Montgomery, 372 So.2d 315, 317 (Ala. 1979); Johnson v. Rockefeller, supra at 48. See, also, New York Civil Rights Law §§ 79 and 79-a. This

is a recognition that, "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system." Price v. Johnston, 334 U.S. 266, 285 (1948). Appearance through an attorney or by deposition will adequately safeguard a prisoner's interest in most cases. See, e.g., Alaska R. Civ. Pro. 27, 30.

Section 33.30.201. Disposal of Abandoned Personal Property.

This is a new section which addresses the practical problems of lack of space to store abandoned prisoner property and lack of a mechanism to dispose of the property.

Under this section, a prisoner's property remaining at a correctional facility which is not disposed of by the prisoner within 90 days of release or transfer is deemed abandoned, and will be delivered to the Department of Administration for disposal as if it were surplus state property. When a prisoner is transferred from one correctional facility to another, the commissioner is responsible for shipping a reasonable amount of the prisoner's personal property. The abandonment provisions only apply to property remaining after the shipment.

Section 33.30.211. Confiscation of Contraband.

This is a new section which authorizes the commissioner to impose disciplinary sanctions upon a prisoner who is found in possession of money in an amount greater than that permitted by the commissioner. If after a hearing, which satisfies minimum due process requirements, a prisoner is found to have possessed money in an amount greater than that permitted, the excess money is declared contraband and must be forfeited and deposited into the general fund.

The purpose of this section is to respond to the problem of prisoners who possess excess amounts of money which creates risks both to the personal safety of the prisoner in possession of the money as well as to the security of the institution. Similar statutes have been upheld as reasonable efforts to provide for the safety of prisoners and the security of correctional facilities. See, e.g., Harris v. Forsyth, 735 F.2d 1235 (11th Cir. 1984).

Prior to the adoption of this section, no statute existed authorizing the confiscation and forfeiture of excess money. Upon discovery it was placed in the prisoner's account.

This section will deter such illegal activities as gambling and the sale of drugs, which although often cannot be proven, are believed to frequently be the reason that prisoners are discovered in possession of large amounts of money.

Section 33.30.221. Forfeiture of Property.

This section reenacts the portion of former AS 33.-30.290 which makes clear that unless a statute expressly provides for a forfeiture of property as a result of a conviction of a criminal offense, there may be no forfeiture of a prisoner's property.

Section 33.30.231. Crime Against Sentenced Prisoner.

This section is substantially similar to former AS 33.30.300, and makes clear that a crime committed against a sentenced prisoner is to be treated the same as a crime against any person.

Section 33.30.301. Definitions.

This section defines the terms used in AS 33.30.

Sections 6-7. AS 33.32.015(b), AS 33.32.017, "Free Venture" Correctional Industries.

Section 6 amends AS 33.32.015 dealing with prisoner employment and correctional industries. AS 33.32.015(b)(4) permits the commissioner to authorize a prisoner to engage in productive employment within or outside a correctional facility

or to enter into a contract with a private agency or individual for the employment of a prisoner if the employment will have minimal negative impact on an existing private industry or labor force in the state, as determined by the Correctional Industries Commission.

AS 33.32.015(b)(5) permits the commissioner to enter into a joint cooperative venture with private industry for the employment of prisoners in correctional industries. Such a joint venture is subject to competitive bidding laws, thus providing an equal opportunity for all interested parties in the private sector. A further safeguard is provided by permitting such a joint cooperative venture only if the Correctional Industries Commission determines that it will have a minimal negative impact on an existing private industry or labor force.

Section 7 is a new section which permits the commissioner, upon the recommendation of the Correctional Industries Commission, to establish a "Free Venture" correctional industries. A "Free Venture" correctional industry is the form of joint venture referred to AS 33.32.015(b)(5) and in which a private industry operates and manages in total or in part a correctional industry within a correctional facility, and provides all machinery, tools, materials, training and marketing of a product in return for which the commissioner provides inmate workers for which the department is paid an hourly wage.

The department, of course, pays the prisoners for their labor under AS 33.32.050. The private industry must indemnify and hold the state harmless in the event of any liability arising from injury or damage related to the goods or services produced by the "Free Venture" industry.

"Free Venture" industries have been successfully implemented in a large number of states. The principal reason for adopting this section is the recognition of the high costs involved in getting the correctional industries program operating effectively. This greatly increases the potential for long term cost savings to the state both in resources generated by the industries program as well as in a hoped for decline in recidivism due to the rehabilitative benefits derived from the program.

Section 8. AS 33.32.030(f), Marketing of Correctional Industries Products.

This section amends AS 33.32.030 to exempt "Free Venture" industries from the requirements of this statute, which give preference to correctional industries products to state agencies, set prices for industries products, and limit the sale of industries products to a private industry to certain circumstances requiring the approval of the Correctional Industries Commission. It is a recognition of the fact that the

private industry in the "Free Venture" program will do its own marketing, and should have no priority in the marketing of its goods or services to state agencies.

Section 9. AS 39.35.360(e), Earlier Service.

This section is a housekeeping change relating to credited service for correctional employees.

Section 10. AS 44.65.050(d), Restriction on Construction Contracts.

This is a new section which permits the Department of Corrections and the Department of Transportation and Public Facilities to enter into agreements whereby DOTPF may delegate the responsibility for construction, renovation, repair, or alteration of a state correctional facility to the Department of Corrections up to an estimated cost of \$100,000 per project.

Since under present law DOTPF may do this amount of work itself, this section merely allows DOTPF to delegate the work to the Department of Corrections, if the department agrees. This will provide additional productive employment for prisoners (e.g. construction of a greenhouse, etc.) at a substantial cost savings to the state. A number of other departments are provided even greater authority under AS 44.65.050 to

perform construction work on projects related to their respective responsibilities. A limitation of \$100,000 is provided for here in recognition of the desire to minimize any impact on an existing labor force or construction industry.

Section 11. Repeal of various sections contained in AS 33.30.-010--33.30.900.

This section repeals Alaska's existing statutory scheme pertaining to correctional facilities and management and control of prisoners.

Section 12. Regulations.

This section makes clear that regulations already in effect are not nullified because they were adopted under a statute which is amended or repealed by this Act unless they are inconsistent or are in conflict with a provision of this Act.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ARLISS STURGULEWSKI, Vice Chairman  
JOE JOSEPHSON  
PAUL FISCHER  
EDNA ARMSTRONG-DE VRIES



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## Senate Committee on Health, Education and Social Services

### LETTER OF INTENT

#### SCS FOR CS FOR HOUSE BILL 114 (HESS)

In passing SCS for CS for House Bill 114 (HESS), an act relating to correctional facilities, and the imprisonment and rehabilitation of offenders, the legislature intends that the phrase "minimal negative impact on an existing private industry or labor force in the state," located in various sections of the bill (relating to work programs and correctional industries), be interpreted so as to prevent competition by prison work programs with private sector employment.

The standard of "minimal negative impact on an existing private industry or labor force in the state" has been utilized by the Correctional Industries Commission in its evaluation of proposed industries under AS 33.32.015(b) (3) and AS 33.32.080(c) since the creation of the Commission in 1982. The legislature intends that the Commission continue to apply this standard in such a way as to prohibit competition with private industry.

Offered: 4/1/86  
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 114 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to correctional facilities, and the  
7 imprisonment and rehabilitation of offenders."

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

9 \* Section 1. AS 09.10.140 is amended to read:

10 Sec. 09.10.140. DISABILITIES OF MINORITY AND [,] INCOMPETENCY  
11 [AND IMPRISONMENT]. If a person entitled to bring an action mentioned  
12 in this chapter is at the time the cause of action accrues either (1)  
13 under the age of majority, or (2) incompetent by reason of mental  
14 illness, [OR (3) IMPRISONED ON A CRIMINAL CHARGE, OR IN EXECUTION  
15 UNDER SENTENCE OF A COURT FOR A TERM LESS THAN THE PERSON'S NATURAL  
16 LIFE,] the time of the disability is not a part of the time limited  
17 for the commencement of the action. The [BUT THE] period within which  
18 the action may be brought is not extended in any case longer than two  
19 years after the disability ceases.

20 \* Sec. 2. AS 09.20.020 is amended to read:

21 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-  
22 qualified from serving [TO ACT] as a juror if the person

23 (1) has served as a juror in the state within one year of  
24 the time of examination for service; or

25 (2) has been convicted of a felony for which the person has  
26 not been unconditionally discharged. Unconditional discharge has the  
27 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE  
28 PERSON HAVE NOT BEEN RESTORED].

29 \* Sec. 3. AS 11.56.340 is repealed and reenacted to read:

1           Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A  
2 person commits the crime of unlawful evasion in the first degree if,  
3 while charged with or convicted of a felony,

4           (1) the person fails to return to official detention within  
5 the time authorized following temporary leave granted for a specific  
6 purpose or limited period, including leave granted under AS 33.30.181;  
7 or

8           (2) while on furlough under AS 33.30.101 - 33.30.131 the  
9 person fails to return to the place of confinement or residence within  
10 the time authorized by those having direct supervision.

11           (b) Unlawful evasion in the first degree is a class A misdemea-  
12 or.

13 \* Sec. 4. AS 11.56.350 is repealed and reenacted to read:

14           Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A  
15 person commits the crime of unlawful evasion in the second degree if,  
16 while charged with or convicted of a misdemeanor,

17           (1) the person fails to return to official detention within  
18 the time authorized following temporary leave granted for a specific  
19 purpose or limited period, including leave granted under AS 33.30.181;  
20 or

21           (2) while on furlough under AS 33.30.101 - 33.30.131 the  
22 person fails to return to the place of confinement or residence within  
23 the time authorized by those having direct supervision.

24           (b) Unlawful evasion in the second degree is a class B misde-  
25 meanor.

26 \* Sec. 5. AS 12.47.050(d) is repealed and reenacted to read:

27           (d) Notwithstanding a contrary provision of law, a defendant  
28 receiving treatment under (b) of this section may not be released

29           (1) on furlough under AS 33.30.101 - 33.30.131, except for

1 treatment in a secure setting; or

2 (2) on parole.

3 \* Sec. 6. AS 33.30 is amended by adding new sections to read:

4 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

5 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

6 (1) establish, maintain, operate, and control correctional  
7 facilities suitable for the custody, care, and discipline of persons  
8 charged or convicted of offenses against the state or held under  
9 authority of state law;

10 (2) classify prisoners;

11 (3) for persons committed to the custody of the commis-  
12 sioner, establish programs, including furlough programs that are  
13 reasonably calculated to

14 (A) protect the public;

15 (B) maintain health;

16 (C) create or improve occupational skills;

17 (D) enhance educational qualifications;

18 (E) support court-ordered restitution; and

19 (F) otherwise provide for the rehabilitation and  
20 reformation of prisoners, facilitating their reintegration into  
21 society;

22 (4) provide necessary medical services for prisoners in  
23 correctional facilities or who are committed by a court to the custody  
24 of the commissioner, including examinations for communicable and  
25 infectious diseases; and

26 (5) provide necessary psychological or psychiatric treat-  
27 ment if a physician or other health care provider, exercising ordinary  
28 skill and care at the time of observation, concludes that

29 (A) a prisoner exhibits symptoms of a serious disease

1 or injury that is curable or may be substantially alleviated; and  
2 (B) the potential for harm to the prisoner by reason  
3 of delay or denial of care is substantial.

4 Sec. 33.30.021. REGULATIONS. The commissioner shall adopt  
5 regulations to implement this chapter.

6 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.  
7 (a) The commissioner shall determine the availability of state cor-  
8 rectional facilities suitable for the detention and confinement of  
9 persons held under authority of state law. If the commissioner deter-  
10 mines that suitable state correctional facilities are not available,  
11 the commissioner may enter into an agreement with a public or private  
12 agency to provide necessary facilities. Correctional facilities  
13 provided through agreement with a public agency may be in this state  
14 or in another state. Correctional facilities provided through agree-  
15 ment with a private agency must be located in this state. The commis-  
16 sioner may not enter into an agreement with an agency unable to pro-  
17 vide a degree of custody, care, and discipline similar to that re-  
18 quired by the laws of this state.

19 (b) Unless the purpose is to involve prisoners in a program  
20 established under AS 33.30.091 - 33.30.131 or AS 33.30.151 - 33.30.181  
21 or to confine prisoners convicted of a misdemeanor, the commissioner  
22 may not enter into an agreement with a privately operated correctional  
23 facility under (a) of this section.

24 (c) Notwithstanding AS 37.05.230(1)(B), an agreement with a  
25 private agency to provide necessary facilities under (a) of this  
26 section must be based on competitive bids.

27 (d) A person employed outside the facility while confined in a  
28 privately operated correctional facility established under (a) of this  
29 section is subject to the provisions of AS 33.30.131.

1           (e) The commissioner may enter into an agreement with the United  
2 States, another state, a municipality of this state, or another state  
3 agency, to provide a correctional facility for the custody, care, and  
4 discipline of a person held under authority of the law of that juris-  
5 diction.

6           Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.

7           (a) If the commissioner determines that it would be in the best  
8 interest of the state, the commissioner may enter into an agreement  
9 with a municipality of the state for the lease of a state correctional  
10 facility or for the use and operation of a state correctional facility  
11 for the joint benefit of the municipality and the state.

12           (b) An agreement executed by the commissioner under (a) of this  
13 section must provide that

14                   (1) the state has the right to detain or confine a prisoner  
15 held under authority of law in the correctional facility;

16                   (2) the administrator of the correctional facility agrees  
17 to implement an order, concerning a prisoner, issued by a court of the  
18 state;

19                   (3) the administrator of the correctional facility shall  
20 comply with the law, and regulations adopted by the commissioner,  
21 relating to the custody, care, and discipline of a prisoner detained  
22 or confined in the correctional facility; and

23                   (4) the commissioner may inspect the correctional facility  
24 at any time to determine the conditions under which a prisoner is  
25 detained or confined.

26           (c) The agreement executed by the commissioner under (a) of this  
27 section may require the administrator of the correctional facility to  
28 comply with requirements that the commissioner considers necessary for  
29 the protection of the public or for the quality of care and programs

1 for prisoners required by this chapter and regulations adopted by the  
2 commissioner.

3 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

4 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted  
5 of an offense against the state shall be committed to the custody of  
6 the commissioner for the term of imprisonment that the court directs.

7 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The  
8 commissioner shall designate the correctional facility to which a  
9 prisoner is to be committed to serve a term of imprisonment or period  
10 of temporary commitment. The commissioner may designate a facility  
11 without regard to whether it is maintained by the state, is located  
12 within the judicial district in which the prisoner was convicted, or  
13 is located in the state.

14 (b) The commissioner may designate an out-of-state facility  
15 under this section only if the commissioner determines that rehabili-  
16 tation or treatment of the prisoner will not be substantially im-  
17 paired.

18 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

19 (a) Notwithstanding AS 33.30.011(1), the commissioner of public  
20 safety shall provide for the custody, care, and discipline of prison-  
21 ers pending arraignment, commitment by a court to the custody of the  
22 commissioner of corrections, or admission to a state correctional  
23 facility. Except as provided in (c) of this section, the responsibil-  
24 ity for providing necessary medical services for prisoners remains  
25 with the commissioner of corrections under AS 33.30.011(4). The  
26 commissioner of corrections and the commissioner of public safety are  
27 not responsible for providing custody, care, and discipline for a  
28 person detained under AS 47.30.705 or AS 47.37.170, unless the person  
29 is admitted into a state correctional facility.

1           (b) The responsibility of the commissioner of public safety  
2 under (a) of this section does not begin until a prisoner is accepted  
3 into the custody of the commissioner of public safety, or admitted  
4 into a correctional facility or other facility designed for holding  
5 prisoners, and the commissioner of public safety is notified of the  
6 acceptance or admission.

7           (c) Medical services for a prisoner who is unconscious or in  
8 immediate need of medical attention before admission to a correctional  
9 facility or commitment by a court to the custody of the commissioner  
10 of corrections shall be provided by the law enforcement agency having  
11 custody of the prisoner. The law enforcement agency may require the  
12 prisoner to compensate the agency for the cost of medical services  
13 provided for a preexisting medical condition not arising out of the  
14 prisoner's arrest.

15           Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-  
16 sioner of public safety is responsible for transporting a prisoner to  
17 and from the court having jurisdiction over the prisoner and for  
18 delivering a prisoner to a correctional facility upon temporary or  
19 final commitment by a court or upon transfer of a prisoner from one  
20 correctional facility to another either inside or outside the state.

21           (b) The commissioner of corrections shall make available return  
22 transportation to the place of arrest for a prisoner who is released  
23 from custody in a state correctional facility.

24           (c) The commissioner of public safety shall make available  
25 return transportation to the place of arrest for a prisoner who is  
26 released from custody before admission to a state correctional facili-  
27 ty.

28           (d) The commissioner of corrections shall adopt regulations  
29 governing the furnishing of transportation, discharge payments, and

1 clothing to prisoners upon release from a state correctional facility  
2 at any stage of a criminal proceeding.

3 (e) Except as provided in (f) of this section, a court may not  
4 order the transportation of a prisoner.

5 (f) A court may order a prisoner who is a party or witness to a  
6 civil action or a witness to a criminal action to appear at a place  
7 other than within a correctional facility only if the court deter-  
8 mines, after providing a reasonable opportunity for the commissioner  
9 to comment, that the prisoner's personal appearance is essential to  
10 the just disposition of the action. In making its determination, the  
11 court shall consider available alternatives to the prisoner's personal  
12 appearance including deposition and telephone testimony.

13 (g) Except as provided in (h) of this section, the expenses  
14 associated with the transportation of a prisoner ordered under (f) of  
15 this section, including the costs of travel for the prisoner and  
16 escorting officers and the salary and per diem costs of the escorting  
17 officers, shall be borne by the party who has requested the prisoner's  
18 appearance, and shall be paid to the commissioner of public safety  
19 before the prisoner is transported.

20 (h) A prisoner who is a party to a civil action is not required  
21 to bear the full costs of the prisoner's own transportation under (g)  
22 of this section if the court determines that the prisoner is indigent.  
23 In these cases, the court may require the prisoner to bear a portion  
24 of the costs, and the commissioner of public safety shall bear the re-  
25 maining costs of transporting the prisoner. If an indigent prisoner  
26 recovers a money judgment, the court may require the prisoner to bear  
27 all or part of the expenses required under (g) of this section.

28 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
29 AS 33.30.111 and 33.30.161, the commissioner may assign a prisoner

1 committed to the commissioner's custody to a program established under  
2 AS 33.30.011(3) considering

- 3 (1) safeguards to the public;
- 4 (2) the prospects for the prisoner's rehabilitation;
- 5 (3) the availability of program and facility space;
- 6 (4) the prospect of future judicial proceedings requiring  
7 the presence of the prisoner;
- 8 (5) the nature and circumstances of the offense for which  
9 the prisoner was sentenced;
- 10 (6) the needs of the prisoner as determined by a classi-  
11 fication committee and any recommendations made by the sentencing  
12 court;
- 13 (7) the record of convictions of the prisoner with particu-  
14 lar emphasis on crimes specified in AS 11.41;
- 15 (8) the use of drugs or alcohol by the prisoner;
- 16 (9) the length of the prisoner's sentence; and
- 17 (10) other criteria considered appropriate by the commis-  
18 sioner, including experimental evaluation of correctional programs  
19 that are consistent with protection of the public and reformation of  
20 the prisoner.

21 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt  
22 regulations governing the granting of prerelease and short-duration  
23 furloughs to prisoners to

- 24 (1) obtain counseling and treatment for alcohol or drug  
25 abuse;
- 26 (2) secure or attend vocational training;
- 27 (3) obtain medical or psychiatric treatment;
- 28 (4) secure or engage in employment;
- 29 (5) attend educational institutions;

1           (6) secure a residence or make other preparation for re-  
2 lease;

3           (7) appear before a group whose purpose is a better under-  
4 standing of crime or corrections; or

5           (8) for any other rehabilitative purpose the commissioner  
6 determines to be in the interests of the prisoner and the public.

7           (b) If the commissioner determines with reasonable probability  
8 that a prisoner can live under reduced supervision without violating  
9 the law or the conditions established for the conduct of the prisoner,  
10 the commissioner may grant a furlough after considering

11           (1) the factors in AS 33.30.091;

12           (2) violations, if any, by the prisoner of a condition of a  
13 prior furlough;

14           (3) the history, if any, of institutional misconduct by the  
15 prisoner; and

16           (4) the best interests of the prisoner and the public.

17           Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs  
18 established under AS 33.30.101 must include prerelease furloughs  
19 designed to facilitate the reintegration of a prisoner into society.

20           (b) A facility that is specifically adapted to provide a resi-  
21 dence outside prison, including a halfway house, group home, or other  
22 placement that provides varying levels of restriction and supervision,  
23 may be used for a prisoner on a prerelease furlough.

24           (c) The restrictions and supervision required for a prerelease  
25 furlough shall provide safeguards that minimize risk to the public and  
26 include, as a minimum,

27           (1) frequent contact with the prisoner by persons supervis-  
28 ing the prisoner;

29           (2) knowledge by supervisory staff of the location of the

1 prisoner;

2 (3) periodic reports by supervisory staff to the commis-  
3 sioner on the performance of the prisoner while on furlough; and

4 (4) a residential setting in which persons supervising a  
5 prisoner are obliged to immediately report to the commissioner any  
6 violation of a condition set for the prisoner's conduct.

7 (d) Notwithstanding AS 33.30.101(b), and other eligibility  
8 criteria established by the commissioner, that relate to risks to the  
9 public posed by the proposed furlough of a prisoner,

10 (1) a prisoner sentenced to a definite term of imprisonment  
11 of more than one year but less than five years is not eligible for a  
12 prerelease furlough until the prisoner has served at least one-third  
13 of the sentence; and

14 (2) a prisoner sentenced to a definite term of imprisonment  
15 of five years or more is not eligible for a prerelease furlough until  
16 the prisoner has served at least one-third of the sentence or is  
17 within three years of the release date, whichever is later.

18 (e) A prisoner may request a prerelease furlough under proce-  
19 dures adopted by the commissioner. If the commissioner denies a  
20 request for a prerelease furlough, the commissioner shall provide the  
21 prisoner with a written explanation of the reasons for the denial.

22 (f) Upon request of the victim, in the case of a prisoner con-  
23 victed of a crime against a person, notice of the commissioner's  
24 intent to consider the prisoner for a prerelease furlough shall be  
25 sent to the victim. The victim may comment in writing on the intent  
26 of the commissioner to release the prisoner on prerelease furlough  
27 status. The commissioner shall consider the comments of the victim  
28 before making a final decision to release a prisoner on a prerelease  
29 furlough. If the victim requests notification, the commissioner shall

1 make every reasonable effort to notify the victim of an intent to  
2 release the prisoner on a prerelease furlough. The notice must con-  
3 tain the expected date of the prisoner's release, the geographic area  
4 in which the prisoner will reside and other pertinent information  
5 concerning the prisoner's release that may affect the victim.

6 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration  
7 furlough is an authorized leave of absence from a correctional facili-  
8 ty for a period not to exceed 12 hours at any one time, except for

9 (1) family visitations, that may not exceed one week or  
10 occur more frequently than once in each four-month period; or

11 (2) medical treatment, for which the furlough may not last  
12 longer than necessary for the treatment.

13 (b) A short-duration furlough may be granted to a prisoner at  
14 any time under regulations adopted by the commissioner.

15 Sec. 33.30.131. PRERELEASE OR SHORT DURATION FURLOUGH OR CORREC-  
16 TIONAL RESTITUTION CENTER PLACEMENT INVOLVING EMPLOYMENT. (a) The  
17 commissioner may grant a prerelease or short-duration furlough to  
18 permit a prisoner to participate in suitable employment under con-  
19 ditions and at wages that represent the prevailing standard for the  
20 area. A prisoner may not participate in employment where an organized  
21 labor dispute is in progress.

22 (b) Unless alternative arrangements are expressly approved by  
23 the commissioner, when a prisoner is employed outside a correctional  
24 facility as part of a prerelease or short-duration furlough program,  
25 or as part of serving time in a correctional restitution center under  
26 AS 33.30.151 - 33.30.181, the earnings of the prisoner shall be de-  
27 livered to the commissioner. If an employer transmits the earnings to  
28 the commissioner, the employer has no liability to the prisoner for  
29 the earnings. The commissioner shall disburse the earnings of the

1 prisoner, in an order determined appropriate, under procedures adopted  
2 by the commissioner to

3 (1) pay for the room, board, and personal expenses of the  
4 prisoner in an amount or at a rate determined by the commissioner;

5 (2) pay any restitution or fine ordered by the sentencing  
6 court;

7 (3) reimburse the state for an award made for violent  
8 crimes compensation under AS 18.67 arising out of the criminal conduct  
9 of the prisoner;

10 (4) pay a civil judgment arising out of the criminal con-  
11 duct of the prisoner; and

12 (5) support the dependents of the prisoner, and to provide  
13 child support payments as required by AS 09.65.132.

14 (c) After making the disbursements authorized under (b) of this  
15 section, the commissioner shall retain the balance remaining in the  
16 account of the prisoner and give it to the prisoner upon release. The  
17 commissioner may permit the prisoner to draw upon a portion of this  
18 money for other purposes that the commissioner considers appropriate.

19 (d) Only the earnings retained by the commissioner under (c) of  
20 this section are subject to lien, attachment, garnishment, execution,  
21 or other proceedings to encumber money or property.

22 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR  
23 FAILURE TO RETURN. (a) If, after a hearing, a prisoner on a furlough  
24 is found to have violated the conditions established for the prison-  
25 er's conduct, the commissioner may immediately require the return of  
26 the prisoner to actual confinement for a period not to exceed the  
27 balance of the term of imprisonment or initiate disciplinary proceed-  
28 ings authorized by regulations adopted by the commissioner or both.

29 (b) The failure of a prisoner on a furlough to return to the

1 place of confinement or residence within the time specified by those  
2 having direct supervision over the prisoner is an unlawful evasion  
3 under AS 11.56.340 - 11.56.350.

4 Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS. (a) The  
5 commissioner shall establish correctional restitution centers in the  
6 state. The purpose of the centers is to provide certain nonviolent  
7 offenders with rehabilitation through community service and employment  
8 while protecting the community through partial incarceration of the  
9 offender, and to create a means to provide restitution to victims of  
10 crimes.

11 (b) The commissioner shall adopt regulations setting standards  
12 for the operation of the centers including

13 (1) requirements that the centers be secure and in compli-  
14 ance with state and local safety laws;

15 (2) standards for disciplinary rules to be imposed on  
16 prisoners confined to the centers;

17 (3) standards for the granting of emergency absence to  
18 prisoners confined to the centers;

19 (4) standards for classifying prisoners to centers;

20 (5) standards for mandatory employment and participation in  
21 community service programs in each center; and

22 (6) standards for periodic review of the performance of  
23 prisoners confined to the centers.

24 Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL  
25 RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to  
26 serve time in a correctional restitution center unless the commission-  
27 er specifically finds that the prisoner meets the eligibility require-  
28 ments of this section.

29 (b) To be eligible to serve time in a correctional restitution

1 center, the prisoner

2 (1) must be employable or eligible to work on community  
3 service projects approved by the commissioner and agree to secure  
4 employment or participate in community service projects and obey the  
5 rules of the center;

6 (2) may not have been convicted of an offense, in the state  
7 or another jurisdiction, involving violence or the use of force, as  
8 defined in AS 11.81.900; in this section, violence or the use of force  
9 includes possession of a firearm, as defined in AS 11.81.900, in the  
10 commission of an offense, whether or not the firearm was actually  
11 used; and

12 (3) may not have been convicted of an offense under AS 11.-  
13 41.410 - 11.41.470 or an offense in the state or another jurisdiction  
14 having elements substantially identical to an offense under AS 11.-  
15 41.410 - 11.41.470.

16 (c) Unless the commissioner determines otherwise for good cause  
17 shown, a person sentenced to less than five days who is serving time  
18 in a correctional restitution center shall participate in a community  
19 service project when available.

20 Sec. 33.30.171. COMMUNITY ADVISORY COMMITTEES. The commissioner  
21 shall appoint a community advisory committee for each center, to  
22 consist of five members of the community in which the center is locat-  
23 ed. The committee shall act as a liaison between the community and  
24 the department regarding community concerns with the center.

25 Sec. 33.30.181. CONFINEMENT TO THE CENTER. (a) A prisoner  
26 shall be confined to the center at all times except while

27 (1) at work and traveling to and from work;

28 (2) at and traveling to and from a community service proj-  
29 ect approved by the commissioner;

- 1 (3) on emergency absence;  
2 (4) at and traveling to and from a job interview; or  
3 (5) on a furlough approved by the commissioner.

4 (b) Except for an emergency absence or furlough, a prisoner may  
5 not be absent from a center under this section for more than 12 hours  
6 in a 24-hour period.

7 ARTICLE 3. GENERAL PROVISIONS.

8 Sec. 33.30.191. EMPLOYMENT OF PRISON INMATES. (a) It is the  
9 policy of the state that prisoners be productively employed for as  
10 many hours each day as feasible, not to exceed 40 hours a week unless  
11 overtime has been specifically approved by the commissioner.

12 (b) The commissioner may enter into contracts or cooperative  
13 agreements with any public agency for the performance of conservation  
14 projects. The commissioner may enter into a contract with an indi-  
15 vidual or agency for the employment of prisoners if the work to be  
16 performed will have minimal negative impact on an existing private  
17 industry or labor force in the state as determined by the Correctional  
18 Industries Commission under AS 33.32.015.

19 (c) The commissioner may direct a prisoner to participate in a  
20 type of productive employment listed in (d)(1), and (d)(4)-(6) of this  
21 section while the prisoner is confined in a correctional facility. A  
22 prisoner who refuses to participate in productive employment inside a  
23 correctional facility when directed under this section is subject to  
24 disciplinary sanctions imposed in accordance with regulations adopted  
25 by the commissioner.

26 (d) In this section "productively employed" includes the follow-  
27 ing kinds of employment:

28 (1) routine maintenance and support services essential to  
29 the operation of a correctional facility;

- 1           (2) education, including both academic and vocational;  
2           (3) industrial, agricultural, and service activities con-  
3 ducted in accordance with AS 33.32;  
4           (4) public conservation projects, including forest fire  
5 prevention and control, forest and watershed enhancement, recreational  
6 area development, construction and maintenance of trails and camp-  
7 sites, fish and game enhancement, soil conservation, and forest water-  
8 shed revegetation;  
9           (5) renovation, repair or alteration of existing correc-  
10 tional facilities as permitted by AS 44.65.050(d); and  
11           (6) other work performed inside or outside of a correction-  
12 al facility if the work has minimal negative impact on an existing  
13 private industry or labor force in the state as determined by the  
14 Correctional Industries Commission under AS 33.32.015.

15           Sec. 33.30.201. PAY OF PRISON INMATES. Each prisoner who is  
16 productively employed, as defined in AS 33.30.191(d)(1) or 33.30.-  
17 191(d)(3) - (6), may receive for that work compensation at a rate  
18 determined by the commissioner under AS 33.32.050 if the money is  
19 available from legislative appropriations. The provisions of AS 33.-  
20 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-  
21 tional industries program and to prisoners productively employed in  
22 activities outside that program.

23           Sec. 33.30.211. TRANSMISSION OF DOCUMENTS. (a) When a prisoner  
24 is admitted to a correctional facility, a copy of the commitment shall  
25 be delivered with the prisoner as evidence of the authority of the  
26 correctional facility to hold the prisoner.

27           (b) When a person is sentenced to a term of imprisonment, copies  
28 of the pre-sentence report, sentencing report prepared under AS 12.-  
29 55.025, and any other information of the probation office or of the

1 court that may affect the person's rehabilitation shall be transmitted  
2 to the superintendent of the correctional facility in which the pris-  
3 oner will be confined.

4 (c) The commissioner shall adopt regulations providing for the  
5 security, confidentiality, and use of documents transmitted under (b)  
6 of this section.

7 Sec. 33.30.221. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY  
8 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-  
9 tional facility or the superintendent's assistant may administer oaths  
10 to and take acknowledgments from a prisoner, but may not request or  
11 accept compensation from a prisoner for acts performed under this  
12 section.

13 Sec. 33.30.231. TELEPHONE ACCESS AND MONITORING INSIDE CORREC-  
14 TIONAL INSTITUTIONS. (a) Except as provided in (b) of this section,  
15 a prisoner shall have reasonable access to a telephone.

16 (b) A prisoner who is classified maximum custody, is placed in  
17 segregation as punishment for a rule infraction, or is placed in  
18 segregation because the prisoner poses a threat to others or to the  
19 security of a correctional facility may not have access to a telephone  
20 except to communicate with an attorney, to otherwise communicate as  
21 provided in AS 12.25.150, or in an emergency as determined appropriate  
22 by the commissioner.

23 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to  
24 preserve the security and orderly administration of the institution  
25 and to protect the public, the commissioner may authorize the use of  
26 monitoring or recording equipment to listen to a telephone conversa-  
27 tion of a prisoner if a warning is posted by the telephone informing  
28 the prisoner that a call may be monitored or recorded. A telephone  
29 call between an attorney and a prisoner may not be monitored or

1 recorded except when authorized by a court.

2 Sec. 33.30.241. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL  
3 RIGHTS. (a) A person who is convicted of a felony involving moral  
4 turpitude as defined in AS 15.60.010 is disqualified from voting in a  
5 state or municipal election until the person's unconditional dis-  
6 charge.

7 (b) A person who is convicted of a felony is disqualified from  
8 serving as a juror until the person's unconditional discharge.

9 (c) In this section "unconditional discharge" has the meaning  
10 given in AS 12.55.185.

11 Sec. 33.30.251. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)  
12 Except as provided in (b) of this section, it is the obligation of  
13 each person committed to the custody of the commissioner to provide  
14 for the appropriate disposition of all of the person's property re-  
15 maining at a correctional facility within 90 days of the date of the  
16 person's release or transfer from the correction facility.

17 (b) The commissioner shall provide for the shipment to the  
18 receiving facility of a reasonable amount of a prisoner's property, as  
19 determined by the commissioner, when the prisoner is transferred from  
20 one correctional facility to another.

21 (c) A prisoner's personal property that remains at a correction-  
22 al facility after 90 days from the date of the prisoner's release or  
23 transfer is considered abandoned, and shall be delivered to the De-  
24 partment of Administration for disposal under AS 44.71.010.

25 (d) The state is not liable for any loss or damage to personal  
26 property properly determined to be abandoned under (c) of this sec-  
27 tion.

28 Sec. 33.30.261. EXCESS MONEY AS CONTRABAND. (a) A prisoner who  
29 possesses money in an amount greater than that permitted by the

1 commissioner is subject to disciplinary sanctions under regulations  
2 adopted by the commissioner.

3 (b) Money in the possession of a prisoner in an amount greater  
4 than that permitted by the commissioner is contraband. If, after a  
5 hearing under regulations adopted by the commissioner, a prisoner is  
6 found to have been in possession of contraband under this section, the  
7 contraband shall be forfeited and deposited into the general fund.

8 Sec. 33.30.271. FORFEITURE OF PROPERTY. A conviction of a  
9 person for a crime does not work a forfeiture of property, except in  
10 cases where a forfeiture is expressly provided by law.

11 Sec. 33.30.281. CRIME AGAINST SENTENCED PRISONER. A person who  
12 commits a crime against a sentenced prisoner is punishable as if the  
13 prisoner was not sentenced and incarcerated.

14 Sec. 33.30.291. TREATIES. If a treaty in effect between the  
15 United States and a foreign country provides for the transfer or  
16 exchange of prisoners sentenced to serve a term of incarceration to  
17 the country where they are citizens or nationals, the commissioner  
18 may, on behalf of the state and subject to the terms of the treaty,  
19 consent to the transfer or exchange of prisoners and take any other  
20 action necessary to initiate the participation of the state in the  
21 treaty.

22 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-  
23 text requires otherwise,

24 (1) "center" means a correctional restitution center;

25 (2) "commissioner" means the commissioner of the Department  
26 of Corrections;

27 (3) "community service" means work on projects designed to  
28 reduce or eliminate environmental damage, protect the public health,  
29 or improve public services, lands, forests, parks, roads, highways,

1 facilities, or education; community service may not confer a private  
2 benefit on a person except as may be incidental to the public benefit;

3 (4) "correctional facility" or "facility" means a prison,  
4 jail, camp, farm, half-way house, group home, or other placement  
5 designated by the commissioner for the custody, care, and discipline  
6 of prisoners; a "state correctional facility" means a correctional  
7 facility owned or run by the state;

8 (5) "court" means the supreme court, the court of appeals,  
9 the superior court, the district or magistrate court, or a justice or  
10 judge of a court;

11 (6) "crime against a person" means a crime as set out in  
12 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-  
13 330; or a crime against a person in this or another jurisdiction  
14 having elements substantially identical to those of a crime as set out  
15 in AS 11.41, except custodial interference under AS 11.41.320 and  
16 11.41.330;

17 (7) "department" means the Department of Corrections;

18 (8) "furlough" means an authorized leave of absence from  
19 actual confinement for a designated purpose and period of time;

20 (9) "health care provider" means

21 (A) a physician's assistant or nurse practitioner  
22 licensed to practice in the state and working under the direct  
23 supervision of a licensed physician or psychiatrist; or

24 (B) a mental health professional as defined in AS 47.-  
25 30.915;

26 (10) "municipality" means a borough or city in the state, or  
27 a municipality unified under AS 29.68.240 - 29.68.440, authorized by  
28 law to establish a correctional facility;

29 (11) "prisoner" means a person, other than a juvenile, held

1 under authority of state law in official detention as defined in  
2 AS 11.81.900(b);

3 (12) "temporary commitment" means detention of a person for  
4 any period under authority of state law, but does not include confine-  
5 ment upon conviction and judgment of a court of this state;

6 (13) "victim" has the meaning given in AS 12.55.185.

7 \* Sec. 7. AS 33.32.015(b) is amended to read:

8 (b) The commissioner of corrections may

9 (1) subject to the Fiscal Procedures Act (AS 37.05), use,  
10 purchase, lease, equip, and maintain buildings, machinery, and other  
11 equipment, and may purchase materials and enter into contracts, which  
12 may be necessary for the correctional industries program;

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

18 (3) if the Correctional Industries Commission established  
19 in AS 33.32.070 approves, employ prisoners to provide services or  
20 products as needed by private industry if the services or products  
21 have potential for contributing to the economy of the state and will  
22 have minimal negative impact on an existing private industry or labor  
23 force in the state;

24 (4) authorize a prisoner to engage in productive employment  
25 within or outside a correctional facility or enter into a contract  
26 under AS 33.30.151 for the employment of a prisoner if the Correction-  
27 al Industries Commission determines that the employment will have  
28 minimal negative impact on an existing private industry or labor force  
29 in the state; and

1           (5) subject to the provisions of AS 37.05, enter into joint  
2           cooperative ventures with private industry for the establishment and  
3           operation of "Free Venture" industries under AS 33.32.017, if the  
4           Correctional Industries Commission determines that the "Free Venture"  
5           industry will have minimal negative impact on an existing private  
6           industry or labor force in the state.

7 \* Sec. 8. AS 33.32 is amended by adding a new section to read:

8           Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)  
9           Upon recommendation of the Correctional Industries Commission estab-  
10          lished under AS 33.32.070, the commissioner may establish "Free Ven-  
11          ture" correctional industries for the sale of goods or services to the  
12          public or private sector. A "Free Venture" correctional industry is a  
13          correctional industry that is operated and managed in total or in part  
14          by a private industry or organization within a correctional facility  
15          under an agreement entered into under AS 33.32.015(b)(5).

16          (b) The commissioner shall provide security and inmate workers  
17          to the private industry or organization. The commissioner may also  
18          provide appropriate space and utilities to the private industry or  
19          organization.

20          (c) Unless the commissioner determines otherwise, the private  
21          industry or organization shall provide all machinery, tools, supplies,  
22          materials, transportation, training, supervisory personnel, management  
23          marketing, and insurance necessary for the operation of the "Free  
24          Venture" industry.

25          (d) In exchange for the inmate workers and other services pro-  
26          vided to it, the private industry or organization shall pay to the  
27          commissioner a weekly payment in an amount not less than the sum of  
28          the existing minimum hourly wage, established under AS 23.10.065,  
29          multiplied by the total number of hours worked during that week by

1 inmates employed in the "Free Venture" correctional industry.

2 (e) The private industry or organization shall indemnify, save  
3 harmless, and defend the state, its agents, officers, and employees  
4 from liability of any kind resulting from injuries or damages sus-  
5 tained by a person or property as a result of the manufacture, prepa-  
6 ration, or use of the goods or services of the "Free Venture" indus-  
7 try.

8 \* Sec. 9. AS 33.32.030 is amended by adding a new subsection to read:

9 (f) The provisions of this section do not apply to "Free Ven-  
10 ture" industries established under AS 33.32.017.

11 \* Sec. 10. AS 39.35.360(e) is amended to read:

12 (e) An employee of a detention facility provided by a local  
13 government unit to the territorial or state government under AS 33.-  
14 30.031 or former AS 33.30.060, who continues in state employment upon  
15 transfer of the facility to the state, is entitled to credited service  
16 for prior service with the facility if the employee remains in contin-  
17 uous employment with the state until July 1, 1976. To obtain credited  
18 service the employee is required to make retroactive contributions for  
19 the period of service between January 1, 1961, and the effective date  
20 of the transfer of the facility to the state.

21 \* Sec. 11. AS 44.65.050 is amended by adding a new subsection to read:

22 (d) The Department of Corrections and the Department of Trans-  
23 portation and Public Facilities may enter into agreements under this  
24 chapter for the construction, renovation, repair or alteration of  
25 state correctional facilities as defined in AS 33.30.301. An agree-  
26 ment entered into under this subsection is limited to an estimated  
27 cost of \$100,000 for each project as determined by the terms of the  
28 agreement.

29 \* Sec. 12. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.062, 33.30.070, 33.30.-  
2 080, 33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140,  
3 33.30.150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.-  
4 225, 33.30.227, 33.30.250, 33.30.260, 33.30.282, 33.30.283, 33.30.284,  
5 33.30.286, 33.30.288, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and  
6 33.30.900.

7 \* Sec. 13. Regulations adopted under a statute amended or repealed by  
8 this Act continue in effect until amended or repealed by the commissioner  
9 of corrections, except to the extent that a regulation is inconsistent or  
10 in conflict with a provision of this Act.

Offered: 4/25/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR HOUSE BILL NO. 114 (Judiciary) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to correctional facilities, and the  
7 imprisonment and rehabilitation of offenders."

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

9 \* Section 1. AS 09.20.020 is amended to read:

10 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-  
11 qualified from serving [TO ACT] as a juror if the person

12 (1) has served as a juror in the state within one year of  
13 the time of examination for service; or

14 (2) has been convicted of a felony for which the person has  
15 not been unconditionally discharged. Unconditional discharge has the  
16 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE  
17 PERSON HAVE NOT BEEN RESTORED].

18 \* Sec. 2. AS 11.56.340 is repealed and reenacted to read:

19 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A  
20 person commits the crime of unlawful evasion in the first degree if,  
21 while charged with or convicted of a felony,

22 (1) the person fails to return to official detention within  
23 the time authorized following temporary leave granted for a specific  
24 purpose or limited period; or

25 (2) while on furlough under AS 33.30.101 - 33.30.131 the  
26 person fails to return to the place of confinement or residence within  
27 the time authorized by those having direct supervision.

28 (b) Unlawful evasion in the first degree is a class A misdemea-  
29 or.

1 \* Sec. 3. AS 11.56.350 is repealed and reenacted to read:

2 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A  
3 person commits the crime of unlawful evasion in the second degree if,  
4 while charged with or convicted of a misdemeanor,

5 (1) the person fails to return to official detention within  
6 the time authorized following temporary leave granted for a specific  
7 purpose or limited period; or

8 (2) while on furlough under AS 33.30.101 - 33.30.131 the  
9 person fails to return to the place of confinement or residence within  
10 the time authorized by those having direct supervision.

11 (b) Unlawful evasion in the second degree is a class B misde-  
12 meanor.

13 \* Sec. 4. AS 12.47.050(d) is repealed and reenacted to read:

14 (d) Notwithstanding a contrary provision of law, a defendant  
15 receiving treatment under (b) of this section may not be released

16 (1) on furlough under AS 33.30.101 - 33.30.131, except for  
17 treatment in a secure setting; or

18 (2) on parole.

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

20 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

21 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

22 (1) establish, maintain, operate, and control correctional  
23 facilities suitable for the custody, care, and discipline of persons  
24 charged or convicted of offenses against the state or held under  
25 authority of state law;

26 (2) classify prisoners;

27 (3) for persons committed to the custody of the commis-  
28 sioner, establish programs, including furlough programs that are  
29 reasonably calculated to

- 1 (A) protect the public;  
2 (B) maintain health;  
3 (C) create or improve occupational skills;  
4 (D) enhance educational qualifications;  
5 (E) support court-ordered restitution; and  
6 (F) otherwise provide for the rehabilitation and  
7 reformation of prisoners, facilitating their reintegration into  
8 society;

9 (4) provide necessary medical services for prisoners in  
10 correctional facilities or who are committed by a court to the custody  
11 of the commissioner, including examinations for communicable and  
12 infectious diseases; and

13 (5) provide necessary psychological or psychiatric treat-  
14 ment if a physician or other health care provider, exercising ordinary  
15 skill and care at the time of observation, concludes that

16 (A) a prisoner exhibits symptoms of a serious disease  
17 or injury that is curable or may be substantially alleviated; and

18 (B) the potential for harm to the prisoner by reason  
19 of delay or denial of care is substantial.

20 Sec. 33.30.021. REGULATIONS. The commissioner shall adopt  
21 regulations to implement this chapter.

22 Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.

23 (a) The commissioner shall determine the availability of state cor-  
24 rectional facilities suitable for the detention and confinement of  
25 persons held under authority of state law. If the commissioner deter-  
26 mines that suitable state correctional facilities are not available,  
27 the commissioner may enter into an agreement with a public or private  
28 agency to provide necessary facilities. Correctional facilities  
29 provided through agreement may be in this state or in another state.

1 The commissioner may not enter into an agreement with an agency unable  
2 to provide a degree of custody, care, and discipline similar to that  
3 required by the laws and regulations of this state.

4 (b) Unless the purpose is to involve prisoners in a program  
5 established under AS 33.30.091 - 33.30.131 or to confine prisoners  
6 convicted of a misdemeanor, the commissioner may not enter into an  
7 agreement with a privately operated correctional facility under (a) of  
8 this section.

9 (c) An agreement with a private agency to provide necessary  
10 facilities under (a) of this section is subject to the provisions of  
11 the Fiscal Procedures Act (AS 37.05).

12 (d) A person employed outside the facility while confined in a  
13 privately operated correctional facility established under (a) of this  
14 section is subject to the provisions of AS 33.30.131.

15 (e) The commissioner may enter into an agreement with the United  
16 States, another state, a municipality of this state, or another state  
17 agency, to provide a correctional facility for the custody, care, and  
18 discipline of a person held under authority of the law of that juris-  
19 diction.

20 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.

21 (a) If the commissioner determines that it would be in the best  
22 interest of the state, the commissioner may enter into an agreement  
23 with a municipality of the state for the lease of a state correctional  
24 facility or for the use and operation of a state correctional facility  
25 for the joint benefit of the municipality and the state.

26 (b) An agreement executed by the commissioner under (a) of this  
27 section must provide that

28 (1) the state has the right to detain or confine a prisoner  
29 held under authority of law in the correctional facility;

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

1 The commissioner may not enter into an agreement with an agency unable  
2 to provide a degree of custody, care, and discipline similar to that  
3 required by the laws and regulations of this state.

4 (b) Unless the purpose is to involve prisoners in a program  
5 established under AS 33.30.091 - 33.30.131 or to confine prisoners  
6 convicted of a misdemeanor, the commissioner may not enter into an  
7 agreement with a privately operated correctional facility under (a) of  
8 this section.

9 (c) An agreement with a private agency to provide necessary  
10 facilities under (a) of this section is subject to the provisions of  
11 the Fiscal Procedures Act (AS 37.05).

12 (d) A person employed outside the facility while confined in a  
13 privately operated correctional facility established under (a) of this  
14 section is subject to the provisions of AS 33.30.131.

15 (e) The commissioner may enter into an agreement with the United  
16 States, another state, a municipality of this state, or another state  
17 agency, to provide a correctional facility for the custody, care, and  
18 discipline of a person held under authority of the law of that juris-  
19 diction.

20 Sec. 33.30.041. LEASE OF CORRECTIONAL FACILITY TO MUNICIPALITY.

21 (a) If the commissioner determines that it would be in the best  
22 interest of the state, the commissioner may enter into an agreement  
23 with a municipality of the state for the lease of a state correctional  
24 facility or for the use and operation of a state correctional facility  
25 for the joint benefit of the municipality and the state.

26 (b) An agreement executed by the commissioner under (a) of this  
27 section must provide that

28 (1) the state has the right to detain or confine a prisoner  
29 held under authority of law in the correctional facility;

1           (2) the administrator of the correctional facility agrees  
2 to implement an order, concerning a prisoner, issued by a court of the  
3 state;

4           (3) the administrator of the correctional facility shall  
5 comply with the law, and regulations adopted by the commissioner,  
6 relating to the custody, care, and discipline of a prisoner detained  
7 or confined in the correctional facility; and

8           (4) the commissioner may inspect the correctional facility  
9 at any time to determine the conditions under which a prisoner is  
10 detained or confined.

11           (c) The agreement executed by the commissioner under (a) of this  
12 section may require the administrator of the correctional facility to  
13 comply with requirements that the commissioner considers necessary for  
14 the protection of the public or for the quality of care and programs  
15 for prisoners required by this chapter and regulations adopted by the  
16 commissioner.

17           ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

18           Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted  
19 of an offense against the state shall be committed to the custody of  
20 the commissioner for the term of imprisonment that the court directs.

21           Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The  
22 commissioner shall designate the correctional facility to which a  
23 prisoner is to be committed to serve a term of imprisonment or period  
24 of temporary commitment. The commissioner may designate a facility  
25 without regard to whether it is maintained by the state, is located  
26 within the judicial district in which the prisoner was convicted, or  
27 is located in the state.

28           (b) The commissioner may designate an out-of-state facility  
29 under this section only if the commissioner determines that

1 rehabilitation or treatment of the prisoner will not be substantially  
2 impaired.

3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

4 (a) Notwithstanding AS 33.30.011(1), the commissioner of public  
5 safety shall provide for the custody, care, and discipline of prison-  
6 ers pending arraignment, commitment by a court to the custody of the  
7 commissioner of corrections, or admission to a state correctional  
8 facility. Except as provided in (c) of this section, the responsibil-  
9 ity for providing necessary medical services for prisoners remains  
10 with the commissioner of corrections under AS 33.30.011(4). The  
11 commissioner of corrections and the commissioner of public safety are  
12 not responsible for providing custody, care, and discipline for a  
13 person detained under AS 47.30.705 or AS 47.37.170, unless the person  
14 is admitted into a state correctional facility.

15 (b) The responsibility of the commissioner of public safety  
16 under (a) of this section does not begin until a prisoner is accepted  
17 into the custody of the commissioner of public safety, or admitted  
18 into a correctional facility or other facility designed for holding  
19 prisoners, and the commissioner of public safety is notified of the  
20 acceptance or admission.

21 (c) Medical services for a prisoner who is unconscious or in  
22 immediate need of medical attention before admission to a correctional  
23 facility or commitment by a court to the custody of the commissioner  
24 of corrections shall be provided by the law enforcement agency having  
25 custody of the prisoner. The law enforcement agency may require the  
26 prisoner to compensate the agency for the cost of medical services  
27 provided for a preexisting medical condition not arising out of the  
28 prisoner's arrest.

29 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The

1 commissioner of public safety is responsible for transporting a pris-  
2 oner to and from the court having jurisdiction over the prisoner and  
3 for delivering a prisoner to a correctional facility upon temporary or  
4 final commitment by a court or upon transfer of a prisoner from one  
5 correctional facility to another either inside or outside the state.

6 (b) The commissioner of corrections shall make available return  
7 transportation to the place of arrest for a prisoner who is released  
8 from custody in a state correctional facility.

9 (c) The commissioner of public safety shall make available  
10 return transportation to the place of arrest for a prisoner who is  
11 released from custody before admission to a state correctional facili-  
12 ty.

13 (d) The commissioner of corrections shall adopt regulations  
14 governing the furnishing of transportation, discharge payments, and  
15 clothing to prisoners upon release from a state correctional facility  
16 at any stage of a criminal proceeding.

17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
18 AS 33.30.111, the commissioner may assign a prisoner committed to the  
19 commissioner's custody to a program established under AS 33.30.011(3)  
20 considering

- 21 (1) safeguards to the public;
- 22 (2) the prospects for the prisoner's rehabilitation;
- 23 (3) the availability of program and facility space;
- 24 (4) the prospect of future judicial proceedings requiring  
25 the presence of the prisoner;
- 26 (5) the nature and circumstances of the offense for which  
27 the prisoner was sentenced;
- 28 (6) the needs of the prisoner as determined by a classi-  
29 fication committee and any recommendations made by the sentencing

1 court;

2 (7) the record of convictions of the prisoner with particu-  
3 lar emphasis on crimes specified in AS 11.41;

4 (8) the use of drugs or alcohol by the prisoner;

5 (9) the length of the prisoner's sentence; and

6 (10) other criteria considered appropriate by the commis-  
7 sioner, including experimental evaluation of correctional programs  
8 that are consistent with protection of the public and reformation of  
9 the prisoner.

10 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt  
11 regulations governing the granting of prerelease and short-duration  
12 furloughs to prisoners to

13 (1) obtain counseling and treatment for alcohol or drug  
14 abuse;

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

19 (6) secure a residence or make other preparation for re-  
20 lease;

21 (7) appear before a group whose purpose is a better under-  
22 standing of crime or corrections; or

23 (8) for any other rehabilitative purpose the commissioner  
24 determines to be in the interests of the prisoner and the public.

25 (b) If the commissioner determines with reasonable probability  
26 that a prisoner can live under reduced supervision without violating  
27 the law or the conditions established for the conduct of the prisoner,  
28 the commissioner may grant a furlough after considering

29 (1) the factors in AS 33.30.091;

1 (2) violations, if any, by the prisoner of a condition of a  
2 prior furlough;

3 (3) the history, if any, of institutional misconduct by the  
4 prisoner; and

5 (4) the best interests of the prisoner and the public.

6 Sec. 33.30.111. PRERELEASE FURLOUGHS. (a) Furlough programs  
7 established under AS 33.30.101 must include prerelease furloughs  
8 designed to facilitate the reintegration of a prisoner into society.

9 (b) A facility that is specifically adapted to provide a resi-  
10 dence outside prison, including a halfway house, group home, or other  
11 placement that provides varying levels of restriction and supervision,  
12 may be used for a prisoner on a prerelease furlough.

13 (c) The restrictions and supervision required for a prerelease  
14 furlough shall provide safeguards that minimize risk to the public and  
15 include, as a minimum,

16 (1) frequent contact with the prisoner by persons supervis-  
17 ing the prisoner;

18 (2) knowledge by supervisory staff of the location of the  
19 prisoner;

20 (3) periodic reports by supervisory staff to the commis-  
21 sioner on the performance of the prisoner while on furlough; and

22 (4) a residential setting in which persons supervising a  
23 prisoner are obliged to immediately report to the commissioner any  
24 violation of a condition set for the prisoner's conduct.

25 (d) Notwithstanding AS 33.30.101(b), and other eligibility  
26 criteria established by the commissioner, that relate to risks to the  
27 public posed by the proposed furlough of a prisoner,

28 (1) a prisoner sentenced to a definite term of imprisonment  
29 of more than one year but less than five years is not eligible for a

1 prerelease furlough until the prisoner has served at least one-third  
2 of the sentence;

3 (2) a prisoner sentenced to a definite term of imprisonment  
4 of five years or more is not eligible for a prerelease furlough until  
5 the prisoner has served at least one-third of the sentence or is  
6 within three years of the release date, whichever is later; and

7 (3) a prisoner who is denied discretionary parole under  
8 AS 33.15.080 may not be granted a prerelease furlough for a period of  
9 at least one year following the denial unless the board of parole  
10 expressly waives this provision.

11 (e) A prisoner may request a prerelease furlough under proce-  
12 dures adopted by the commissioner. If the commissioner denies a  
13 request for a prerelease furlough, the commissioner shall provide the  
14 prisoner with a written explanation of the reasons for the denial.

15 (f) Upon request of the victim, in the case of a prisoner con-  
16 victed of a crime against a person, notice of the commissioner's  
17 intent to consider the prisoner for a prerelease furlough shall be  
18 sent to the victim. The victim may comment in writing on the intent  
19 of the commissioner to release the prisoner on prerelease furlough  
20 status. The commissioner shall consider the comments of the victim  
21 before making a final decision to release a prisoner on a prerelease  
22 furlough. If the victim requests notification, the commissioner shall  
23 make every reasonable effort to notify the victim of an intent to  
24 release the prisoner on a prerelease furlough. The notice must con-  
25 tain the expected date of the prisoner's release, the geographic area  
26 in which the prisoner will reside and other pertinent information  
27 concerning the prisoner's release that may affect the victim.

28 Sec. 33.30.121. SHORT-DURATION FURLOUGHS. (a) A short-duration  
29 furlough is an authorized leave of absence from a correctional

1 facility for a period not to exceed 12 hours at any one time, except  
2 for

3 (1) family visitations, that may not exceed one week or  
4 occur more frequently than once in each four-month period; or

5 (2) medical treatment, for which the furlough may not last  
6 longer than necessary for the treatment.

7 (b) A short-duration furlough may be granted to a prisoner at  
8 any time under regulations adopted by the commissioner.

9 Sec. 33.30.131. PRERELEASE OR SHORT-DURATION FURLOUGH INVOLVING  
10 EMPLOYMENT. (a) The commissioner may grant a prerelease or short-  
11 duration furlough to permit a prisoner to participate in suitable  
12 employment under conditions and at wages that represent the prevailing  
13 standard for the area. A prisoner may not participate in employment  
14 where an organized labor dispute is in progress.

15 (b) Unless alternative arrangements are expressly approved by  
16 the commissioner, when a prisoner is employed outside a correctional  
17 facility as part of a prerelease or short-duration furlough program,  
18 the earnings of the prisoner shall be delivered to the commissioner.  
19 If an employer transmits the earnings to the commissioner, the em-  
20 ployer has no liability to the prisoner for the earnings. The commis-  
21 sioner shall disburse the earnings of the prisoner, in an order deter-  
22 mined appropriate, under procedures adopted by the commissioner to

23 (1) pay for the room, board, and personal expenses of the  
24 prisoner in an amount or at a rate determined by the commissioner;

25 (2) pay any restitution or fine ordered by the sentencing  
26 court;

27 (3) reimburse the state for an award made for violent  
28 crimes compensation under AS 18.67 arising out of the criminal conduct  
29 of the prisoner;

1           (4) pay a civil judgment arising out of the criminal con-  
2 duct of the prisoner; and

3           (5) support the dependents of the prisoner, and to provide  
4 child support payments as required by AS 09.65.132.

5           (c) After making the disbursements authorized under (b) of this  
6 section, the commissioner shall retain the balance remaining in the  
7 account of the prisoner and give it to the prisoner upon release. The  
8 commissioner may permit the prisoner to draw upon a portion of this  
9 money for other purposes that the commissioner considers appropriate.

10          (d) Only the earnings retained by the commissioner under (c) of  
11 this section are subject to lien, attachment, garnishment, execution,  
12 or other proceedings to encumber money or property.

13          Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR  
14 FAILURE TO RETURN. (a) If, after a hearing, a prisoner on a furlough  
15 is found to have violated the conditions established for the prison-  
16 er's conduct, the commissioner may immediately require the return of  
17 the prisoner to actual confinement for a period not to exceed the  
18 balance of the term of imprisonment or initiate disciplinary proceed-  
19 ings authorized by regulations adopted by the commissioner or both.

20          (b) The failure of a prisoner on a furlough to return to the  
21 place of confinement or residence within the time specified by those  
22 having direct supervision over the prisoner is an unlawful evasion  
23 under AS 11.56.340 - 11.56.350.

24                           ARTICLE 3. GENERAL PROVISIONS.

25          Sec. 33.30.151. EMPLOYMENT OF PRISON INMATES. (a) It is the  
26 policy of the state that prisoners be productively employed for as  
27 many hours each day as feasible, not to exceed 40 hours a week unless  
28 overtime has been specifically approved by the commissioner.

29          (b) The commissioner may enter into contracts or cooperative

1 agreements with any public agency for the performance of conservation  
2 projects. The commissioner may enter into a contract with an indi-  
3 vidual or agency for the employment of prisoners if the work to be  
4 performed will have minimal negative impact on an existing private  
5 industry or labor force in the state as determined by the Correctional  
6 Industries Commission under AS 33.32.015.

7 (c) The commissioner may direct a prisoner to participate in a  
8 type of productive employment listed in (d)(1), and (d)(4)-(6) of this  
9 section while the prisoner is confined in a correctional facility. A  
10 prisoner who refuses to participate in productive employment when  
11 directed under this section is subject to disciplinary sanctions  
12 imposed in accordance with regulations adopted by the commissioner.

13 (d) In this section "productively employed" includes the follow-  
14 ing kinds of employment:

15 (1) routine maintenance and support services essential to  
16 the operation of a correctional facility;

17 (2) education including both academic and vocational;

18 (3) industrial, agricultural, and service activities con-  
19 ducted in accordance with AS 33.32;

20 (4) public conservation projects including but not limited  
21 to forest fire prevention and control, forest and watershed enhance-  
22 ment, recreational area development, construction and maintenance of  
23 trails and campsites, fish and game enhancement, soil conservation,  
24 and forest watershed revegetation;

25 (5) renovation, repair or alteration of existing correc-  
26 tional facilities as permitted by AS 44.65.050(d); and

27 (6) other work performed inside or outside of a correction-  
28 al facility if the work has minimal negative impact on an existing  
29 private industry or labor force in the state as determined by the

1 Correctional Industries Commission under AS 33.32.015.

2 Sec. 33.30.156. PAY OF PRISON INMATES. Each prisoner who is  
3 productively employed, as defined in AS 33.30.151(d)(1) or 33.30.-  
4 151(d)(3) - (6), may receive for that work compensation at a rate  
5 determined by the commissicner under AS 33.32.050 if the money is  
6 available from legislative appropriations. The provisions of AS 33.-  
7 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-  
8 tional industries program and to prisoners productively employed in  
9 activities outside that program.

10 Sec. 33.30.161. TRANSMISSION OF DOCUMENTS. (a) When a prisoner  
11 is admitted to a correctional facility, a copy of the commitment shall  
12 be delivered with the prisoner as evidence of the authority of the  
13 correctional facility to hold the prisoner.

14 (b) When a person is sentenced to a term of imprisonment, copies  
15 of the pre-sentence report, sentencing report prepared under AS 12.-  
16 55.025, and any other information of the probation office or of the  
17 court that may affect the person's rehabilitation shall be transmitted  
18 to the superintendent of the correctional facility in which the pris-  
19 oner will be confined.

20 (c) The commissioner shall adopt regulations providing for the  
21 security, confidentiality, and use of documents transmitted under (b)  
22 of this section.

23 Sec. 33.30.171. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY  
24 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-  
25 tional facility or the superintendent's assistant may administer oaths  
26 to and take acknowledgments from a prisoner, but may not request or  
27 accept compensation from a prisoner for acts performed under this  
28 section.

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

1 CORRECTIONAL INSTITUTIONS. (a) Except as provided in (b) of this  
2 section, a prisoner shall have reasonable access to a telephone.

3 (b) A prisoner who is classified maximum custody, is placed in  
4 segregation as punishment for a rule infraction, or is placed in  
5 segregation because the prisoner poses a threat to others or to the  
6 security of a correctional facility may not have access to a telephone  
7 except to communicate with an attorney, to otherwise communicate as  
8 provided in Rule 5(b) of the Alaska Rules of Criminal Procedure, or in  
9 an emergency as determined appropriate by the commissioner.

10 (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to  
11 preserve the security and orderly administration of the institution  
12 and to protect the public, the commissioner may authorize the use of  
13 monitoring or recording equipment to listen to a telephone conversa-  
14 tion of a prisoner who has been convicted of an offense if a warning  
15 is posted by the telephone informing the prisoner that a call may be  
16 monitored or recorded. A telephone call made by or to a prisoner who  
17 has not been convicted or a telephone call between an attorney and a  
18 prisoner may not be monitored or recorded except when authorized by a  
19 court.

20 Sec. 33.30.191. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL  
21 RIGHTS. (a) A person who is convicted of a felony involving moral  
22 turpitude as defined in AS 15.60.010 is disqualified from voting in a  
23 state or municipal election until the person's unconditional dis-  
24 charge.

25 (b) A person who is convicted of a felony is disqualified from  
26 serving as a juror until the person's unconditional discharge.

27 (c) In this section "unconditional discharge" has the meaning  
28 given in AS 12.55.185.

29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

1 Except as provided in (b) of this section, it is the obligation of  
2 each person committed to the custody of the commissioner to provide  
3 for the appropriate disposition of all of the person's property re-  
4 maining at a correctional facility within 90 days of the date of the  
5 person's release or transfer from the correction facility.

6 (b) The commissioner shall provide for the shipment to the  
7 receiving facility of a reasonable amount of a prisoner's property, as  
8 determined by the commissioner, when the prisoner is transferred from  
9 one correctional facility to another.

10 (c) A prisoner's personal property that remains at a correction-  
11 al facility after 90 days from the date of the prisoner's release or  
12 transfer is considered abandoned, and shall be delivered to the De-  
13 partment of Administration for disposal under AS 44.71.010.

14 (d) The state is not liable for any loss or damage to personal  
15 property properly determined to be abandoned under (c) of this sec-  
16 tion.

17 Sec. 33.30.211. EXCESS MONEY AS CONTRABAND. (a) A prisoner who  
18 possesses money in an amount greater than that permitted by the com-  
19 missioner is subject to disciplinary sanctions under regulations  
20 adopted by the commissioner.

21 (b) Money in the possession of a prisoner in an amount greater  
22 than that permitted by the commissioner is contraband. If, after a  
23 hearing under regulations adopted by the commissioner, a prisoner is  
24 found to have been in possession of contraband under this section, the  
25 contraband shall be forfeited and deposited into the general fund.

26 Sec. 33.30.221. FORFEITURE OF PROPERTY. A conviction of a  
27 person for a crime does not work a forfeiture of property, except in  
28 cases where a forfeiture is expressly provided by law.

29 Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who

1 commits a crime against a sentenced prisoner is punishable as if the  
2 prisoner was not sentenced and incarcerated.

3 Sec. 33.30.901. DEFINITIONS. In this chapter, unless the con-  
4 text requires otherwise,

5 (1) "commissioner" means the commissioner of the Department  
6 of Corrections;

7 (2) "correctional facility" or "facility" means a prison,  
8 jail, camp, farm, half-way house, group home, or other placement  
9 designated by the commissioner for the custody, care, and discipline  
10 of prisoners; a "state correctional facility" means a correctional  
11 facility owned or run by the state;

12 (3) "court" means the supreme court, the court of appeals,  
13 the superior court, the district or magistrate court, or a justice or  
14 judge of a court;

15 (4) "crime against a person" means a crime as set out in  
16 AS 11.41, except custodial interference under AS 11.41.320 and 11.41.-  
17 330; or a crime against a person in this or another jurisdiction  
18 having elements substantially identical to those of a crime as set out  
19 in AS 11.41, except custodial interference under AS 11.41.320 and  
20 11.41.330;

21 (5) "department" means the Department of Corrections;

22 (6) "furlough" means an authorized leave of absence from  
23 actual confinement for a designated purpose and period of time;

24 (7) "health care provider" means

25 (A) a physician's assistant or nurse practitioner  
26 licensed to practice in the state and working under the direct  
27 supervision of a licensed physician or psychiatrist; or

28 (B) a mental health professional as defined in AS 47.-  
29 30.915;

1           (8) "municipality" means a borough or city in the state, or  
2 a municipality unified under AS 29.68.240 - 29.68.440, authorized by  
3 law to establish a correctional facility;

4           (9) "prisoner" means a person, other than a juvenile, held  
5 under authority of state law in official detention as defined in  
6 AS 11.81.900(b);

7           (10) "temporary commitment" means detention of a person for  
8 any period under authority of state law, but does not include confine-  
9 ment upon conviction and judgment of a court of this state;

10           (11) "victim" has the meaning given in AS 12.55.185.

11 \* Sec. 6. AS 33.32.015(b) is amended to read:

12           (b) The commissioner of corrections may

13           (1) subject to the Fiscal Procedures Act (AS 37.05), use,  
14 purchase, lease, equip, and maintain buildings, machinery, and other  
15 equipment, and may purchase materials and enter into contracts, which  
16 may be necessary for the correctional industries program;

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

22           (3) if the Correctional Industries Commission established  
23 in AS 33.32.070 approves, employ prisoners to provide services or  
24 products as needed by private industry if the services or products  
25 have potential for contributing to the economy of the state and will  
26 have minimal negative impact on an existing private industry or labor  
27 force in the state;

28           (4) authorize a prisoner to engage in productive employment  
29 within or outside a correctional facility or enter into a contract

1 under AS 33.30.151 for the employment of a prisoner if the Correction-  
2 al Industries Commission determines that the employment will have  
3 minimal negative impact on an existing private industry or labor force  
4 in the state; and

5 (5) subject to the provisions of AS 37.05, enter into joint  
6 cooperative ventures with private industry for the establishment and  
7 operation of "Free Venture" industries under AS 33.32.017, if the  
8 Correctional Industries Commission determines that the "Free Venture"  
9 industry will have minimal negative impact on an existing private  
10 industry or labor force in the state.

11 \* Sec 7. AS 33.32 is amended by adding a new section to read:

12 Sec. 33.32.017. "FREE VENTURE" CORRECTIONAL INDUSTRIES. (a)  
13 Upon recommendation of the Correctional Industries Commission estab-  
14 lished under AS 33.32.070, the commissioner may establish "Free Ven-  
15 ture" correctional industries for the sale of goods or services to the  
16 public or private sector. A "Free Venture" correctional industry is a  
17 correctional industry that is operated and managed in total or in part  
18 by a private industry or organization within a correctional facility  
19 under an agreement entered into under AS 33.32.015(b)(5).

20 (b) The commissioner shall provide appropriate space, utilities,  
21 security and inmate workers to the private industry or organization.

22 (c) The private industry or organization shall provide all  
23 machinery, tools, supplies, materials, transportation, training,  
24 supervisory personnel, management marketing, and insurance necessary  
25 for the operation of the "Free Venture" industry.

26 (d) In exchange for the space, utilities, and inmate workers  
27 provided to it, the private industry or organization shall pay to the  
28 commissioner a weekly payment in an amount not less than the sum of  
29 the existing minimum hourly wage, established under AS 23.10.065,

1 multiplied by the total number of hours worked during that week by  
2 inmates employed in the "Free Venture" correctional industry.

3 (e) The private industry or organization shall indemnify, save  
4 harmless, and defend the state, its agents, officers, and employees  
5 from liability of any kind resulting from injuries or damages sus-  
6 tained by a person or property as a result of the use of the goods or  
7 services of the "Free Venture" industry.

8 \* Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:

9 (f) The provisions of this section do not apply to "Free Ven-  
10 ture" industries established under AS 33.32.017.

11 \* Sec. 9. AS 39.35.360(e) is amended to read:

12 (e) An employee of a detention facility provided by a local  
13 government unit to the territorial or state government under AS 33.-  
14 30.031 or former AS 33.30.060, who continues in state employment upon  
15 transfer of the facility to the state, is entitled to credited service  
16 for prior service with the facility if the employee remains in contin-  
17 uous employment with the state until July 1, 1976. To obtain credited  
18 service the employee is required to make retroactive contributions for  
19 the period of service between January 1, 1961, and the effective date  
20 of the transfer of the facility to the state.

21 \* Sec. 10. AS 44.65.050 is amended by adding a new subsection to read:

22 (d) The Department of Corrections and the Department of Trans-  
23 portation and Public Facilities may enter into agreements under this  
24 chapter for the construction, renovation, repair or alteration of  
25 state correctional facilities as defined in AS 33.30.301. An agree-  
26 ment entered into under this subsection is limited to an estimated  
27 cost of \$100,000 for each project as determined by the terms of the  
28 agreement.

29 \* Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080, 33.30.-  
2 090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.150,  
3 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225, 33.30.-  
4 227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.320, and  
5 33.30.900.

6 \* Sec. 12. Regulations adopted under a statute amended or repealed by  
7 this Act continue in effect until amended or repealed by the commissioner  
8 of corrections, except to the extent that a regulation is inconsistent or  
9 in conflict with a provision of this Act.

BILL SHEFFIELD  
GOVERNOR



HB 114

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to correctional facilities and to the imprisonment and rehabilitation of offenders.

The bill has three main components, the most important of which is a total revision of AS 33.30, Alaska's statutes dealing with the state correctional system. Most of these statutes have not been amended since their original enactment at the time of statehood. There have been many changes in the law relating to corrections in the last several years (e.g. responsibility of the commissioner of corrections to provide treatment for mental and physical disabilities), and this bill incorporates these changes.

The bill also provides authority for the commissioner of corrections to authorize the monitoring of prisoner telephone calls so as to preserve the security and orderly administration of correctional institutions. It also revises and restructures existing law on furlough programs for prisoners by establishing certain eligibility requirements, setting out when furloughs may be granted, for what purpose, and the quality of supervision that is required for prisoners on furlough. In addition, it provides express authority for the commissioner of corrections to enter a contract with an individual or agency for the employment of prisoners when the commissioner determines that the work to be performed will have minimal negative impact on an existing private industry or labor force in the state. In the area of correctional industries, this bill will permit the Department of Corrections to enter into joint ventures with private industry for the employment of prisoners. This has been tried and has been successful in a number of other states.