

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

1060

134

**HB**

**412**

**HFIN**

**FILE**

House Bill 412

For An Act Entitled: "An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

There are other methods for pursuing quality in programs, but licensing alone reaches almost all programs. Its benefit is that a disinterested third party (the licensing agent) evaluates an applicant and program against the public's definition of an acceptable level of quality. In this way licensing reduces risk and protects our most vulnerable citizens, who are in care away from their own homes. Regulation should not be thought of as an unwarranted intrusion, but as vigorous and necessary protection for parents and their children or adults in need. This bill is intended to facilitate efficiency in licensing so that this valuable protection may continue as resources are reduced.

The Division of Family and Youth Services (DFYS) licenses 1,900 care facilities and agencies. There is public demand for more licensed care and support for licensing, but there are hurdles to productivity. DFYS workers now must know how to evaluate up to nine kinds of care; workload standards are exceeded by 50% in some locations; many workers also have protective services duties; and they must be familiar with more than 40 pages of procedures in statute and varying regulations.

Passage of Community Care Licensing legislation for children's care coupled with passage of the Assisted Living bill for adult care will focus DFYS staff on children and families. Regulation of care facilities for elders or adults with a disability would be transferred to divisions knowledgeable in those care fields.

The efficiency of DFYS licensing resources will further be enhanced by consolidating procedures now scattered in statute and various regulations. Forty single spaced pages are consolidated to eighteen pages, double spaced, in this bill. To further promote efficiency, DFYS will convene a task force of those affected to assist in forming standards, will publish guidebooks to reduce questions for those getting started and will provide regional licensing training to ensure competency.

Clarity is needed and given on the shared role with parents to ensure their child's safety and development in licensed care. Yet, the state retains primary duty for oversight.

Expanded partnerships with private agencies could increase the number of regulated homes in additional communities, without increasing state costs. Clear liability protection for licensing agents will go a long way toward meeting that goal.

The department has a considerable investment in the development of this bill and has sought the expertise of key state and national experts. The basics were taken from a national collaborative effort in the form of a model bill published by the American Bar Association. The Assisted Living bill mentioned earlier is based on the model. The department then reduced the volume of model material, tailored provisions to match current Alaska licensing practice and added modest improvements based on recommendations of licensing supervisors, selected providers, the Department of Law and a review by the nation's licensing expert in Washington DC. A Section by Section analysis is available from the Division of Family and Youth Services.

DEPARTMENT'S POSITION

The department strongly supports this bill and urges its passage.

Recommended:

Deborah R. Wing

Date:

2/7/94

Deborah R. Wing, Director  
Division of Family and Youth Services

Approved:

Margaret R. Lowe

Date:

2/8/94

Margaret R. Lowe, M.Ed., Ed.S.  
Commissioner  
Department of Health and Social Services

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 23, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/11/94

The FINANCE Committee considered:

HB 412

HOUSE BILL NO. 412

COMMUNITY CARE FACILITIES

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 412 (HES)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact HFC for HES

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Ronald J. Landon</u>	x	<u>EP Maclean</u>		✓	
<u>Ben Grussendorf</u>	x	<u>Mark Stanley</u>		x	
<u>Ray Brown</u>	✓	<u>Terry Martin</u>		x	
		<u>Sean Parnell</u>		x	
		<u>Parnell</u>			

Ronald J. Landon EP Maclean  
 CHAIRMAN'S SIGNATURE

F I S C A L N O T E

REQUEST:

Revision Date: Dept: Health and Social Servies  
 Title: Community Care Licensing Statute  
 BRU: Family and Youth Services  
 Sponsor: Rules by Request Components: Central Office  
 Requestor: House Finance Committee No:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	10.0	20.0	0.0	0.0	0.0	0.0
Contractual	20.0	15.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>30.0</b>	<b>35.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	30.0	35.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>30.0</b>	<b>35.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

ESTIMATE OF ANY CURRENT YEAR (FY 94) COST \$

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Rep. Ron Larson, Co-Chair *RL* 465-3878  
 Rep. Eileen MacLean, Co-Chair *EPM* Phone: 465-4833  
 Division: House Finance Committee Date: 4/11/94  
 Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

# FISCAL NOTE

No. 1  
 Bill Version: HB 234  
 (H) Publish Date: 3/9/94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act relating to endowments and donations of the university BRU: Revenue Operations  
 Component: Treasury  
 Sponsor: Representative Davies  
 Requestor: H HESS COMPONENT SERIAL NO. 121

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	22.5	22.5	22.5	22.5	22.5	22.5
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	22.5	22.5	22.5	22.5	22.5
1005 GF/Program Receipts						
1006 GF/MH11A						
Other						
<b>TOTAL</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

**ANALYSIS:** (Attach a separate page if necessary.)

Currently, the investment and management of the fund is a function of the Treasury and is shared among various accountants and investment managers. As a result of the fund shifting, \$22,500 would have to be funded within the Treasury. Custodial fees of approximately \$25,000 would be transferred with the Fund. Total costs to the fund for FY93 were approximately \$52,000, resulting in total charges to the Fund of approximately 0.02%.

Prepared by: Saraine L. Derr *Saraine L. Derr* Phone: 465-4880  
 Division: Treasury Date: 3/8/94  
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: 3/8/94  
 Agency: Revenue

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# Community Care Licensing - SB 268 and HB 412

Section by Section Analysis and Commentary - February 7, 1994

Sections 1, 2 and 3 (Compatibility with Child Care Statutes) make conforming numbering amendments to the Child Care grant and Day Care Assistance statutes. There is no change in substance.

Section 4 (Appeal Hearings) also sets out conforming amendments. It requires that appeal hearings following all serious enforcement by the department be conducted under the provisions of the Administrative Procedures Act. The Division of Family and Youth Services (DFYS) will grant appeal hearings under their informal grievance procedure for less onerous actions, such as a denial of a request for a variance.

Section 5 (Title and Purpose) changes the title of Chapter 35 of Title 47 from "Institutions" to "Community Care Licensing" and adds the purpose. The department intends to use the purpose statement in publications to clarify the role of licensing for providers of service and to inform parents of the importance of their role in selecting and monitoring care for their children. Finally, section 5 establishes that the provisions of this statute apply both for programs required to be licensed and for those that voluntarily choose to be licensed.

Section 6 (Powers of the Department) is amended.

- Section 6 updates terminology for facilities and agencies falling under the provisions of the chapter and authorizes the department to adopt fees by regulation.
- Section 6 provides authority for the department to enter into agreements with individuals, in addition to organizations, to perform licensing evaluations. DFYS has agreements with about 12 agencies to perform licensing evaluations, primarily foster care. Only three agreements involve state funds, and those three are exempt from the procurement code. Since the procurement code rarely applies, reference to it is removed.
- The material related to delegating powers to a municipality has been revised in collaboration with the Municipality of Anchorage (MOA). The MOA is the only municipality that has adopted an ordinance to license child care centers. The revision reflects the practice of the MOA to adopt additional standards that meet or exceed state standards.

Section 7 (Applicability and Exemptions) states that a child care license is required unless the facility is exempt. Facilities and agencies excluded from the licensure process are listed. These are basically the same as those under current statute and regulations.

H:\18LEGIS2\SECxSEC.CCL

Four expansions of applicability are proposed as sound public policy. The changes are:

- The exemption for the "occasional" placement of a child for adoption without a license has been deleted. Most, if not all, attorneys now arranging non-relative adoptions, contract with a licensed child placement agency to obtain evaluations and oversight for adoption placements.
- The exemption for governmentally operated programs is removed except where specified. Only one local government, the MOA, has the expertise to license and it does not operate programs.
- The age of a child is changed from "under 16 years of age " to "under 18 years of age" for purposes of requiring licensure in foster homes and residential child care facilities. No known programs would be affected by this change.
- The clause in current statute that allows a foster home or residential facility to operate for 90 days without a license is removed. The primary purpose to reduce risk before persons receive care is lost, if programs begin without licensure. Consider that a person is not allowed to operate an automobile before obtaining a license.

Voluntary licensure is retained. Items that must be submitted in an application for licensure are consolidated in Section 7.

Section 8 (Issuance/Denial) describes license issuance, denial and right to appeal, and the content of a license by consolidating material from existing statute and regulations. On site inspections prior to any license issuance has strong community support.

The term, Variances, rather than, waivers, is used to accurately reflect practice. The procedure for granting variances from standards set out in statute and regulations is set out. Reasonable variances are widely used.

The (Content of the License) is consolidated from five sets of regulations resulting in reducing the reference by 4/5.

Section 9 (Non-transferability) retains the provision that licenses are not transferrable to a different owner or location.

Section 10 (Orientation and Training) requires that applicants or licensees complete orientation and training that the department prescribes in regulation. Currently only child foster home training is mentioned in statute, however orientation and training is required in regulations for all types of care.

(Records) must be kept by the licensee to demonstrate compliance with standards. Since licensing records are open and are frequently

reviewed by parents seeking child care and others, specifying which records are not available for public inspection is important.

Section 11 (Monitoring) outlines the process for monitoring and biennial license renewal. An annual self monitoring report is added. The department believes a self monitoring report will empower the licensee to seek to meet standards and reduce the time necessary in the department's review. In addition the section encourages parents who have placed children in child care to monitor by requiring that they receive a summary of standards and a telephone number for reporting concerns. A partnership with informed parents will help ensure care is safe for young children.

(Renewal) The process for renewal of a license is specified and procedures that were previously only in the department's licensing manual are included. For example, if there is a vacancy in a one person office and a license expires, it is automatically extended for six months or until a department representative may visit to perform the investigation. If the department finds noncompliance, a plan of correction and verification of compliance is required.

(Notice of Changes) Required notices are updated and standardized.

Section 12 (Complaints, investigation, enforcement and grounds for license revocation or nonrenewal) are specified. The majority of this material is a consolidation and refinement of existing regulations. -Changes:

- \* A requirement to mail a copy of the report of an investigation to the complainant, if requested.
- \* Prohibition of licensee retaliatory action against a complainant. This is especially important to protect employees who are fearful of reporting unsafe practices.
- \* Suspension of operations in cases of imminent danger is authorized until the department investigation is complete. Suspension is more appropriate than immediate revocation authorized under current statute.
- \* The array of enforcement actions authorized are listed along with the grounds for revocation or nonrenewal. Most appear now only in the department's licensing manual.

Section 13 (Licensing Adult Facilities) outlines procedures for licensing adult residential care facilities, including adult foster homes, in brief. Pioneer Homes, as now, are exempt from licensure. Many provisions in sections 7 - 12 are incorporated by reference. This article would go into effect only if the companion Assisted Living bill did not pass. It will ensure that currently licensed adult care facilities remain regulated by DFYS in the event that the Assisted Living bill does not pass.

Section 14 (Administrative Procedure) complements section 4 in specifying the Administrative Procedures Act applies to the department's most serious enforcement actions under this chapter.

(Immunity from Liability) is provided for individuals and agencies acting under agreement with the department to perform licensing evaluations. Liability concern is often cited as a deterrent to private agencies interested in performing licensing evaluations.

(Penalty) provisions for violations under the chapter as a class B misdemeanor have not been changed.

Section 15 (Definitions) are updated. For example, "nursery" is a term now in statute. It becomes a "child care facility". The outdated term, "institution," becomes "residential child care facility".

Section 16 repeals a number of existing sections in chapter 35.

Sections 17 and 18 (Implementation and Transition Timetable) process and timetable that the department will use for an orderly transition from the current system of licensure to the new one. Nearly 1,900 facilities and agencies now fall under the provisions of this licensing statute. The time line is a year and a half to allow for the transition. During this period the department will review regulations, consult care providers and others, draft revised standards of operation for all types of care and agencies falling under the statute, conduct public review of drafts, promulgate regulations, develop implementation materials and conduct licensing training for both providers and licensors.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105


MEMORANDUM

March 16, 1994

**SUBJECT:** DHSS Licensing Bill (CSHB 412(HES))

**TO:** Representative Cynthia Toohey  
ATTN: Lynne

**FROM:** Terri Lauterbach  
Legislative Counsel



Enclosed is the HES draft you requested for HB 412.

Due to oversights by the persons who drafted the original bill for the Governor's Office, we have found it necessary to add sections 1-5 and 19 to the bill. They each deal with technical changes needed because of references to laws repealed in this bill. Please review these sections in particular to see if they comply with the committee's intent.

We have also rewritten Sec. 47.35.810(a). In the original bill, the immunity would have existed only during the contract but a suit could have been filed after the contract expired. The rewritten language provides immunity for acts or omissions during the contract, regardless of when suit is filed. We recommend that you review this subsection further to determine if there should be an exception for gross negligence or intentional misconduct. (See the last sentence of AS 47.35.810(b), for instance.)

If we can be of other assistance, let us know.

TML:pl  
94-210.plm

Enclosure

## Community Care Licensing Bill

### Goals

- ◆ Licensing is intended to reduce risk to our most vulnerable citizens
- ◆ The legislation will enhance efficiency to accomplish more with the same resources.

### Background

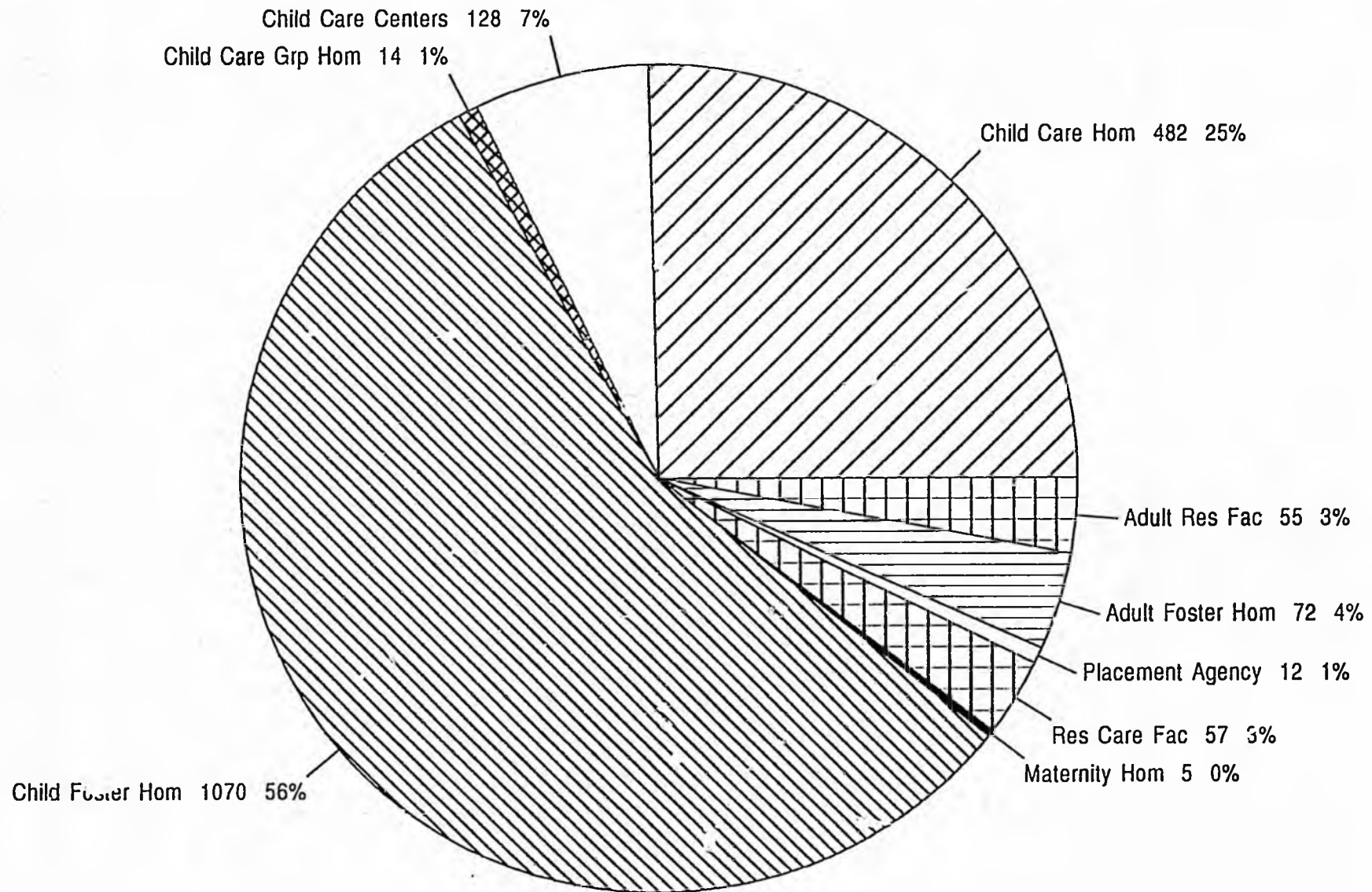
- ◆ DFYS licenses nearly 2,000 facilities and agencies.
- ◆ The public demands more licensed care settings.
- ◆ Workers now license up to nine kinds of care.
- ◆ Workload standards: exceeded by 50% in some places.
- ◆ Many workers also have protective services duties.
- ◆ Workers must know 40 pages of licensing procedures.

### Passing Community Care Licensing & Assisted Living will

- ◆ Focus DFYS on children and families.
- ◆ Transfer regulation of care for elders or adults with a disability to divisions in those fields.
- ◆ Advance efficiency and competency by
  - Consolidating licensing procedures
  - Convening a task force to form standards
  - Publishing guidebooks and conducting training
- ◆ Clarify the shared role with parents to ensure their child's safety and development in licensed care.
  - Yet, the state retains duty for oversight.
- ◆ Expand partnerships with private agencies
  - Include liability protection.
  - Encourage partners to increase the number of regulated homes in additional communities.

# COMMUNITY CARE LICENSED FACILITIES

FEBRUARY 1994



Total = 1895

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

4470  
HB 412  
P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

January 28, 1994

The Honorable Ramona Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing, by the Department of Health and Social Services (DHSS), of facilities for the care of children, child placement agencies, maternity homes, and residential facilities and foster homes for adults. The bill reorganizes and clarifies existing licensing statutes and provides much-needed detail in the statutes. The bill's reorganization of the statutes separates licensing of child-related facilities from licensing of adult facilities.

Sections 5 and 7 - 12 of the bill set out new statutory provisions that provide for the licensing and regulation of child foster homes, child care facilities, residential child care facilities, child placement agencies, and maternity homes. Section 7 of the bill clarifies which of these facilities are required to be licensed and which are exempt from licensure. Licensing procedures and requirements, appeal procedures, and operational requirements that apply to all such facilities are set out in secs. 7 - 11. Those sections provide for provisional licenses and biennial licenses, and specify that DHSS must inspect and investigate a facility before either a provisional license or initial biennial license is issued. Renewal procedures for biennial licenses are also provided. Complaint, investigation, and other enforcement provisions are set out in sec. 12 of the bill.

Section 13 of the bill sets out a separate article in AS 47.35 to address licensure and regulation of adult residential care facilities. Many of the provisions in secs. 7 - 12 of the bill are incorporated by reference in the adult residential care facility article. I intend to introduce a bill this session relating to "assisted living homes" for adults; that bill will place licensing and regulation of adult residential facilities in a new chapter in

The Honorable Ramona Barnes

January 28, 1994

Page 2

AS 47. If that bill passes the legislature and becomes law, sec. 13 of the attached bill will not take effect. See sec. 21 of the bill.

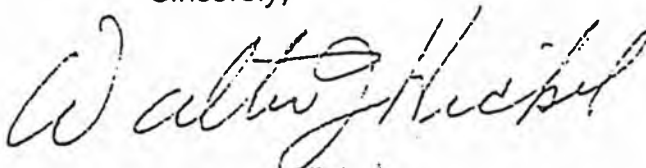
Sections 14 and 15 of the bill set out general provisions for administrative adjudication procedures, liability immunity, criminal penalty, and definitions for AS 47.35.

Sections 1 - 4 and 6 of the bill make conforming amendments to existing statutes to reflect changes made by secs. 5 and 7 - 15 of the bill. Section 16 of the bill repeals most of the existing statutes in AS 47.35 -- their provisions have been reworded and reorganized in secs. 5 and 7 - 15 of the bill. Section 17 of the bill contains transition provisions that specify how the bill affects existing as well as new facilities.

Section 18 of the bill authorizes DHSS to begin the regulation adoption process so that necessary regulations can take effect on the effective date of the statutory changes made by the bill. Sections 19 - 21 provide an immediate effective date for sec. 18 and a January 1, 1996 effective date for the statutory changes made by the remainder of the bill. Section 21 makes the January 1, 1996 effective date for sec. 13 contingent on another adult residential facility bill not becoming law, as discussed earlier in this letter.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel  
Governor

# HOUSE COMMITTEE REPORT

(9)

Date Referred: January 28, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/22/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 412

HOUSE BILL NO. 412

COMMUNITY CARE FACILITIES

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 412 (HESS)  the same title  
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have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

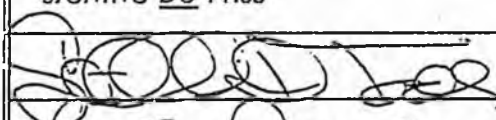
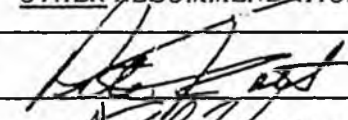
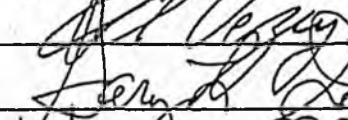
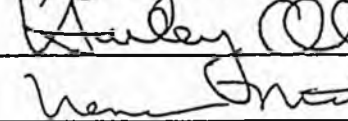
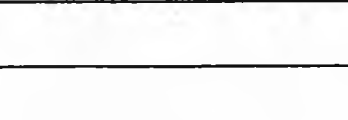
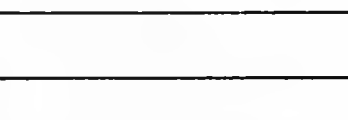
APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) H+SS 1/28/94

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
	✓			✓	
Betty Davis	X			X	
				X	
				✓	
				✓	

  
 CHAIRMAN'S SIGNATURE

## Community Care Licensing Bill

### Goals

- ◆ Licensing is intended to reduce risk to our most vulnerable citizens
- ◆ The legislation will enhance efficiency to accomplish more with the same resources.

### Background

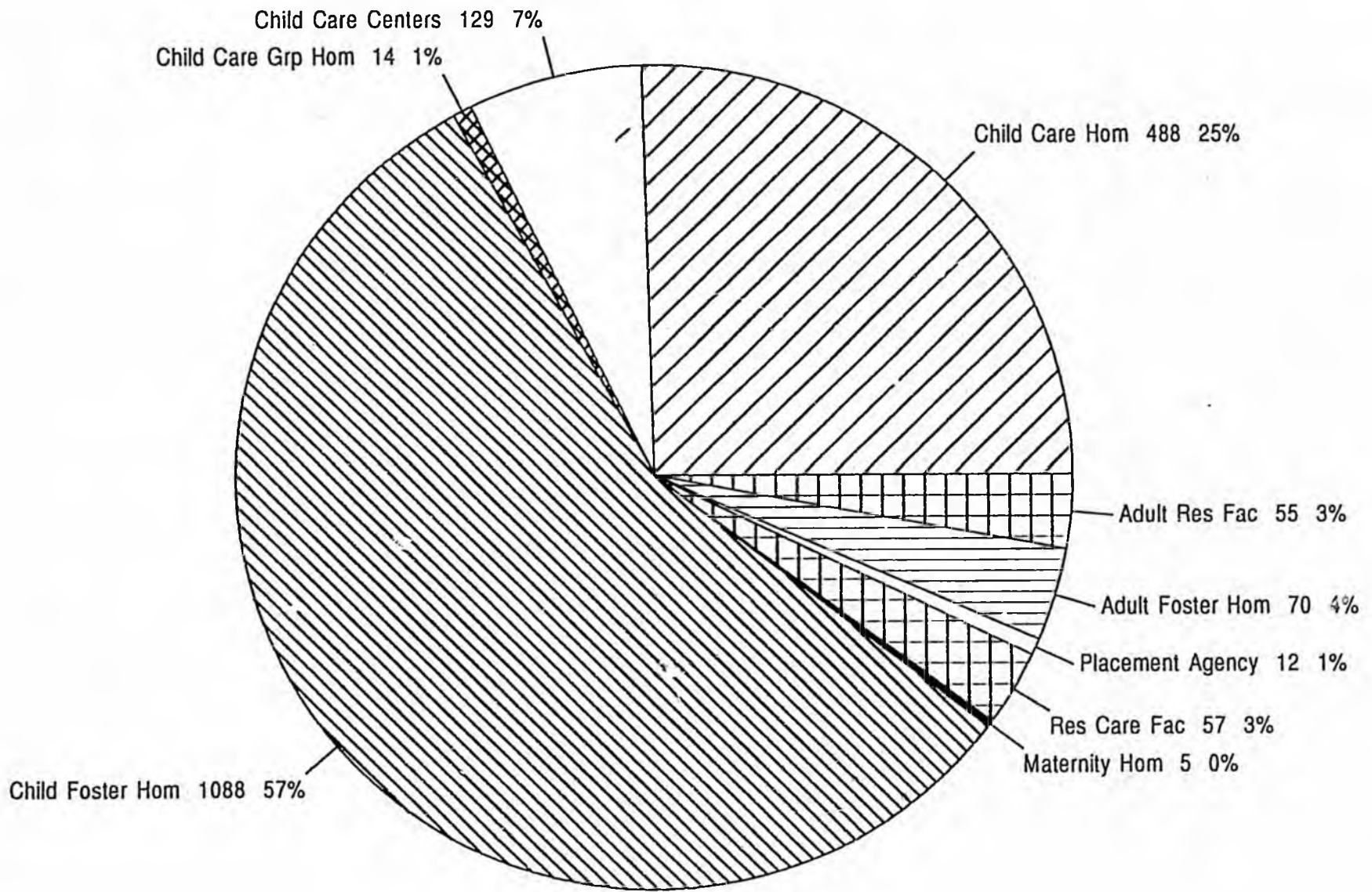
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  - Include liability protection.
  - Encourage partners to increase the number of regulated homes in additional communities.

# COMMUNITY CARE LICENSED FACILITIES

MARCH 1994



Total = 1918

# Community Care Licensing: Section by Section Analysis and Commentary

CS HB 412 HES & CS SB 268 HES Workdraft  
April 7, 1994

This bill in large part reflects current licensing practice and the thinking of experienced supervisors in the Division of Family and Youth Services (DFYS). It moves detail from quasi-legislative regulations developed over nearly two decades into a cohesive licensing law. Proposed modest improvements to Alaska licensing are emphasized in this analysis and commentary.

Following introduction of the Governor's Community Care Licensing bill, DFYS conducted a teleconference with the heads of organizations and key agencies that would be affected by the bill. The department drafted amendments suggested by those attending the teleconference.

House HES sent the bill to Legislative Counsel, Terry Lauterbach, to incorporate department amendments with changes suggested by a HES committee member. House HES also requested that Ms. Lauterbach review the bill for conformance with legislative drafting requirements. She proposed technical improvements along with the amendments. All were adopted by the House HES Committee with the support of the department. Other than minor wording modifications, changes from the Governor's bill are noted in this analysis.

Page

- 1 Sections 1 through 8 (Compatibility with Other Statutes) make conforming numbering or terminology amendments to other laws including Criminal, Adoption, Office of the Long Term Care Ombudsman, Child Care grant and Day Care Assistance laws. There is no change in substance. Sections 1--5 were added by Ms. Lauterbach.
- 3 Section 9 (Appeal Hearings) also sets out conforming amendments. It requires that appeal hearings following all serious enforcement by the department be conducted under the provisions of the Administrative Procedures Act. DFYS will conduct appeal hearings under their informal grievance procedure for less onerous actions, such as a denial of a request for a variance.
- 4 Section 10 (Purpose; Applicability) adds a purpose statement. DFYS intends to use the purpose in publications to clarify the role of licensing for providers of service and to inform

parents that they play a critical role in selecting and monitoring care for their children. Section 10 establishes that the provisions of this statute apply both for programs required to be licensed and for those that voluntarily choose to be licensed. The original version of the bill included changing the title of the Chapter from "Institutions" to "Community Care Licensing." Ms. Lauterbach indicated that the Revisor of Statutes selects chapter titles. She noted that the Department prefers "Community Care Licensing" as the title.

4 Section 11 (Powers of the Department) is amended.

- Section 11 reflects updated terminology for facilities and agencies falling under the provisions of the chapter and authorizes the department to adopt fees by regulation. Refer also to the definitions on page 21.
- Section 11 provides authority for the department to enter into agreements with individuals, in addition to organizations, to perform licensing evaluations. DFYS has agreements with about 12 agencies to perform licensing evaluations, primarily foster care. Only three agreements involve state funds, and those three are exempt from the procurement code. Since the procurement code rarely applies, reference to it is removed.
- The material related to delegating powers to a municipality has been revised in collaboration with the Municipality of Anchorage (MOA). The MOA is the only municipality that has adopted an ordinance to license child care centers. The revision reflects the practice of the MOA to adopt additional standards that meet or exceed state standards.

5 Section 12 (License Required; Exemptions) states that a child care license is required unless the facility is exempt. Facilities and agencies excluded from the licensure process are listed. These are the same as those under current statute and regulations with exceptions noted below.

6 The exemption from licensure for child care facilities on military bases was amended in House HES to clearly exempt facilities on Coast Guard installations on the advice of Commander Gary Palmer of Legal Services in the US Coast Guard. The department will continue the exemption on Kodiak Island and the exemptions for the large military bases in Anchorage and Fairbanks, but the department agreed to continue to license family child care homes under voluntary licensure on Coast Guard Installations in communities like Cordova and Sitka. Child care is limited there and the Coast Guard has no oversight means. Licensure will be on a time available basis.

Licensing statutes are not intended to apply to care from relatives. The original bill had a drafting error that was amended in House HES to clearly exempt relative child care and great grandparents were added to the definition of relatives.

Application of the licensing statute is proposed to be expanded in four areas as sound public policy. They are:

- The exemption for governmentally operated programs is removed except where specified. Only one local government, the MOA, has the expertise to license and it does not operate programs.
- 6/7 • The clause in current statute that allows a foster home or residential facility to operate for 90 days without a license is removed. The primary purpose to reduce risk before persons receive care is lost, if programs begin without licensure. Consider that a person is not allowed to operate an automobile before obtaining a license.
- 6/7 • The defined age of a child is changed from "under 16 years of age" to "under 18 years of age" for requiring licensure in foster homes and residential child care. No known programs would be affected by this change.
- 7 • The exemption for the "occasional" placement of a child for adoption without a license has been deleted. Most, if not all, attorneys now arranging non-relative adoptions, contract with a licensed child placement agency to obtain evaluations and oversight for adoption placements.
- 7 Voluntary licensure is retained.
- 8 **(Application for license)**. Items that must be submitted in an application for licensure are consolidated.
- 9 **Section 13** describes license issuance, denial and right to appeal, and the content of a license by consolidating material from existing statute and regulations.
- 9 **(Provisional license; Biennial License)**. Retaining on site inspections prior to license issuance has strong community support as indicated in community meetings on the draft.
- One amendment in House HES addresses the practical matter that only minimal licensing requirements can be met in the middle of the night in a village under emergency conditions. Alaska Native Grantees recommended a direct approach to licensing under emergency placement conditions. See paragraph (b).
- 10 **(Denial of License; Right to Appeal)** Current practice is described.

- 10 The term, (**Variances**), rather than, waivers, more accurately reflects approved alternatives to meeting the intent of a requirement. The procedure for granting variances is set out. Reasonable variances are widely used.
- 11 (**Content of the License**) is consolidated from five sets of regulations resulting in reducing the volume by 4/5.
- 12 House HES amended this section at the request of the department to provide that a variance issued within the period of licensure be posted near the license. This will prevent the need for the extra paperwork of issuing an amended license to display the variance.
- 12 **Section 14 (Non-transferability)** retains the provision that licenses are not transferrable to a different owner or location.
- 12 **Section 15 (Orientation and Training)** requires that applicants or licensees complete orientation and training that the department prescribes in regulation. Currently only child foster home training is mentioned in statute, however orientation and training is required in regulations for all types of care.
- 12 (**Records**) must be kept by the licensee to demonstrate compliance with standards. Since licensing records are open and are frequently reviewed by parents seeking child care and others, specifying which records are not available for public inspection is important. In particular, personal background information provided by foster parents is sensitive and should not be open to inspection by the public.
- 13 **Section 16 (Monitoring; Investigation)** outlines the process for monitoring and biennial license renewal. An annual self monitoring report is added. The department believes a self monitoring report will motivate the licensee to seek to meet standards and reduce the time necessary in the department's review. In addition the section encourages parents who have placed children in child care to monitor by requiring that they receive a summary of standards and a telephone number for reporting concerns. A partnership with informed parents will go a long way toward ensuring care is safe for young children.
- 13 (**Biennial License Renewal**) The process for renewal of a license is specified and procedures that were previously only in the department's licensing manual are included. For example, if there is a vacancy in a one person office and a license expires, it is automatically extended for six months or until a department representative may visit to perform the investigation. If the department finds noncompliance, a plan of correction and verification of compliance is required.

- 14 (Notice of Changes) Required notices are updated and standardized.
- 15 Section 17 (Complaints, investigation, enforcement and grounds for license revocation or nonrenewal) are specified. The majority of this material is a consolidation and refinement of existing regulations. Changes:
- 15 • A requirement to mail a copy of the report of an investigation to the complainant, if requested.
  - 16 • Prohibition of licensee retaliatory action against a complainant. This is especially important to protect employees who are fearful of reporting unsafe practices.
  - 16 • Probable cause is added as the standard for seeking a search warrant when considered necessary.
  - 17 • Suspension of operations in cases of imminent danger is authorized until the department investigation is complete. Suspension is more appropriate than immediate revocation authorized under current statute.
  - 17 • The array of enforcement actions authorized are listed along with the grounds for revocation or nonrenewal. Most appear now only in the department's licensing manual.
- 19 (Licensing Adult Facilities) outlines procedures for licensing adult residential care facilities, including adult foster homes, in brief. Pioneer Homes, as now, are exempt from licensure. Many provisions in bill sections 11 -17 are incorporated by reference. This article would go into effect only if the companion Assisted Living bill did not pass. It will ensure that currently licensed adult care facilities remain regulated by DFYS in the event that the Assisted Living bill does not pass.
- 20 (Administrative Procedure) complements section 9 in specifying appeals fall under the Administrative Procedures Act for serious enforcement actions under this chapter.
- 21 (Immunity from Liability) is provided for individuals and agencies acting under agreement with the department to perform licensing evaluations. Liability concern is often cited as a deterrent to private agencies interested in performing licensing evaluations. Alaska Native and other nonprofit agencies strongly support this section.
- 21 (Penalty) provisions for violations under the chapter as a class B misdemeanor have not been changed.

- 21 Section 18 (Definitions) are updated. For example, "nursery" is a term now in statute. It becomes a "child care facility. The outdated term, "institution," becomes "residential child care facility".
- 22 Section 19 This is an amendment added by Ms. Lauterbach similar to those at the beginning of the bill. It amends terminology in the department's purchase of service chapter to conform to the bill.
- 23 Section 20 repeals several existing sections in Chapter 35.
- 23 Sections 21 -- 26 Remaining sections contain provisions for implementation and the timetable that the department will use for an orderly transition from the current system of licensure to the new one. More than 1,900 facilities and agencies with a capacity for 13,600 individuals now fall under the provisions of this licensing statute. The time line for implementation is a year and a half to allow for the transition. During this period the department will review regulations for seven or more types of facilities and agencies, work with care providers, consumers and others to draft revised standards of operation for each type of care and agency falling under the statute, conduct public review of drafts, promulgate regulations, develop implementation materials and conduct licensing training for both providers and licensors.

**HB**

**412**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

CR ✓  
FN ✓

DATE: 5/3/94

FURTHER:

DATE TURNED INTO OFFICE: 5-4-94

The Finance Committee considered CS FOR HOUSE BILL NO. 412(HES) am

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
HFC/DH+SS	4/11/94		30.0

Appropriation No Fiscal Note

**DO PASS:**

\_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Other Rec no recommendation*  
*[Signature]*  
 \_\_\_\_\_

1. *[Signature]*  
 Co-Chair: Signature/Recommendation

2. *[Signature]* NO REC  
 Co-Chair: Signature/Recommendation

FISCAL NOTE

REQUEST:

Revision Date: Dept: Health and Social Services  
Title: Community Care Licensing Statute  
BRU: Family and Youth Services  
Sponsor: Rules by Request Components: Central Office  
Requestor: House Finance Committee No:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	10.0	20.0	0.0	0.0	0.0	0.0
Contractual	20.0	15.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	30.0	35.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	30.0	35.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	30.0	35.0	0.0	0.0	0.0	0.0

ESTIMATE OF ANY CURRENT YEAR (FY 94) COSTS

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Rep. Ron Larson, Co-Chair *RL* 465-3878  
 Division: House Finance Committee Phone: 465-4833  
 Date: 4/11/94  
 Approved By: \_\_\_\_\_  
 Agency: \_\_\_\_\_ Date: \_\_\_\_\_

COMMITTEE COPY

House and Senate Differences in Community Care Licensing  
HB 412 and SB 268 JUD

The Governor's bill received modest amendments in House HES and several technical amendments drafted by legislative staffer, Terry Lauterbach. Senate HES adopted the House HES version at the request of the department and adopted additional amendments, with one more being added in Senate JUD. On the House floor, most Senate amendments were added to the bill with the following exceptions.

License Required; Exemptions

- ◆ The Senate: Pg. 6. Added a new paragraph (2) to exempt from foster home licensure, care "for one or more children of any age placed by a parent for a period of up to 45 days;"
- ◆ The House: Instead of adding a new paragraph (2) amended paragraph (2) from the Governor's bill to read, "for one or more children of any age placed by a parent with either  
(A) authorization for emergency medical care; or  
(B) a consent to temporary custody;"

The House broadened the Senate version to totally exempt parent selected care from foster home licensure. They did not wish parent choice to be limited. This amendment is consistent with Senate action and acceptable to the department.

Variances

- ◆ The Senate adopted a grammar change by deleting the word "why" from (b) (2) pg 11: "the reasons the variance is needed;"
- ◆ The House version reads, "the reasons why the variance is needed;"

Notice of Changes

- ◆ The House modified the Senate amendment on pg 15, line 1 of the Senate bill re "knowledge of indictment, charging" etc. by adding "presentment."

Webster's describes presentment as "the notice taken or statement made by a grand jury of an offense from their own knowledge without a bill of indictment laid before them". It is allowable under the Alaska Constitution and the Department of Law has no objection to its use.

Also the Senate version used the term, "by charging," and the house version used, "by charging or complaint".

Enforcement Actions

- ◆ The house did not eliminate the second sentence on page 18 paragraph (h), "If a time period is not set by the Department, the revocation or nonrenewal is permanent, and the former

licensee may not again apply for licensure under this chapter."

#### Grounds for License Revocation

- ◆ The Senate amendments pg 19 (a) (2) and (3) were picked up on the House floor except:
  - ◆ In (2) the Senate version used the term, "by charging," while the House version used, "by charging or complaint".
  - ◆ In (3) the House again added the term, "presentment."
- ◆ The House added an amendment which Senator Leman thought he had included, but was not included when a HES quorum was present. Instead of limiting the criminal activity grounds to the administrator, "foster parent, member of the licensee's household, regular volunteer, or staff person" were added.

#### Fiscal Note

- ◆ The Senate had approved the department Fiscal Note of 65.0 for SB 268.
- ◆ In HB 412 the House Finance Committee deleted 35.0 in travel for the licensing task force. The resulting House fiscal note is 30.0.
- ◆ Passage of HB 412 is important to the department, consequently the department is willing to forego task force travel and will devise an alternative plan for community involvement.

#### Conclusion and Recommendation

- ◆ The two bills do not differ in any significant way. The department appreciates the way the two bodies cooperated to minimize differences.
- ◆ Senate HES reviewed the House changes on May 2, 1994.
- ◆ The department recommends that the Senate concur with HB 412 as passed by the House.

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/3/94

FURTHER:

DATE TURNED INTO OFFICE: 5-4-94

The Finance Committee considered CS FOR HOUSE BILL NO. 412(HES) am

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adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

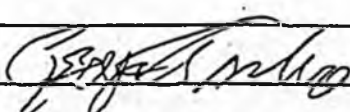
Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

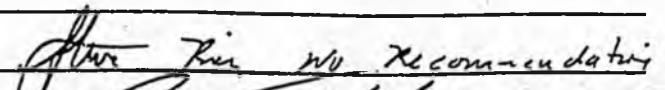
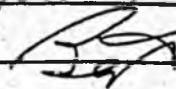
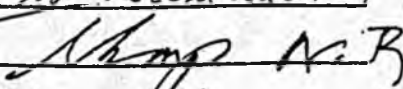
Department	Date	Zero	Fiscal
HPC/DHSS	4/11/94		30.0

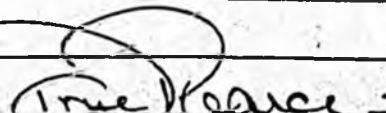

Appropriation No Fiscal Note

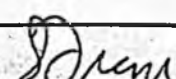
**DO PASS:**

\_\_\_\_\_  
 \_\_\_\_\_  
  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
  
  
  
 \_\_\_\_\_

1.   
 Co-Chair: Signature/Recommendation  


2.  NO REC  
 Co-Chair: Signature/Recommendation

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DATE: 5/3/94

FURTHER:

DATE TURNED INTO OFFICE: 5-4-94

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do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
HFC/DH&SS	4/11/94		30.0

Appropriation No Fiscal Note

DO PASS:

\_\_\_\_\_  
*[Signature]*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
*After this no recommendation*  
*[Signature]*

1. *[Signature]*  
 Co-Chair: Signature/Recommendation

2. *[Signature]* NO REC  
 Co-Chair: Signature/Recommendation

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HB 412 and SB 268 JUD

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- ◆ Passage of HB 412 is important to the department, consequently the department is willing to forego task force travel and will devise an alternative plan for community involvement.

#### Conclusion and Recommendation

- ◆ The two bills do not differ in any significant way. The department appreciates the way the two bodies cooperated to minimize differences.
- ◆ Senate HES reviewed the House changes on May 2, 1994.
- ◆ The department recommends that the Senate concur with HB 412 as passed by the House.

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

*Slone*

WALTER J. HICKEL, GOVERNOR

MARGARET R. LOWE, COMMISSIONER

P.O. BOX 110601  
JUNEAU, ALASKA 99811-0601  
PHONE: (907) 465-3030

May 3, 1994

Honorable Drue Pearce, Co-Chair  
Senate Finance Committee  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Pearce:

Committee Substitute for House Bill 412 (Hes) Am "An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date," has been referred to the Senate Finance Committee. At this time, I respectfully request that you schedule HB 412 for consideration by the Senate Finance Committee.

The Senate (Hes) Committee has moved the bill from Committee without amendment.

The Senate Finance Committee has previously heard and passed from Committee CS SB 268 (Jud), the companion Senate Bill. House Bill 412 does not materially differ from the Senate Bill. A summary of the minor differences between the two bills is enclosed along with the Governor's transmittal letter, a bill analysis and the fiscal note approved by the House Finance Committee.

Your approval of this request will be most appreciated.

Sincerely,

*Margaret R. Lowe*

Margaret R. Lowe, M.Ed., Ed.S.  
Commissioner

Attachment

HB 412

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 425-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 28, 1994

The Honorable Ramona Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Barnes:

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing, by the Department of Health and Social Services (DHSS), of facilities for the care of children, child placement agencies, maternity homes, and residential facilities and foster homes for adults. The bill reorganizes and clarifies existing licensing statutes and provides much-needed detail in the statutes. The bill's reorganization of the statutes separates licensing of child-related facilities from licensing of adult facilities.*

*Sections 5 and 7 - 12 of the bill set out new statutory provisions that provide for the licensing and regulation of child foster homes, child care facilities, residential child care facilities, child placement agencies, and maternity homes. Section 7 of the bill clarifies which of these facilities are required to be licensed and which are exempt from licensure. Licensing procedures and requirements, appeal procedures, and operational requirements that apply to all such facilities are set out in secs. 7 - 11. Those sections provide for provisional licenses and biennial licenses, and specify that DHSS must inspect and investigate a facility before either a provisional license or initial biennial license is issued. Renewal procedures for biennial licenses are also provided. Complaint, investigation, and other enforcement provisions are set out in sec. 12 of the bill.*

*Section 13 of the bill sets out a separate article in AS 47.35 to address licensure and regulation of adult residential care facilities. Many of the provisions in secs. 7 - 12 of the bill are incorporated by reference in the adult residential care facility article. I intend to introduce a bill this session relating to "assisted living homes" for adults; that bill will place licensing and regulation of adult residential facilities in a new chapter in*

The Honorable Ramona Barnes  
January 28, 1994  
Page 2

AS 47. If that bill passes the legislature and becomes law, sec. 13 of the attached bill will not take effect. See sec. 21 of the bill.

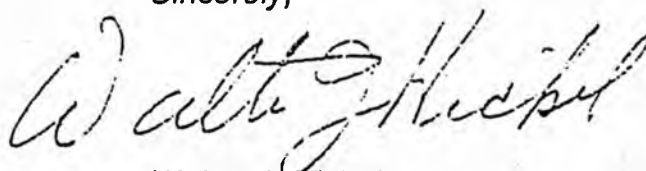
Sections 14 and 15 of the bill set out general provisions for administrative adjudication procedures, liability immunity, criminal penalty, and definitions for AS 47.35.

Sections 1 - 4 and 6 of the bill make conforming amendments to existing statutes to reflect changes made by secs. 5 and 7 - 15 of the bill. Section 16 of the bill repeals most of the existing statutes in AS 47.35 -- their provisions have been reworded and reorganized in secs. 5 and 7 - 15 of the bill. Section 17 of the bill contains transition provisions that specify how the bill affects existing as well as new facilities.

Section 18 of the bill authorizes DHSS to begin the regulation adoption process so that necessary regulations can take effect on the effective date of the statutory changes made by the bill. Sections 19 - 21 provide an immediate effective date for sec. 18 and a January 1, 1996 effective date for the statutory changes made by the remainder of the bill. Section 21 makes the January 1, 1996 effective date for sec. 13 contingent on another adult residential facility bill not becoming law, as discussed earlier in this letter.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel  
Governor

# SENATE COMMITTEE REPORT

DATE: 4/29/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 5/2/94

HES Committee considered CS FOR HOUSE BILL NO. 412(HES) am

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

*& may rpt it bk w/ no rec*

and recommends:

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- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
Health & Soc. Servs	4/11/94		30.0

Appropriation No Fiscal Note

**DO PASS:**

*Soren A. Simon*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

*Mike Miller No Rec*  
*J. Sellers No Rec*  
*Judy Sato No Rec*  
 \_\_\_\_\_  
 \_\_\_\_\_

*Steve Fin* *no rec*  
 \_\_\_\_\_  
 Chair: Signature and Recommendation

**HB**

**418**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 7, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/14/94

The FINANCE Committee considered:

HB 418

HOUSE BILL NO. 418

EXTEND BOARD OF PAROLE

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_ [ ] the same title  
 [ ] a new title

[ ] have attached amendments(s)

[] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[] zero fiscal note(s) Corrections 2/18/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>E. Don P. Maclean</i>	<input checked="" type="checkbox"/>				
<i>Ronald J. Larson</i>	<input checked="" type="checkbox"/>				
<i>Mark Hanley</i>	X				
<i>Larry Martin</i>	X	<i>do not amend.</i>			
<i>Sean R. Hainell</i>	X				
<i>Ben Grossman</i>	X				
<i>Tom Brown</i>	<input checked="" type="checkbox"/>				
<i>Richard Foster</i>	X				
<i>Greg Merritt</i>	X				

*Ronald J. Larson* *E. P. Maclean*  
 CO-CHAIRMAN'S SIGNATURE *Maclean*

# FISCAL NOTE

No. 1  
 Bill Version: HB 418  
 (H) Publish Date: 2/18/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act extending the Parole Board BRU: Admin/Support  
 Component: Parole Board  
 Sponsor: Rep. B. Davis  
 Requestor: House HESS COMPONENT SERIAL NO. 606

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The Parole Board is contained in the department's proposed FY95 budget.

Prepared by: Diane Schenker, Social Assistant *[Signature]* Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 2/18/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. *[Signature]* Date: 2/18/94  
 Agency: Department of Corrections

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COMMITTEE COPY

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 7, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/14/94

The FINANCE Committee considered:

HB 418

HOUSE BILL NO. 418

EXTEND BOARD OF PAROLE

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_  the same title

have attached amendments(s)  a new title

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) Corrections 2/18/94

SIGNING <u>DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	DNP	NR	AM
Eileen P. Maclean	✓				
Ronald J. Larson	Ⓟ				
Mark Hanley	X				
Terry Martin	X	do not recommend			
Sean R. Parnell					
Ben Grossman					
Tim Brown	✓				
Richard J. Foye	X				
Gene Therman	X				

*Ronald J. Larson* E P Maclean  
CO-CHAIRMAN'S SIGNATURE Maclean

HOUSE BILL NO. 418  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE B.DAVIS

Introduced: 1/31/94

Referred: Health, Education & Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Board of Parole; and providing  
2 for an effective date."

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

4 \* Section 1. AS 44.66.010(a)(3) is amended to read:

5 (3) Board of Parole (AS 33.16.020) -- June 30, 1997 [1993];

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

# FISCAL NOTE

No. 1  
 Bill Version: HB 418  
 (H) Publish Date: 2/18/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act extending the Parole Board BRU: Admin/Support  
 Component: Parole Board  
 Sponsor: Rep. R. Davis  
 Requestor: House HESS COMPONENT SERIAL NO. 605

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Parole Board is contained in the department's proposed FY95 budget.

Prepared by: Diane Schenker, Special Assistant *DS* Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 2/18/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. *JFP* Date: 2/18/94  
 Agency: Department of Corrections

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# ALASKA STATE LEGISLATURE

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STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3875  
FAX: 907-465-2294

MINORITY WHIP  
CHAIR  
CHILDREN'S CAUCUS  
HEALTH, EDUCATION  
& SOCIAL SERVICES  
STATE AFFAIRS  
ECONOMIC TASK  
FORCE

## REPRESENTATIVE BETTYE DAVIS DISTRICT 21

### SPONSOR STATEMENT HB 418 - EXTENDING THE BOARD OF PAROLE

HB 418 would extend the Board of Parole for the customary four-year period under A.S. 44.66.010(c). Under current law, and without passage of this legislation, the Board is scheduled to end its operations on June 30, 1994.

The State Board of Parole was created in 1960 and has been an essential component of Alaska's criminal justice system. There are currently 700 felons on parole supervision. Each year, about 400 prisoners are eligible to be released to discretionary parole supervision for a portion of their sentence. In addition, 500 prisoners are released to mandatory parole supervision for a period equal to one-third of their sentence.

Expiration of the Parole Board will not alter the state's responsibility under Title 33, Chapter 16, which provides for prisoners to be eligible for and supervised on discretionary and mandatory parole. The State will almost certainly be a party to costly litigation to determine the legal status of prisoners, parolees and victims.

The Board of Parole has been an effective vehicle in administering the parole process. I urge your support of HB 418.

# FISCAL NOTE

No. 1  
 Bill Version: HB 418  
 (H) Publish Date: 2/18/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act extending the Parole Board BRU: Admin/Support  
 Component: Parole Board  
 Sponsor: Rep. B. Davis  
 Requestor: House HESS COMPONENT SERIAL NO. 605

Expenditures/Revenues	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The Parole Board is contained in the department's proposed FY95 budget.

Prepared by: Diane Schenker, Special Assistant *[Signature]* Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 2/18/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. *[Signature]* Date: 2/18/94  
 Agency: Department of Corrections

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8-LS1618E  
Luckhaupt  
3/12/94

CS FOR HOUSE BILL NO. 418( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE B.DAVIS

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to special conditions of mandatory parole; relating to conditions  
2 of mandatory and discretionary parole; extending the termination date of the  
3 Board of Parole; and providing for an effective date."

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

5 \* Section 1. PURPOSE. The purpose of sec. 2, the portions of sec. 3 relating to a member  
6 of the Board of Parole acting on behalf of the board, and secs. 4, 6, and 7 of this Act is to  
7 validate and affirm the longstanding practice of the Board of Parole to delegate the setting of  
8 special conditions for mandatory parole under AS 33.16.150 to a single board member, subject  
9 to a right of review by a quorum of the Board of Parole. It is the intent of the legislature to  
10 expressly ratify this practice and to clarify existing statutes to reflect it.

11 \* Sec. 2. AS 33.16.050(c) is amended to read:

12 (c) Except when a member of the board imposes special conditions of  
13 mandatory parole for the board under AS 33.16.150, decisions [DECISIONS] and  
14 orders of the board require the affirmative votes of a majority of the members present.

1 \* Sec. 3. AS 33.16.150 is amended to read:

2 Sec. 33.16.150. CONDITIONS OF PAROLE. (a) As a condition of parole,  
3 a prisoner released on discretionary or mandatory parole

4 (1) shall obey all [REFRAIN FROM CONDUCT PUNISHABLE BY  
5 IMPRISONMENT UNDER] state, [OR] federal, or local laws or ordinances, and any  
6 court orders applicable to the parolee;

7 (2) shall make diligent efforts to maintain steady employment and  
8 meet family obligations;

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

12 (4) shall report

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

15 (B) at other times, and in the manner, prescribed by the  
16 board or the parole officer assigned to the parolee;

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

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

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

26 (8) may not possess or control a prohibited weapon, a defensive  
27 weapon, a deadly weapon other than an ordinary pocket knife with a blade three  
28 inches or less in length, or ammunition for a firearm, or reside in a residence  
29 where there is a firearm capable of being concealed on one's person or a  
30 prohibited weapon; in this paragraph, "deadly weapon," "defensive weapon," and  
31 "firearm" have the meanings given in AS 11.81.900 and "prohibited weapon" has

1 the meaning given in AS 11.61.200;

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

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

8 (11) shall agree to waive extradition from any state or territory of  
9 the United States and to not contest efforts to return the parolee to the state  
10 [LAW OR MUNICIPAL ORDINANCE].

11 (b) The board may require as a condition of discretionary or mandatory parole,  
12 or a member of the board acting for the board under (e) of this section may  
13 require as a condition of mandatory parole, that a prisoner released on parole

14 (1) [MEET FAMILY OBLIGATIONS;

15 (2) PURSUE EMPLOYMENT, EDUCATION, COUNSELING, OR  
16 TRAINING;

17 (3) REMAIN WITHIN STATED GEOGRAPHIC LIMITS UNLESS  
18 WRITTEN PERMISSION TO DEPART FROM THE STATED LIMITS IS  
19 CRANTED THE PAROLEE;

20 (4) REPORT UPON RELEASE TO THE PAROLE OFFICER  
21 ASSIGNED TO THE PAROLEE;

22 (5) REPORT AS REQUIRED TO THE PAROLE OFFICER  
23 ASSIGNED TO THE PAROLEE;

24 (6) RESIDE AT A STATED PLACE AND NOTIFY THE BOARD OF  
25 ANY CHANGE IN PLACE OF RESIDENCE;

26 (7) NOT POSSESS OR CONTROL FIREARMS OR OTHER  
27 DANGEROUS WEAPONS;

28 (8)] refrain from possessing or consuming alcoholic beverages;

29 (2) [(9)] submit to reasonable searches and seizures by a parole officer,  
30 or a peace officer acting under the direction of a parole officer;

31 (3) [(10)] submit to appropriate medical, mental health, or controlled

1 substance or alcohol examination, treatment, or counseling;

2 (4) [(11)] submit to periodic examinations designed to detect the use  
3 of alcohol or controlled substances;

4 (5) [(12)] make restitution ordered by the court according to a schedule  
5 established by the board;

6 (6) [(13)] refrain from opening, maintaining, or using a checking  
7 account or charge account;

8 (7) [(14)] refrain from entering into a contract other than a prenuptial  
9 contract or a marriage contract;

10 (8) [(15)] refrain from operating a motor vehicle;

11 (9) [(16)] refrain from entering an establishment where alcoholic  
12 beverages are served, sold, or otherwise dispensed;

13 (10) [(17)] refrain from participating in any other activity or conduct  
14 reasonably related to the parolee's offense, prior record, behavior or prior  
15 behavior, current circumstances, or perceived risk to the community, or from  
16 associating with any other person that the board determines is reasonably likely to  
17 diminish the rehabilitative goals of parole, or that may endanger the public.

18 (c) Except for a condition imposed under (b)(2) - (5) [(b)(4), (7), (9), (11) OR  
19 (12)] of this section, the board, or a member of the board acting for the board  
20 under (e) of this section, may generally delegate imposition of special conditions  
21 under (b) of this section to the discretion of the parole officer.

22 (d) The board, or a member of the board acting for the board under (e) of  
23 this section, may require a prisoner released on parole to comply with special  
24 conditions imposed under (b) of this section for any period up to the maximum term  
25 under which the prisoner is subject to the custody and jurisdiction of the board.

26 \* Sec. 4. AS 33.16.150 is amended by adding a new subsection to read:

27 (e) The board may designate a member of the board to act on behalf of the  
28 board in imposing conditions of mandatory parole under (a) and (b) of this section, in  
29 delegating imposition of conditions of mandatory parole under (c) of this section, and  
30 in setting the period of compliance with the conditions of mandatory parole under (d)  
31 of this section. The decision of a member of the board under this section is the

1 decision of the board. A prisoner or parolee aggrieved by a decision of a member of  
2 the board acting for the board under this subsection may apply to the board under  
3 AS 33.16.160 for a change in the conditions of mandatory parole.

4 \* Sec. 5. AS 44.66.010(a)(3) is amended to read:

5 (3) Board of Parole (AS 33.16.020) -- June 30, 1997 [1993];

6 \* Sec. 6. Notwithstanding AS 33.16.050 and 33.16.150 as they read on the day before the  
7 effective date of this Act, from January 1, 1986, through the day before the effective date of  
8 this Act, one member of the Board of Parole acting for the board may impose special  
9 conditions of mandatory parole under AS 33.16.150(b), delegate imposition of special  
10 conditions of mandatory parole under AS 33.16.150(c), and set the period of compliance with  
11 the special conditions of mandatory parole under AS 33.16.150(d). The decision of a member  
12 of the Board of Parole under this section is the decision of the board under AS 33.16.050 and  
13 33.16.150. A prisoner or parolee aggrieved by a decision of a member of the Board of Parole  
14 acting for the board under this section may apply to the board under AS 33.16.160 for a  
15 change in the special conditions of mandatory parole.

16 \* Sec. 7. Section 6 of this Act is retroactive to January 1, 1986.

17 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

---

**STATE OF ALASKA**

**BOARD OF PAROLE**



**1993 ANNUAL REPORT TO THE GOVERNOR**

**AND THE ALASKA LEGISLATURE**

**JANUARY 1994**

# STATE OF ALASKA

## DEPARTMENT OF CORRECTIONS

### BOARD OF PAROLE

WALTER J. HICKEL, GOVERNOR

ALASKA BOARD OF PAROLE  
P.O. BOX T  
JUNEAU, ALASKA 99811-2000  
PHONE: (907) 465-3384  
FAX: (907) 465-2006

Alonzo B. Patterson, Jr., Chairman  
Dolores G. Weiler, Vice Chairperson  
David F. Cooper, Member  
Elsabeth Demeksa, Member  
James E. McLain, Member

December 30, 1993

To the Honorable Walter J. Hickel, Governor  
and the Honorable Members of the Alaska  
State Legislature and the Citizens of the  
State of Alaska:

Ladies and Gentlemen:

It is my pleasure to offer the Annual Report of the Alaska Board of Parole for the calendar year 1993. I believe you will find the information contained in this report to be both interesting and informative.

The Board and the Department of Corrections are faced with many challenges. At the forefront is the growing prisoner population and the limits of our resources. The Board takes a great deal of pride in the dedication and commitment to excellence exemplified by our administrative staff and by the Department's employees during the last year. Often employees go beyond the call of duty to bring about positive change in many who have known only failure.

We as a Board are first and foremost accountable to the citizens of Alaska and we will endeavor to uphold their trust through informed decision-making and successful reintegration of the offender back to the community.

Sincerely,

  
Alonzo B. Patterson, Jr.  
Chairman

# ALASKA BOARD OF PAROLE

## 1993 ANNUAL REPORT

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# MISSION STATEMENT

## Alaska Board of Parole

### OUR MISSION IS

To protect the public by focusing on risk and by making careful, just and equitable parole decisions.

To have a clear, articulate policy and numerical guidelines so the public, offenders and criminal justice components can easily understand discretionary parole release decisions.

To have professionally trained Board Members, with close ties to the community, who are representative of the ethnic, racial, sexual, and cultural populations of the state.

To use Department and community resources as a bridge to help parolees become contributing members of society.

To set realistic parole conditions and to return to prison those who show they will not be law-abiding.

# OUR RESPONSIBILITIES

## To Alaska Citizens

To keep refining our ability to select persons for parole who will succeed as law-abiding citizens; to help parolees become productive citizens for the benefit of society, themselves and their families; and to use our revocation authority wisely and to promptly return to prison those parolees who present a danger to the community.

## To Victims

To welcome and consider views and information from crime victims and their families and to respond positively to their requests for information and notification.

## To Corrections Employees

To provide leadership, training and resources so they can perform their job effectively and efficiently.

## To Offenders

To consider each offender as an individual by one set of standards and to provide a fair and unbiased hearing; to provide realistic parole conditions and helpful positive supervision.

## To Justice

To uphold appropriate punishment, to advance equal treatment of offenders serving for similar offenses with similar histories and needs, and to work with other justice components to reduce criminality.

# THE EMPLOYEES OF THE PAROLE BOARD

During 1993 the administrative office of the Board was located at the corner of 4th & Harris, Juneau, Alaska. As of January 21, 1994 the office will be located at 802 Third St., Douglas, Alaska. Our mailing address is:

Alaska Board of Parole  
P.O. Box 112000  
Juneau, Alaska 99811-2000  
Phone: (907) 465-3384  
Fax: (907) 465-2006

## EXECUTIVE DIRECTOR

*Richard E. Collum*

The Executive Director is appointed by the Board and is responsible for day to day operations of the agency. The Executive Director attends parole release hearings and parole revocation hearings and provides technical assistance to the Board.

## Secretary I

*Georgina Weitzel*

## Clerk Typist III

*Mary Engdahl*

## PAROLE ADMINISTRATOR

*Donna E. White*

The Parole Administrator assists the Executive Director in agency administration and supervision of the staff. The Parole Administrator is a resource for parole officers to use in the daily management of cases, scheduling hearings and compiling statistics.

## PAROLE BOARD OFFICER

*Daniel L. Stroeing*

The Parole Board Officer assists the Parole Administrator and handles conditions of supervision and Executive Clemency applications and investigation.

# **CORRECTION**

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

# MISSION STATEMENT

## Alaska Board of Parole

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To use Department and community resources as a bridge to help parolees become contributing members of society.

To set realistic parole conditions and to return to prison those who show they will not be law-abiding.

## OUR STATUTORY OBLIGATIONS

AS 33.16.100(a) The Board may authorize the release of a prisoner on discretionary parole if it determines that a reasonable probability exists that:

- (1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the Board;
- (2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;
- (3) the prisoner will not pose a threat of harm to the public if released on parole; and
- (4) release of the prisoner on parole would not diminish the seriousness of the crime.

AS 33.16.010(d) A prisoner released on discretionary or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150.

AS 33.16.220 The Board may revoke parole for conduct in violation of AS 33.16.150(a) or (b).

# OUR RESPONSIBILITIES

## To Alaska Citizens

To keep refining our ability to select persons for parole who will succeed as law-abiding citizens; to help parolees become productive citizens for the benefit of society, themselves and their families; and to use our revocation authority wisely and to promptly return to prison those parolees who present a danger to the community.

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To consider each offender as an individual by one set of standards and to provide a fair and unbiased hearing; to provide realistic parole conditions and helpful positive supervision.

## To Justice

To uphold appropriate punishment, to advance equal treatment of offenders serving for similar offenses with similar histories and needs, and to work with other justice components to reduce criminality.

## THE BOARD MEMBERS

**Chairman** Alonzo B. Patterson, Jr. was appointed to the Board in February 1984 by Governor Sheffield. He was reappointed by Governor Sheffield in 1986 and by Governor Hickel in 1991. Reverend Patterson is the pastor of Shiloh Missionary Baptist Church in Anchorage. He has a Bachelor of Arts Degree in Psychology from the University of Alaska/Anchorage, and a Doctor of Divinity Degree from the American Bible Institute. Reverend Patterson is a resident of Anchorage.

**Member** David Cooper was appointed by Governor Sheffield in February 1984. He was reappointed by Governor Sheffield in 1986 and again by Governor Cowper in 1990. He has an Associate Arts Degree in Behavioral Science from the University of Alaska/Anchorage. Mr. Cooper is retired from the position of Assistant Superintendent at the Palmer Correctional Center after 19 years of exemplary service. He was born and raised near Ninilchik. He and his family operate a commercial fishing business in Cook Inlet. Mr. Cooper is a resident of Palmer.

**Member** Elisabeth Demeksa was appointed by Governor Hickel in 1992. She has a Bachelor of Arts Degree in English Literature from New York State University. Ms. Demeksa is the owner, manager of a women's apparel store. From 1980 to 1991 she was an Aide to the Alaska Legislature, the last two years as Chief of Staff to the House Minority Leader. She is active in numerous women's and family organizations, and in 1984 was honored as one of the Outstanding Young Women of America. Ms. Demeksa is a resident of Juneau.

**Member** James McLain was appointed by Governor Hickel in 1993. He has a Bachelor of Arts Degree in Criminal Justice from the University of Alaska/Fairbanks and was the Justice Student of the Year in 1988. He is currently employed as a paralegal. Mr. McLain is a resident of Fairbanks.

**Member** Mary Vollendorf was appointed by Governor Hickel in 1994. She has a Bachelor of Arts Degree in Political Science/Pre Law from the University of Northern Arizona University. Since graduation from college she has worked for several legislators. Ms. Vollendorf is a resident of Anchorage.

# THE EMPLOYEES OF THE PAROLE BOARD

During 1993 the administrative office of the Board was located at the corner of 4th & Harris, Juneau, Alaska. As of January 21, 1994 the office will be located at 802 Third St., Douglas, Alaska. Our mailing address is:

Alaska Board of Parole  
P.O. Box 112000  
Juneau, Alaska 99811-2000  
Phone: (907) 465-3384  
Fax: (907) 465-2006

## EXECUTIVE DIRECTOR

*Richard E. Collum*

The Executive Director is appointed by the Board and is responsible for day to day operations of the agency. The Executive Director attends parole release hearings and parole revocation hearings and provides technical assistance to the Board.

## Secretary I

*Georgina Weitzel*

## Clerk Typist III

*Mary Engdahl*

## PAROLE ADMINISTRATOR

*Donna E. White*

The Parole Administrator assists the Executive Director in agency administration and supervision of the staff. The Parole Administrator is a resource for parole officers to use in the daily management of cases, scheduling hearings and compiling statistics.

## PAROLE BOARD OFFICER

*Daniel L. Stroeing*

The Parole Board Officer assists the Parole Administrator and handles conditions of supervision and Executive Clemency applications and investigation.

## THE PAROLE BOARD

Society through legislation has determined that some people who commit crimes must be incarcerated in correctional institutions as a deterrent to others and for punishment for their crime, as well as for protection of the public and for reformation. The optimum period of time that will meet this criteria, for any given crime, is unknown and consequently sentence length varies considerably across the United States. We know from experience that a number of offenders can be released to community supervision prior to the expiration of their sentences without jeopardizing the public and at a tremendous cost savings to the public.

The Alaska Board of Parole was created by the legislature at the time of statehood to fulfill the State's constitutional requirement for a parole system. The Board was originally comprised of three volunteer members appointed by the Governor, the staff was provided by the Division of Corrections. In the mid 1960's the Board was increased to five members. In 1972, a separate parole office was created within the Department of Health and Social Services to make the Board independent of the Division of Corrections and provide the Board Members with their own administrative staff. When the Division of Corrections became the Department of Corrections in 1984 the Board's Budget Request Unit was moved from Health and Social Services to this newly formed Department.

Prior to 1986, Board Members were appointed to four year terms. Beginning January 1, 1986 the five members are appointed to staggered five year terms. One term expires every year on December 31. The Staff presently consists of an Executive Director, Parole Administrator, Parole Board Officer, a Secretary and a Clerk Typist.

In addition to holding discretionary parole release hearings, the Board holds parole revocation hearings on both mandatory parolees and discretionary parolees. The Board sets conditions of parole, conducts preliminary revocation hearings and preliminary recision hearings, and issues arrest warrants and subpoenas. During the years from 1984 to 1986, the Board reviewed cases in accordance with the Prisoner Overcrowding Emergency Conditional Commutation Plan. The staff conducts all of the Executive Clemency investigations for the Executive Clemency Advisory Committee and the Governor.

The Board meets quarterly in Fairbanks, Anchorage and Juneau. The Board meets quarterly as necessary in other areas which have a State Correctional Facility, such as Seward, Nome, Bethel, Kenai,

and Ketchikan. Occasionally it is necessary for the Board to travel outside Alaska to the Federal Bureau of Prisons Facilities and other contract institutions to hold parole hearings. The Board members are not state employees but are paid per diem and travel expenses plus \$150 compensation for each full day they are in session.

In 1981, following three years of research and analysis the Board adopted a parole guidelines model which rates a prisoner's social and criminal history to determine risk. This risk score is compared to the severity of the crime to determine a range of time the prisoner should serve prior to discretionary parole. These guidelines were revised in 1983 based on criminal code revisions and again in 1989 following additional research into the validity of the risk factors.

## THE HISTORY OF PAROLE ELIGIBILITY

Eligibility for discretionary parole and for mandatory parole has changed considerably over the last three decades since Statehood and has become extremely complicated. The following information is presented as a historical review of what has occurred and may provide some perspective on the limited numbers of prisoners who are currently eligible for release.

The Alaska legislature determined, with passage of the criminal code in 1960, that a prisoner sentenced to a term of at least 181 days would be eligible for discretionary parole. Former AS 33.15.180. Although there was no statutory minimum term a prisoner had to serve before release on parole, the court had the discretion to set a minimum term, not to exceed one-third of the total sentence. Former AS 33.15.230(a)(1). No other restrictions or guidelines applied.

Effective May 16, 1974, the Alaska Legislature amended former AS 33.15.080 to require a prisoner to serve one-third of the period of confinement prior to being eligible for release on discretionary parole. In the case of a prisoner serving a life sentence, the mandatory minimum was set at fifteen years. In addition, former AS 33.15.230(a)(1) was amended so the court could further restrict eligibility up to the maximum term.

In 1980, as part of the revised criminal code and with the inception of presumptive sentencing, parole eligibility was altered significantly. Crimes were grouped according to severity of the offense. Murder I, Murder II and Kidnapping were unclassified felonies. Murder I and II and Kidnapping were changed from a maximum term of life to a maximum term of 99 years. The mandatory

minimum for discretionary parole eligibility for Murder I was increased to 20 years [AS 12.55.125(a)] or one-third of the period of confinement (former AS 33.15.080), whichever was greater. The mandatory minimum term for Murder II and Kidnapping was set at five years [AS 12.55.125(b)] or one-third of the period of confinement, whichever was greater.

All other felony offenses were classified as A, B, or C felonies. First time felony offenders and all misdemeanor offenders with a sentence of 181 days or longer were eligible for parole after serving one-third of the period of confinement. The remaining felony offenders (those with one or more prior felony convictions) were to be given a non-parole eligible presumptive term. AS 12.55.125. As in the past, the court could further restrict parole eligibility beyond the statutory minimums. AS 12.55.115.

The 1980 revised criminal code also provided for a Three-Judge Sentencing Panel (AS 12.55.175) to review cases with extraordinary circumstances. AS 12.55.165. The Three-Judge Panel may sentence a defendant to any sentence authorized under AS 12.55.015, including making an otherwise ineligible defendant eligible for parole.

Effective October 1, 1982, Sexual Assault I and Sexual Abuse of a Minor I, previously class A felonies, were moved to a new category of unclassified presumptive's [AS 12.55.125(i)] and first time offenders were no longer eligible for parole. In addition, Class A first time offenders were now subject to presumptive terms and were not eligible for parole. AS 12.55.125(c).

Effective January 1, 1983, drug offenses were included in the revised criminal code and Misconduct Involving a Controlled Substance in the First Degree became an unclassified felony with a five year mandatory minimum. AS 12.55.125(b).

Effective January 1, 1986, class A, B and C felony offenders eligible for parole, had their parole eligibility reduced from one-third of the period of confinement to one-quarter. [AS 33.16.100 (c)] In addition, enhanced or aggravated presumptive's were declared eligible for discretionary parole after completing the initial presumptive term plus the minimum (one-third or one-quarter) applicable to the enhanced portion of the term. [AS 33.16.090(c)].

In order to correct what they believed to be a previous oversight the legislature made Class A offenders eligible for parole after serving one-third of the period of confinement, effective September 12, 1987. Eligibility on these offenders had been mistakenly reduced the previous year to one-quarter along with class B and C offenders. [AS 33.16.100(d)].

In 1988, it was determined an offender sentenced prior to 1986 to an enhanced (aggravated) presumptive sentence [AS 12.55.155(c)] was eligible for parole after serving the presumptive term, less good time, and at least one-third of the composite term. Merry v. State, 752 P.2d 475 (Alaska App. 1988). In 1990, it was determined an offender sentenced to a consecutive presumptive sentence prior to 1986 was eligible for parole after completion of the initial presumptive sentence, less good time, and after serving the applicable minimum (one-third or one-quarter) of the consecutive presumptive term.

It has been long established that good time does not reduce the minimum term for parole eligibility. Attorney General Opinion, 01/30/74, Mills v. State, 592 P.2d 1247 (Alaska 1979). However good time does reduce the term of a presumptively sentenced prisoner and thus affects parole eligibility on enhanced presumptive sentences and consecutive presumptive sentences. AS 33.16.090(c).

Effective September 14, 1992, Three Judge Panel sentencing based on a finding of an exceptional potential for rehabilitation became more restrictive. After that date the panel is required to sentence the defendant to the presumptive term, shall order the defendant to participate in appropriate programs of rehabilitation, and may provide that the defendant is eligible for discretionary parole during the second half of the sentence imposed if the defendant successfully completes all rehabilitation programs ordered. AS 12.55.175(e), AS 33.16.090(e).

## WHO IS ELIGIBLE FOR DISCRETIONARY PAROLE NGW?

As indicated in the previous history of parole, the parole eligibility laws have become extremely complicated. A quick overview follows:

In order for a prisoner to be eligible for discretionary parole, the prisoner must be sentenced to a term of 181 days or more. In the case of classified felonies, first time class B and C offenders are eligible after serving one-quarter of their term. All other classified felonies and unclassified sex offenses fall under presumptive sentencing and are eligible for parole after serving the initial presumptive terms. Prisoners convicted of Unclassified felonies must serve mandatory minimums (20 yrs. for Murder in the first Degree, five years for all others) or one-third of the total term, whichever is greater.

## WHO IS ON MANDATORY PAROLE?

A prisoner who is not eligible for discretionary parole or has not been granted discretionary parole will be supervised on mandatory parole if the composite term the prisoner is serving is two (2) years or more. The term of mandatory parole is equal to the period of time the prisoner's sentence was reduced for good behavior, in most cases this is one-third of the total sentence.

Mandatory parole can be revoked prior to a prisoner's release to supervision if the prisoner does not comply with court ordered treatment while incarcerated. Once released from the institution, mandatory parole can be revoked by the Board if the prisoner violates a condition of the mandatory parole. A prisoner cannot refuse to be released to mandatory parole supervision.

## The Board's Workload

The workload for the Alaska Board of Parole increased significantly during the 1980's at a time when the prison population mushroomed. As an example, the 1980 criminal code revision did not begin to show an impact until about 1983 (Figure #1). In 1982, the Board's total workload including parole hearings, parole revocation hearings, warrants and preliminary hearings was under 400 cases. From 1982 to the current peak, the Board's workload increased fourfold. The increase was substantially related to the 1980 presumptive sentence law and mandatory parole law. Discretionary parole hearings and discretionary parole releases did not increase during that period in spite of the growing prison population. Each year, as a higher percentage of prisoners entering the system were sentenced after 1979 under the presumptive sentence law, the number of prisoners eligible for discretionary parole and the number of prisoners released on discretionary parole decreased.

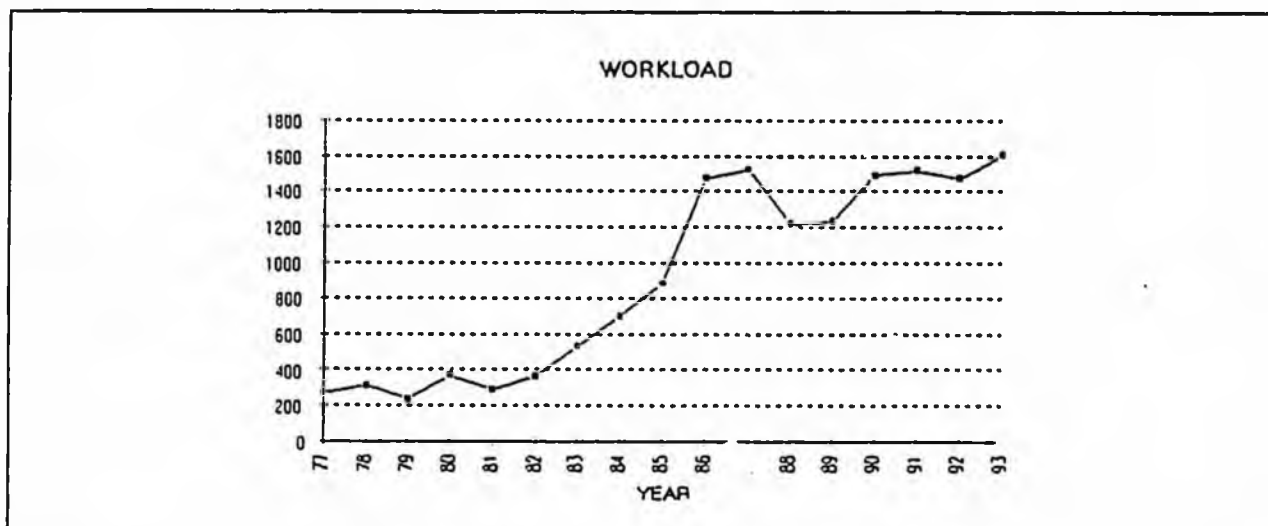


Figure #1

The Board's sharp increase in workload in 1986 and 1987 as indicated in Figure #1 is attributed to the added responsibility during those two years of reviewing prisoners eligible for release under the Governor's Emergency Conditional Commutation Release Plan.

During calendar year 1993, the Board held a total of 1608 hearings, 697 of which were in-person hearings. The remaining 911 case decisions included issuing warrants, setting or changing conditions, and reviewing appeals.

## Discretionary Parole

During the calendar years 1991, 1992 and 1993 the Board held a total of 461 discretionary parole release hearings. Of that total, 178 prisoners were granted discretionary parole for a parole rate of 39%. (Figure 2). In addition, during that three year period, the Board released another 225 prisoners following revocation of their mandatory parole.

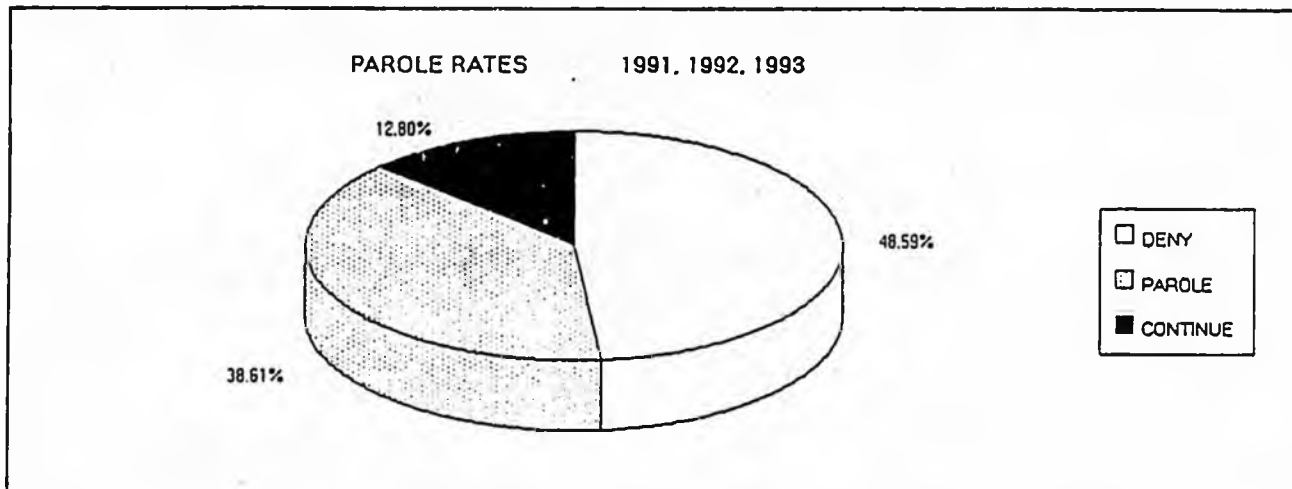
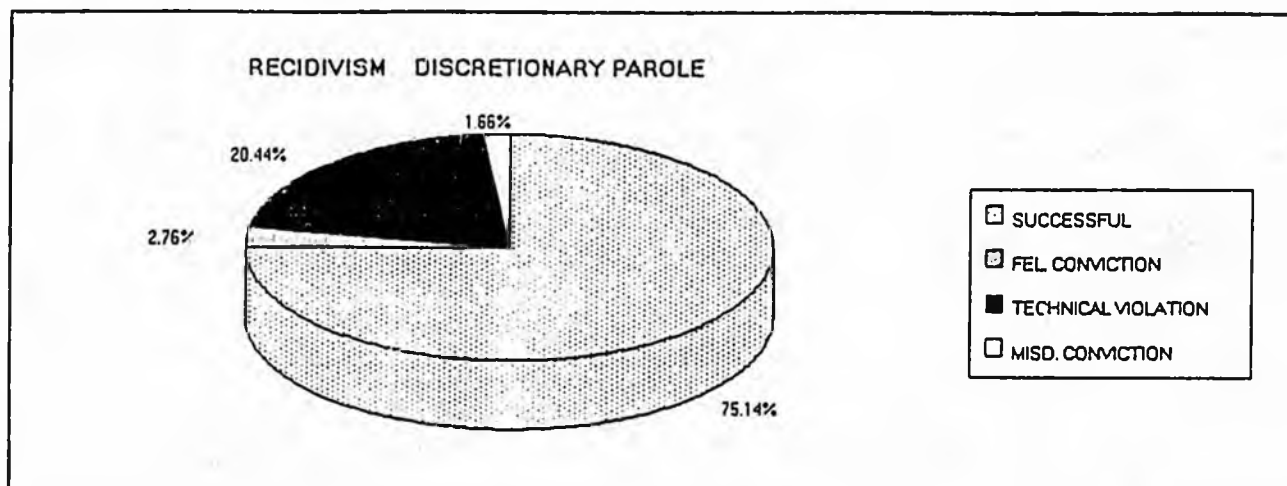


Figure #2

The Board has completed a recidivism study every year since at least the mid 1970's. This was traditionally a one year follow up of prisoners released to discretionary parole. In 1988, the study was expanded to follow the parolee for more than one year. Success is measured by the parolee's ability to complete the followup period on supervision without having been revoked by the Board.

Failure is also divided into four categories based on the nature of the violation. If the violation was for a condition of parole that was not a violation of a law or local ordinance, such as consuming alcohol or failing to report a change of residence, the violation is considered to be a **technical** or conditions violation. If parole is revoked as a result of a conviction for a **misdemeanor** or **felony** while on supervision, the violation is noted accordingly. A parolee who does not report to the parole office as instructed and is unable to be located by the parole officer is coded as an **absconder**. If multiple violations occur, the most serious one is the one coded.



**Figure #3**

The Board is very proud of its consistently low felony revocation rate. A felony revocation rate of 10% is acceptable and expected in many jurisdictions across the United States. The Alaska Board of Parole has consistently had a felony violation rate of 5% or less. A follow-up of the prisoners released to discretionary parole during the years 1989, 1990, 1991 and 1992 indicates a felony violation rate of 5 out of 182, or 3%. (Figure #3).

The combined violation rate for discretionary parolees during that period of time is 25%. However, many of those prisoners were ordered back to prison for only a short period of time and then released to supervision again at a later date. This low felony and misdemeanor revocation rate is an indication the field parole officer is doing a good job of monitoring cases to assure the parolee is removed from the community at the first sign of serious supervision violations and before a new crime is committed.

### Mandatory Parole

The Department of Corrections currently releases over 500 prisoners each year who are to be supervised on mandatory parole for the period of time their sentence was reduced for good behavior in the institution. This number has increased considerably as the prison population has increased. In 1986, less than 300 prisoners were released to mandatory parole supervision. At the present time, the Department is supervising about 700 mandatory parolees.

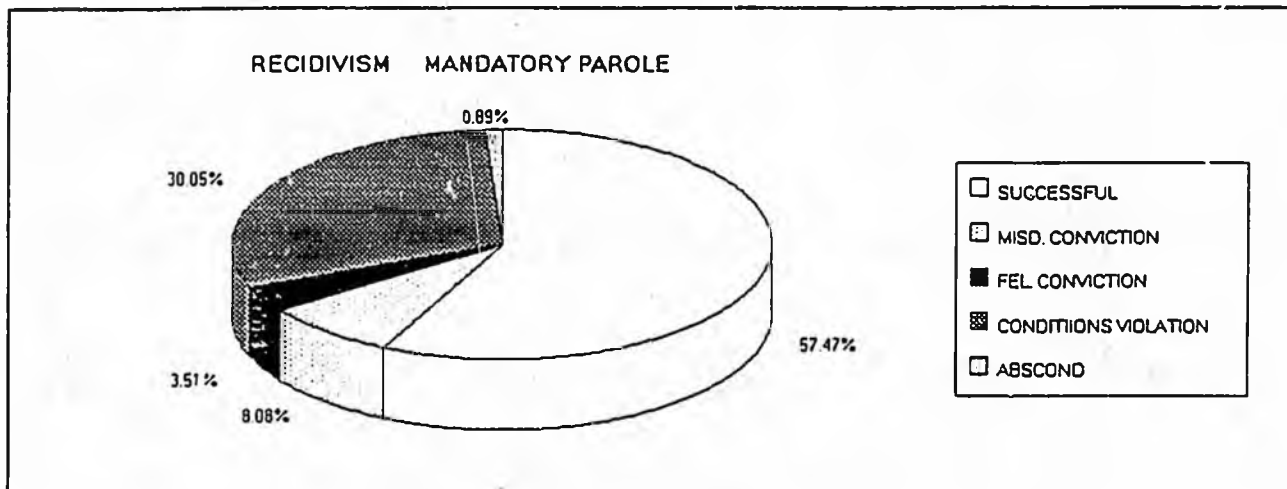


Figure #4

During the years 1989, 1990, 1991 and 1992, it is estimated 1907 prisoners were released to mandatory parole supervision. This estimate is based on the number of cases submitted to the Board so they could set conditions prior to release. As Figure #4 indicates, 811 of them were returned to prison. This is a violation rate of 43%. This violation rate is nearly eighteen (18%) percentage points higher than prisoners released to discretionary parole. In addition, on the average these prisoners were not as closely supervised as discretionary parolees w. are often required to participate in residential programs, halfway houses or the Intensive Supervision Program. This revocation rate for mandatory parolees could increase considerably if they were supervised as closely as discretionary parolees.

### Risk Factors

The parole guidelines model developed in 1981 and the subsequent revisions to that model have always included a risk score sheet. The current risk factors were adopted in 1989 and provide for a scoring range of 0 to 49. The lower the score, the lower the risk to reoffend. Risk scores are divided into four categories as follows:

A = 0-6                      B = 7-14                      C = 15-29                      D = 30-49

During the years 1990, 1991, 1992, and 1993, the parole rate for prisoners in category A was 52%; the parole rate for category B was

48%; the parole rate for category C was 33%; and the parole rate for category D was 23%. (Figure #5). This is a good indication the Board is paying a great deal of attention to an applicant's risk to the community at the time parole is granted.

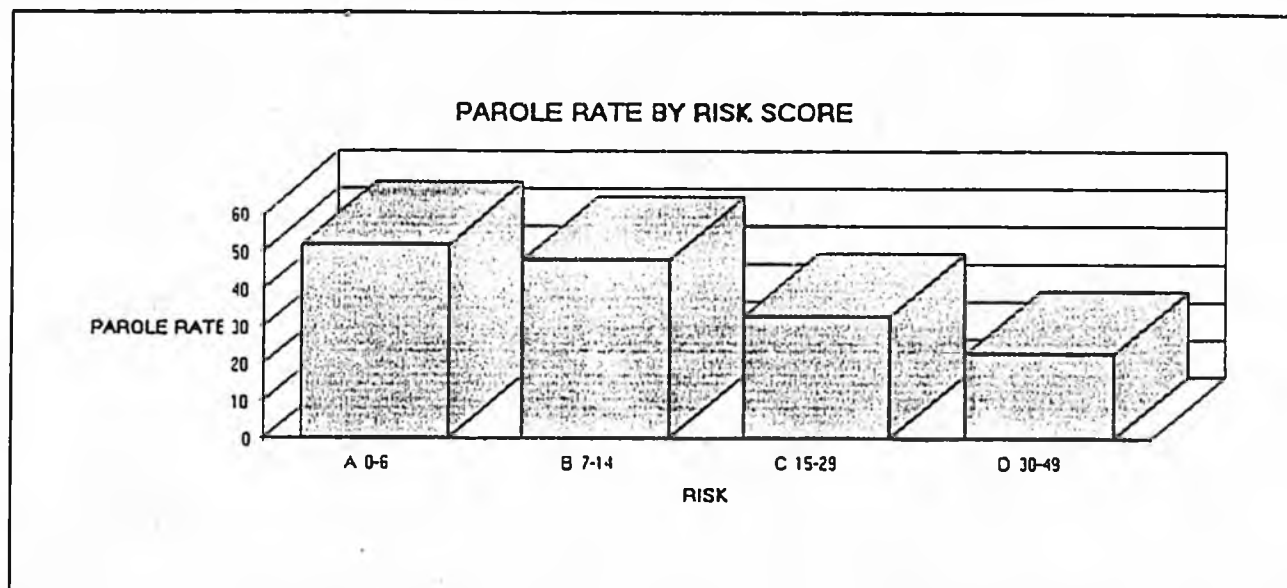
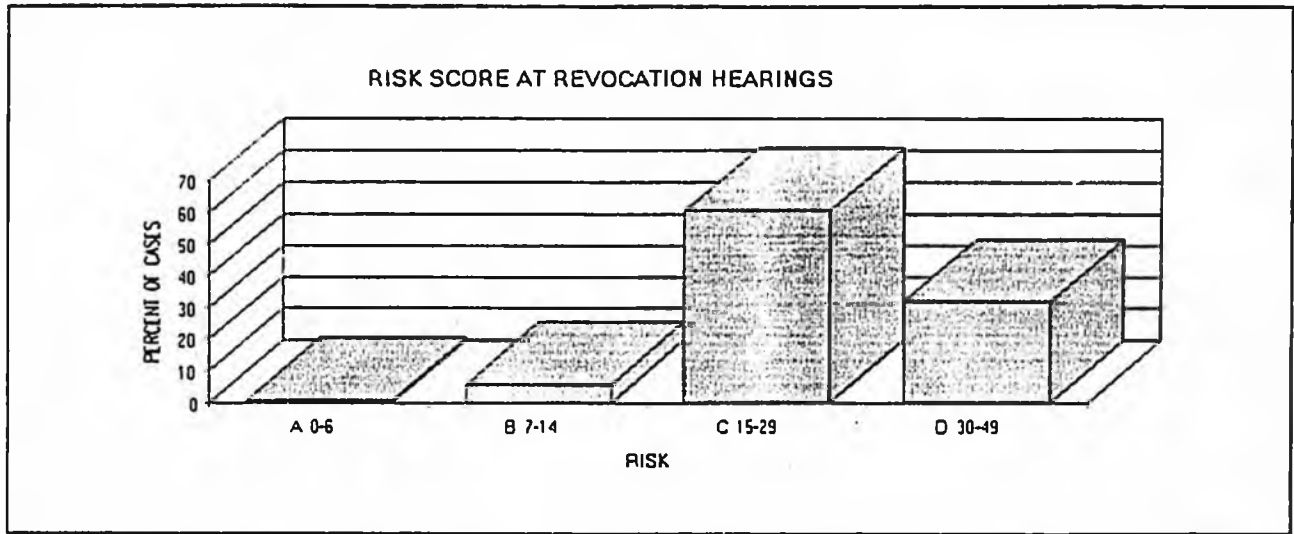


Figure #5

Information obtained from risk scores for prisoners appearing in revocation hearings during the years from 1988 to 1993 further support the validity of the scores and the Board's reliance on these scores. Of the 1350 prisoners revoked during that six year period, only 7% were in the two best risk categories (A & B). (Figure #6). Nearly all of the parolees violated during those years (93%) had a risk score of 15 or higher.



**Figure #6**

### Parole Guidelines

The Board has utilized numerical guidelines for releasing prisoners since 1981. See 22 AAC 20.142. The guidelines are designed for non-presumptively sentenced offenders eligible for discretionary parole. Many other states have guidelines models, including the U.S. Parole Commission. One of the goals in utilizing a guidelines system is to limit the number of cases where a decision is made outside of the suggested guidelines range. In some cases the Board will release a prisoner below the minimum range by making a formal finding of mitigating factors; or the Board will deny parole and thus require a prisoner to serve a term above the guidelines by making a formal finding of aggravating factors. As Figure #7 indicates, the Alaska Board of Parole is finding mitigation in about 7% of the cases appearing before them and is making a finding of aggravation in about 10% of the cases appearing before them.

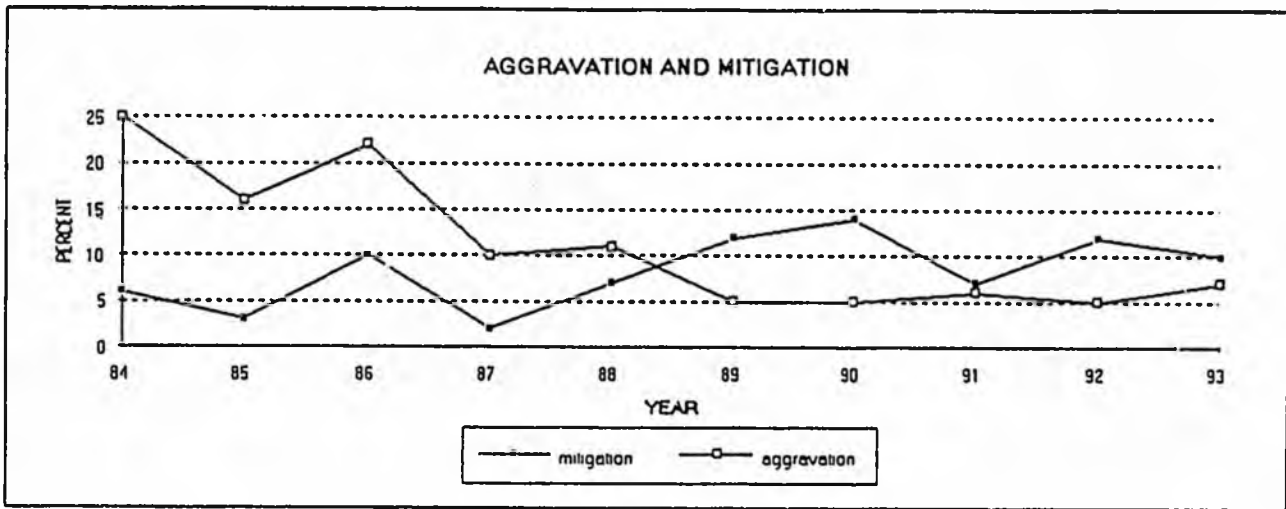


Figure #7

The remaining 83% of decisions are made within the guidelines range and this high percentage of conformity to the guidelines is an indication the Board is making a conscious effort to apply the discretion they have in a fair and equitable manner.

# HOUSE COMMITTEE REPORT

3/7/94

(7)  
Date Referred: February 18, 1994

FURTHER REFERRAL

Finance

Date of Committee Action: \_\_\_\_\_

The JUDICIARY Committee considered:

HB 418

HOUSE BILL NO. 418

EXTEND BOARD OF PAROLE

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title
- have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) Corrections 2/18/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Green	✓				
Kott	✓				
James	✓				
Porter	✓				
Nordlund	✓				
Davidson	✓				
	(6)				

Porter  
CHAIRMAN'S SIGNATURE

# HOUSE COMMITTEE REPORT

2/18/94

(9)  
Date Referred: January 31, 1994

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/17/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 418

HOUSE BILL NO. 418

EXTEND BOARD OF PAROLE

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

RECOMMENDATIONS: [ ] the same title  
be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

[X] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[X] zero fiscal note Corrections

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING	DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		✓				
		✓				
		✓				
		✓				
		✓				

CO- CHAIRMAN'S SIGNATURE