

ALASKA LEGISLATURE

2540

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

06

SENATE COMMITTEE REPORT

DATE: 04/20/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/27/04

Judiciary Committee considered CS FOR HOUSE BILL NO. 227(JUD)

HB 227 DISTRICT COURTS & SMALL CLAIMS

"An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$100,000; expanding the jurisdiction of district courts; limiting magistrates from hearing certain small claims cases; and amending Rule 11(a)(4), Alaska District Court Rules of Civil Procedure, relating to service of process for small claims."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____


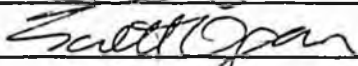
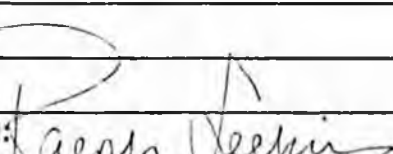
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
CRT	4/7		✓		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>French</i> 	X			
<i>Ogan</i> 	X			
<i>Seckins</i> CHAIR: 	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

HB 227-DISTRICT COURTS & SMALL CLAIMS

NAME: Doug Wooliver Subject/Bill No: HB 227
Co./Dept./Title: Alaska Court System Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

229

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/28/03 8:45am Dept. Affected: Department of Corrections
 Title: Parole for Medical/Cognitive Disability BRU: Administration & Operations
 Component: Inmate Health Care

Sponsor: _____
 Requester: _____ Component No. 705

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type—Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

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)

The annual average savings from passage of this legislation is calculated to be approximately \$500,000. The numbers of inmates who qualify for medical parole and their cost of care may vary greatly from year to year. The Governor's FY 04 budget contains a \$500,000 decrement to inmate medical care which assumes passage of this legislation.

Amounts are for informational purposes only.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone: 465-3339
 Date/Time: 4/28/03 12:51 PM
 Date: 4/28/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(STA)

ANALYSIS CONTINUATION

Key assumptions underlying this analysis:

- Continued growth of critically ill inmates incarcerated by the Department of Corrections (DOC).
- Highest proportion of medical expenditures occurs in the last six weeks of life.
- Expertise exists whereby the DOC can identify with a high degree of medical certainty inmates at risk of death in 3-6 months, one year as a maximum projected survival time frame.
- A continued medical cost of living index increase approximating 10% per year (This comes from national projections and is not unique to Alaska). Projected savings for the first year must utilize this fact in calculating savings beyond the first year.
- Cost savings look only at the medical savings to the DOC and not the potential savings that may occur due to reduced security costs.
- Estimate utilizes actual costs to the DOC on selected patients who represent a cross-section of the type of inmate who would be eligible for medical parole.
- Projections are conservative and represent the most probable minimum savings to the DOC; actual future savings could be greater.

Projected Savings by Increased flexibility in Medical Parole

Analysis utilizes actual costs (billings paid) on twenty-seven selected inmates for the time period FY01 – April 2003 (representing 30 months of billings) with significant medical conditions who have incurred medical costs ranging from \$22,170 to \$547,000.

Four inmates from this analysis are deceased and fit the profile for the type of person who potentially would be identified and released with a more flexible medical parole state statute; namely these individuals died within six months of being medically recognized as being at high risk for death. These four inmates incurred costs ranging from \$46,210 to \$269,456, for an average of \$120,000. Cause of death were due to:

- Advanced cardiac disease with congestive heart failure
- Metastatic cancers (Nasal & Melanoma)
- End-stage liver disease

Analysis for total group based on 27 selected inmates

Total expenditures over 2.5 years (30 months) = \$3,775,000
Average monthly costs over thirty month period = \$125,830
Annual cost projected from monthly average over 30 months = \$1,509,960
Annual cost per inmate averaged annually = \$55,925

Assume after review of all factors (Medical, nature of crime and resources available to a specific inmate, i.e. personal and family resources, public assistance eligibility, etc.), the Parole Board grants medical parole to ONLY nine inmates (33%) of all potential candidates reviewed.

Projected savings based on above = 9 inmates x \$55,925 (Annualized savings) = \$503,325

Note: This is a conservative analysis based on only 33% granting of medical parole. If this were increased to one in two candidates (i.e. 50%), the savings could increase to \$755,000. Additionally, although annualized, the total number of potential candidates for medical parole could be greater. Based on 2.5 years experience, the number of inmates who may qualify for medical parole is not anticipated to decrease significantly.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229(STA)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU Medical Assistance
 Component Medicaid Services

Revision Date/Time (Note if correction): 4/25/2003
 Title SPECIAL MEDICAL PAROLE

Sponsor HOUSE(FIN)
 Requester _____

Component No. 2077

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.7	400.1	440.1	484.1	532.5	585.7
Miscellaneous						
TOTAL OPERATING	363.7	400.1	440.1	484.1	532.5	585.7

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	218.2	240.1	264.1	290.5	319.5	351.4
1003 GF Match	145.5	160.0	176.0	193.6	213.0	234.3
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	363.7	400.1	440.1	484.1	532.5	585.7

Estimate of any current year (FY2003) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

(Attach a separate page if necessary)

This bill gives the Department of Corrections greater discretion to grant special medical parole to "severely medically disabled" prisoners whose medical or cognitive condition, including irreversible dementia, substantially reduces, rather than substantially eliminates, the prisoner's ability to re-offend. This bill is seen as one way to reduce Department of Correction costs by paroling prisoners so that they can receive health care services in a more cost-effective and appropriate manner. Much of the health care costs are shifted to Medicaid, which receives federal matching funds.

Prepared by: Kevin Henderson
 Division Medical Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-5821
 Date/Time 04/25/2003
 Date 04/25/2003

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(STA)

ANALYSIS CONTINUATION
ASSUMPTIONS

Our assumptions are based upon the list of 13 inmates that the Department of Corrections identified as representative of the type of parolees they would consider for medical parole under this bill. The Department of Corrections estimates that the typical parolee under this bill will have a life expectancy of 6 months or less. We reviewed the age and medical condition of each and estimated that 9 of the 13 are likely to be categorically eligible for Medicaid, 4 would not. We do not have income or resource information for the remaining 9 inmates, but we are assuming that because of their lengthy incarceration they would have very little income or resources available to them upon release and, therefore, will be financially eligible for Medicaid.

The anticipate cost for each parolee is based upon the following Medicaid categories and the average annual cost of Medicaid recipients in those categories:

Parolees	Category	FY02 average annual cost
2	Disabled	\$11,408
2	Old Age	\$10,869
5	Nursing Home	\$63,954

We estimated the life expectancy of a parolee released under this bill to be 6 months. Medical care in the final months of life is higher than the average costs listed above. Therefore, we started with one-half of the average annual cost listed above, but increased that amount by 50 percent to adjust for the higher cost associated with the end of life.

Nationwide health care costs are growing at an annual rate of 10%, consequently Medicaid expenditures are estimated to grow at the same rate.

Federal Medicaid match rate is 60%.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229(STA)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU Public Assistance
 Component Adult Public Assistance

Revision Date/Time (Note if correction): 4/25/2003

Title SPECIAL MEDICAL PAROLE

Sponsor HOUSE(FIN)

Requester _____

Component No. 222

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	8.7	8.7	8.7	8.7	8.7	8.7
Miscellaneous						
TOTAL OPERATING	8.7	8.7	8.7	8.7	8.7	8.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	8.7	8.7	8.7	8.7	8.7	8.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	8.7	8.7	8.7	8.7	8.7	8.7

Estimate of any current year (FY2003) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill gives the Department of Corrections greater discretion to grant special medical parole to severely medically disabled prisoners.
 Of the nine severely medically disabled prisoners identified by the Department of Corrections as potential medical parolees, four appear to be eligible for Adult Public Assistance (APA) upon their release.
 Continued on page 2.

Prepared by: Angela Salerno Phone 465-3200
 Division Public Assistance Date/Time 01/15/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/25/2003
 Agency Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(STA)

ANALYSIS CONTINUATION

Assumptions

Of the nine inmates identified as potential medical parolees, five will need Nursing Home level of care and will not be eligible for APA. Four parolees will be eligible for APA in FY 04.

As life expectancy for these parolees is six months, those paroleed in FY 04 will die, and only four new medical parolees will become eligible for APA in FY 05. We expect this trend to continue so that in FY06 and each fiscal year beyond, we anticipate a total of four parolees will be APA eligible.

Because of their lengthy incarceration, the potential medical parolees identified would have very limited income or resources and would be eligible for the maximum APA benefit of \$362/mo.

Calculations

FY 04 - FY 09: 4 persons x \$362/mo x 6 months = \$8.7

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229(STA)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU Public Assistance
 Component Adult Public Assistance

Revision Date/Time (Note if correction): _____
 Title SPECIAL MEDICAL PAROLE

Sponsor HOUSE(FIN)

Requester _____ Component No. 222

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	39.1	78.2	78.2	78.2	78.2	78.2
Miscellaneous						
TOTAL OPERATING	39.1	78.2	78.2	78.2	78.2	78.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	39.1	78.2	78.2	78.2	78.2	78.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	39.1	78.2	78.2	78.2	78.2	78.2

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill gives the Department of Corrections greater discretion to grant special medical parole to severely medically disabled prisoners.

Of the 13 severely medically disabled prisoners identified by the Department of Corrections as potential medical parolees, nine appear to be eligible for Adult Public Assistance (APA) upon their release.

Continued on page 2.

Prepared by: Angela Salerno Phone 465-3200
 Division Public Assistance Date/Time 01/15/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/15/2003
 Agency Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(STA)

ANALYSIS CONTINUATION

Assumptions

Because of their lengthy incarceration, the potential medical parolees identified would have very limited income or resources and would be eligible for the maximum APA benefit of \$362/mo.

We assume nine parolees become APA eligible in FY04. In FY 05 nine new will be added for a total of 18. By FY06, nine additional will be added, but the original nine added in FY 04 will have died. We expect this trend to continue so that in FY05 and each fiscal year beyond, we anticipate a total of 18 parolees will be APA eligible.

Calculations

FY 04: 9 persons x \$362/mo x 12 months = \$39.1

FY 05 - FY09: 18 persons x \$362/mo x 12 months = \$78.2

6 pages including cover

4/30/03

To: Legal

Called/faxed in
5:30

FR Joyce - House Finance
x 2156

9M

RE HB 229

Please produce a Final
including the Amendment.

This bill was reported out today.

Thanks —

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229(STA)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU Medical Assistance
 Component Medicaid Services

Revision Date/Time (Note if correction): 4/14/2003
 Title: SPECIAL MEDICAL PAROLE

Sponsor HOUSE(FIN)
 Requester _____

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	344.4	757.6	833.4	916.8	1,008.5	1,109.3
Miscellaneous						
TOTAL OPERATING	344.4	757.6	833.4	916.8	1,008.5	1,109.3

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	206.6	454.6	500.0	550.1	605.1	665.6
1003 GF Match	137.8	303.0	333.4	366.7	403.4	443.7
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	344.4	757.6	833.4	916.8	1,008.5	1,109.3

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill gives the Department of Corrections greater discretion to grant special medical parole to "severely medically disabled" prisoners whose medical or cognitive condition, including irreversible dementia, substantially reduces, rather than substantially eliminates, the prisoner's ability to re-offend. This bill is seen as one way to reduce Department of Correction's costs by paroling prisoners so that they can receive health care services in a more cost-effective and appropriate manner. Much of the health care costs are shifted to Medicaid, which receives federal matching funds.

Prepared by: Kevin Henderson Phone 465-5821
 Division: Medical Assistance Date/Time 04/14/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/15/2003
 Agency: Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(STA)

ANALYSIS CONTINUATION

Our assumptions are based upon the list of 13 current inmates who the Department of Corrections identified as potential medical parolees under this bill. We reviewed the age and medical condition of each and estimated that 9 of the 13 are likely to be categorically eligible for Medicaid, four would not. We do not have income or resource information for these inmates, but we are assuming that because of their lengthy incarceration they would have very little income or resources available to them upon release. We assumed all 9 would be financially eligible for Medicaid. The other four inmates are not likely eligible for Medicaid because the medical condition described (e.g., cancer) is not likely to meet the federal standard for disability.

The anticipated cost for each parolee is based upon the following Medicaid categories and the average annual cost of Medicaid recipients in those categories:

Parolees	Category	FY02 average annual cost
3	Disabled	\$11,408
2	Disabled/HCB	\$50,381
2	Old Age	\$10,869
2	Nursing Home	\$63,954

Nationwide health care costs are estimated to grow at an annual rate of 10%, consequently Medicaid expenditures are estimated to grow at the same rate.

We estimated the life expectancy of a parolee released under this bill to be less than two years. We assume 9 parolees become Medicaid eligible in FY04. In FY05 nine new will be added, for a total of 18. By FY06, nine new will be added, but the original 9 added in FY04 will have died. We anticipate this trend to continue. Therefore, in FY05 and each fiscal year beyond, we estimated a total of 18 parolees will be Medicaid eligible.

Federal Medicaid match rate is 60%.

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FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

TUNDRA WOMEN'S COALITION

WORKING TOGETHER TOWARD A BRIGHTER FUTURE



Post-It [®] Fax Note	7671	Date
To	HFIN COMMITTEE	From
Co./Dept.		Co.
Phone #		Phone #
Fax #	465-4813	Fax #

HOUSE FINANCE COMMITTEE:

THANK YOU FOR AMENDING HB 229 TO EXCLUDE SEX OFFENDERS CONVICTED OF 1ST, 2ND AND 3RD DEGREE SEXUAL ASSAULT AND 1ST, 2ND AND 3RD DEGREE SEXUAL ABUSE OF A MINOR FROM MEDICAL PAROLE ELIGIBILITY. YOUR EFFORTS WILL HELP ENSURE SAFETY IN ALASKAN COMMUNITIES.

Michelle ~~W~~
 [Signature]
 Cynthia Myers
 Nanna Wong
 Winfred Kelly

[Signature] J. Charlie

23-LS0885\Q
Luckhaupt
4/17/03

adopted 4/30/03

CS FOR HOUSE BILL NO. 229(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to special medical parole and to prisoners who are severely medically
2 or cognitively disabled."

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

4 * Section 1. AS 33.16.085(a) is amended to read:

5 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a
6 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a
7 prisoner who is serving a term of at least 181 days, may, upon application by the
8 prisoner or the commissioner, be released by the board on special medical parole if the
9 board determines that

10 (1) [FOR A PRISONER CONVICTED OF
11 (A) AN OFFENSE OTHER THAN A VIOLATION OF
12 AS 11.41.434 - 11.41.438, THAT] the prisoner is severely medically or
13 cognitively disabled [OR A QUADRIPLEGIC] as certified in writing by a
14 physician licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY

1 DISABLED OR A QUADRIPLÉGIC AT THE TIME THE PRISONER
2 COMMITTED THE OFFENSE OR PAROLE OR PROBATION
3 VIOLATION FOR WHICH THE PRISONER IS PRESENTLY
4 INCARCERATED; OR

5 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT
6 THE PRISONER IS A QUADRIPLÉGIC AS CERTIFIED BY A
7 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A
8 QUADRIPLÉGIC AT THE TIME THE PRISONER COMMITTED THE
9 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE
10 PRISONER IS PRESENTLY INCARCERATED]; [AND]

11 (2) [THAT] a reasonable probability exists that

12 (A) the prisoner will live and remain at liberty without
13 violating any laws or conditions imposed by the board;

14 (B) because of the prisoner's severe medical or cognitive
15 disability [BEING SEVERELY MEDICALLY DISABLED OR A
16 QUADRIPLÉGIC], the prisoner will not pose a threat of harm to the public if
17 released on parole; and

18 (C) release of the prisoner on parole would not diminish the
19 seriousness of the crime;

20 (3) the prisoner

21 (A) was not suffering from the severe medical or cognitive
22 disability at the time the prisoner committed the offense or parole or
23 probation violation for which the prisoner is presently incarcerated; or

24 (B) was suffering from the severe medical or cognitive
25 disability at the time the prisoner committed the offense or parole or
26 probation violation for which the prisoner is presently incarcerated and
27 the medical or cognitive disability has progressed so that the likelihood of
28 the prisoner's committing the same or a similar offense is low;

29 (4) the care and supervision that the prisoner requires can be
30 provided in a more medically appropriate or cost-effective manner than by the
31 department;

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(5) the prisoner is incapacitated to an extent that incarceration does not impose significant additional restrictions on the prisoner; and

(6) the prisoner is likely to remain subject to the severe medical or cognitive disability throughout the entire period of parole or to die and there is no reasonable expectation that the prisoner's medical or cognitive disability will improve noticeably; and

(7) an appropriate discharge plan has been formulated that addresses basic life domains of the prisoner, including care coordination, housing, eligibility for public benefits, and health care, including necessary medication.

* Sec. 2. AS 33.16.087(a) is amended to read:

(a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE FIRST DEGREE] requests notice of a scheduled hearing to review or consider special medical parole for a prisoner convicted of that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's or commissioner's application for parole submitted under AS 33.16.085. The [HOWEVER, THE] copy of the application sent to the victim must [MAY NOT] include the prisoner's proposed residence and employment addresses.

* Sec. 3. AS 33.16.900(11) is amended to read:

(11) "severely medically or cognitively disabled" means that a person has a medical condition, or a cognitive condition, that substantially reduces [ELIMINATES] the [PHYSICAL] ability to commit an offense similar to the offense for which the person was convicted or to commit an offense in violation of AS 11.41 that is punishable as a felony, and the person is likely to

(A) remain subject to the severe medical or cognitive condition throughout the entire period of parole; or

(B) die from the medical or cognitive condition;

* Sec. 4. AS 33.16.900(12) is amended to read:

(12) "special medical parole" means the release by the board before the expiration of a term, subject to conditions imposed by the board and subject to its

1 custody and jurisdiction, of a prisoner who is severely medically or cognitively
2 disabled [OR A QUADRIPLEGIC].

3 * Sec. 5. AS 33.30.017(c) is amended to read:

4 (c) The provisions of (b) of this section do not apply to prisoners

5 (1) who are

6 (A) developmentally disabled; or

7 (B) severely medically or cognitively disabled, as that term is
8 defined in AS 33.16.900;

9 (2) who are housed in a mental health unit or psychiatric unit of a state
10 correctional facility; or

11 (3) while placed in a state correctional facility awaiting classification
12 under classification procedures for the purpose of making the appropriate assignment
13 of the prisoner.

passed N/O

AMENDMENT 3

By: Stoltze + meyer

OFFERED IN THE HOUSE
TO: CSHB 229(STA)

1 Page 1, lines 10 - 12:

2 Delete "(1) [FOR A PRISONER CONVICTED OF

3 (A) AN OFFENSE OTHER THAN A VIOLATION OF

4 AS 11.41.434 - 11.41.438, THAT] the prisoner is severely medically or"

5 Insert "(1) the [FOR A] prisoner has not been convicted of [(A)] an offense under

6 AS 11.41.410 - 11.41.425 or [OTHER THAN A VIOLATION OF] AS 11.41.434 - 11.41.438

7 and [THAT] the prisoner is severely medically or"

House Finance Committee Vote Sheet

held

DATE: 4/25/03

SUBJECT: HB 229

MEMBER

YES

NO

CHENAULT	✓	
CROFT		✓
FOSTER	✓	
HAWKER		✓
JOULE	—	
MEYER	✓	
MOSES		✓
STOLTZE		✓
WHITAKER		✓
HARRIS	✓	
WILLIAMS	✓	
TOTAL:		

PASSED: 5/5

FAILED: _____

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 229 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/16/03 3:45pm Dept. Affected: Department of Corrections
 Title Parole for Medical/Cognitive Disability BRU Administration & Operations
 Component Inmate Health Care

Sponsor _____
 Requester _____ Component No. 705

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

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)

The annual average savings from passage of this legislation is calculated to be approximately \$500,000. It is difficult for the department to attempt to predict the number of severely medically or cognitively disabled inmates who may be considered for, and also granted, medical parole by the Alaska Board of Parole in future years. The numbers of inmates who may qualify for medical parole and their cost of care may vary greatly from year to year. The Governor's FY 04 budget contains a \$500,000 decrement to inmate medical care which assumes passage of this legislation.

Amounts are for informational purposes only.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone 465-3339
 Date/Time 4/17/03 10:15 AM
 Date 4/17/2003

Amendment #3

Nb Passed

STOLTZE

Sec. 2

✓ included
in CS

PAGE 3, lines 17-18

delete "However, the copy of the application sent to the victim may not include the prisoner's proposed residence or employment addresses."

replace with

"The copy of the application sent to the victim shall include the prisoner's proposed residence and employment addresses."

N/A

Passed

include in CS

AMENDMENT

#1

OFFERED IN THE HOUSE FINANCE COMMITTEE
BY REPRESENTATIVE CROFT

TO: HB 229(STA)

Page 2, line 14 after "because of the prisoner's":

INSERT: "severe" ✓

Page 2, line 21 after "suffering from the":

INSERT: "severe" ✓

Page 2, line 24 after "suffering from the":

INSERT: "severe" ✓

Page 3, line 3 after "likely to remain subject to the":

INSERT: "severe" ✓

Page 3, line 25 after "subject to the":

INSERT: "severe" ✓

Renumber accordingly.

23-LS0885\Q
Luckhaupt
4/17/03

CS FOR HOUSE BILL NO. 229(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to special medical parole and to prisoners who are severely medically
2 or cognitively disabled."

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

4 * **Section 1.** AS 33.16.085(a) is amended to read:

5 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a
6 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a
7 prisoner who is serving a term of at least 181 days, may, upon application by the
8 prisoner or the commissioner, be released by the board on special medical parole if the
9 board determines that

10 (1) [FOR A PRISONER CONVICTED OF

11 (A) AN OFFENSE OTHER THAN A VIOLATION OF
12 AS 11.41.434 - 11.41.438, THAT] the prisoner is severely medically or
13 cognitively disabled [OR A QUADRIPLEGIC] as certified in writing by a
14 physician licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY

1 DISABLED OR A QUADRIPLAGIC AT THE TIME THE PRISONER
2 COMMITTED THE OFFENSE OR PAROLE OR PROBATION
3 VIOLATION FOR WHICH THE PRISONER IS PRESENTLY
4 INCARCERATED; OR

5 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT
6 THE PRISONER IS A QUADRIPLAGIC AS CERTIFIED BY A
7 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A
8 QUADRIPLAGIC AT THE TIME THE PRISONER COMMITTED THE
9 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE
10 PRISONER IS PRESENTLY INCARCERATED]; [AND]

11 (2) [THAT] a reasonable probability exists that

12 (A) the prisoner will live and remain at liberty without
13 violating any laws or conditions imposed by the board;

14 (B) because of the prisoner's severe medical or cognitive
15 disability [BEING SEVERELY MEDICALLY DISABLED OR A
16 QUADRIPLAGIC], the prisoner will not pose a threat of harm to the public if
17 released on parole; and

18 (C) release of the prisoner on parole would not diminish the
19 seriousness of the crime;

20 (3) the prisoner

21 (A) was not suffering from the severe medical or cognitive
22 disability at the time the prisoner committed the offense or parole or
23 probation violation for which the prisoner is presently incarcerated; or

24 (B) was suffering from the severe medical or cognitive
25 disability at the time the prisoner committed the offense or parole or
26 probation violation for which the prisoner is presently incarcerated and
27 the medical or cognitive disability has progressed so that the likelihood of
28 the prisoner's committing the same or a similar offense is low;

29 (4) the care and supervision that the prisoner requires can be
30 provided in a more medically appropriate or cost-effective manner than by the
31 department;

1 (5) the prisoner is incapacitated to an extent that incarceration
2 does not impose significant additional restrictions on the prisoner; and

3 (6) the prisoner is likely to remain subject to the severe medical or
4 cognitive disability throughout the entire period of parole or to die and there is
5 no reasonable expectation that the prisoner's medical or cognitive disability will
6 improve noticeably; and

7 (7) an appropriate discharge plan has been formulated that
8 addresses basic life domains of the prisoner, including care coordination,
9 housing, eligibility for public benefits, and health care, including necessary
10 medication.

11 * Sec. 2. AS 33.16.087(a) is amended to read:

12 (a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE
13 FIRST DEGREE] requests notice of a scheduled hearing to review or consider special
14 medical parole for a prisoner convicted of that crime, the board shall send notice of the
15 hearing to the victim at least 30 days before the hearing. The notice must be
16 accompanied by a copy of the prisoner's or commissioner's application for parole
17 submitted under AS 33.16.085. The [HOWEVER, THE] copy of the application sent
18 to the victim must [MAY NOT] include the prisoner's proposed residence and
19 employment addresses.

20 * Sec. 3. AS 33.16.900(11) is amended to read:

21 (11) "severely medically or cognitively disabled" means that a person
22 has a medical condition, or a cognitive condition, that substantially reduces
23 [ELIMINATES] the [PHYSICAL] ability to commit an offense similar to the offense
24 for which the person was convicted or to commit an offense in violation of AS 11.41
25 that is punishable as a felony, and the person is likely to

26 (A) remain subject to the severe medical or cognitive
27 condition throughout the entire period of parole; or

28 (B) die from the medical or cognitive condition;

29 * Sec. 4. AS 33.16.900(12) is amended to read:

30 (12) "special medical parole" means the release by the board before the
31 expiration of a term, subject to conditions imposed by the board and subject to its

1 custody and jurisdiction, of a prisoner who is severely medically or cognitively
2 disabled [OR A QUADRIPLÉGIC].

3 * Sec. 5. AS 33.30.017(c) is amended to read:

4 (c) The provisions of (b) of this section do not apply to prisoners

5 (1) who are

6 (A) developmentally disabled; or

7 (B) severely medically or cognitively disabled, as that term is
8 defined in AS 33.16.900;

9 (2) who are housed in a mental health unit or psychiatric unit of a state
10 correctional facility; or

11 (3) while placed in a state correctional facility awaiting classification
12 under classification procedures for the purpose of making the appropriate assignment
13 of the prisoner.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 229(STA)
 (H) Publish Date: 4/11/03

Revision Date/Time (Note if correction): 4/09/03 1:45pm Dept. Affected: Department of Corrections
 Title: Parole for Medical/Cognitive Disability BRU: Administration & Operations
 Component: Inmate Health Care
 Sponsor: _____
 Requester: _____ Component No. 705

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	(500.0)	0.0	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	(500.0)	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (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	(500.0)	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(500.0)	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

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)

The annual average savings from passage of this legislation is calculated to be approximately \$500,000. The numbers of inmates who qualify for medical parole and their cost of care may vary greatly from year to year. The Governor's FY 04 budget contains a \$500,000 decrement to inmate medical care which assumes passage of this legislation.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone 465-3339
 Date/Time 4/9/03 1:54 PM
 Date 4/9/2003

REQUEST FOR MEDICAL PAROLE:						Updated 4/6/03
Release Date	Site	Costs FY'01	Costs FY'02	Costs FY'03	Costs to Date	Diagnosis
12/3/2010	AJ	\$ -	\$ 5,671.00	\$ 107,632.00	\$ 113,303.00	Heart condition
9/14/2038	SCCC	\$ -	\$ -	\$ 85,372.93	\$ 85,372.93	
6/2007	HMCC	\$ 183,591.00	\$ 2,500.00	\$ 89,103.00	\$ 275,194.00	Liver failure; hepatitis C; alcoholic cirrhosis
9/9/2002	Released	\$ 88,026.42	\$ 2,308.00	\$ -	\$ 90,334.42	Hodgkins
3/13/2011	SCCC	\$ 133,636.25	\$ 47,513.67	\$ 554.00	\$ 181,703.92	Advanced cardiac stroke
1/11/2004	AJ	\$ -	\$ 10,443.38	\$ 59,204.00	\$ 69,647.38	
10/2/2004	AJ	\$ -	\$ 23,734.27	\$ 50,459.64	\$ 74,193.91	Heart condition
9/10/2000	Deceased	\$ 46,202.99	\$ -	\$ -	\$ 46,202.99	Nasal Pharynx CA
7/28/2003	AJ	\$ -	\$ 212,589.00	\$ 335,351.59	\$ 547,940.59	Chronic abdominal blockages
	CIPT	\$ 150,631.22	\$ -	\$ 14,178.09	\$ 164,809.31	Advanced cardiac
10/16/2008	PCC	\$ 53,874.90	\$ 84,148.70	Not Available	\$ 138,023.60	CAD-CABG x 5
	Probation	\$ 123,067.20	\$ 2,477.80	\$ -	\$ 125,545.00	Nasal Pharynx CA
10/0/03	SCCC	\$ 193,700.00	\$ 500.00	\$ 26,293.20	\$ 220,493.20	Paraplegia - requires full-time aid
2/10/2001	Deceased	\$ 269,456.36	\$ -	\$ -	\$ 269,456.36	Advanced cardiac
	CIPT	\$ 19,387.49	\$ 24,698.61	\$ 59,011.04	\$ 103,097.14	
	Probation	\$ -	\$ -	\$ 22,169.70	\$ 22,169.70	Terminal metastatic cancer
11/17/2002	Deceased	\$ -	\$ 469.00	\$ 85,389.85	\$ 85,858.85	
11/22/2005	HMCC	\$ 70.00	\$ 29,625.60	\$ 110.00	\$ 29,805.60	Chronic anemia/splenectomy/lymphoma
3/29/2005	CIPT	\$ 300.00	\$ -	\$ 46,887.08	\$ 47,187.08	
8/17/2005	HMCC	\$ -	\$ -	\$ 70,030.59	\$ 70,030.59	Renal cell carcinoma
	CIPT	\$ 5,000.00	\$ 5,253.00	\$ 617.50	\$ 10,870.50	Alzheimers
4/22/2004	SCCC	\$ -	\$ -	\$ 5,558.83	\$ 5,558.83	Kidney mass
		\$ 1,266,943.83	\$ 451,932.03	\$ 1,057,923.04	\$ 2,776,798.90	\$5,553,598

REQUEST FOR MEDICAL PAROLE:						Updated 4/6/03
Release Date	Site	Costs FY'01	Costs FY'02	Costs FY'03	Costs to Date	Diagnosis
Out-of-State						
1/10/1963	AZ	\$ -	\$ 235.00	\$ 1,362.85	\$ 1,597.85	Renal failure
4/8/2003	AZ	\$ 6,540.24	\$ 53,644.05	\$ 88,133.38	\$ 148,317.67	Stroke w/L hemiplegia & ataxia
8/20/2004	AZ	\$ 196.00	\$ 360.76	\$ 208.29	\$ 765.05	Blind
9/19/2007	AZ	\$ -	\$ -	\$ -	\$ -	Abdominal mass
5/15/2020	AZ	\$ -	\$ -	\$ 48,532.02	\$ 48,532.02	
6/8/2003	AZ	\$ -	\$ -	\$ 6,966.37	\$ 6,966.37	CAD, HTN
10/2029	WA	\$ 259,752.00	\$ 85,618.00	\$ 38,543.40	\$ 183,913.40	Renal kidney failure - on dialysis
2011	WA	\$ -	\$ -	\$ 221,823.15	\$ 221,823.15	Paraplegia from DOC car accident
2/11/2003	Deceased	\$ 6,346.31	\$ 18,632.60	\$ 54,625.42	\$ 73,604.33	
5/4/2004	AZ	\$ -	\$ -	\$ 4,395.17	\$ 4,395.17	Cancer w/2 reoccurrences
9/24/2008	WA	\$ -	\$ 80,315.04	\$ 20,570.00	\$ 100,885.04	Stroke w/residual disability
9/7/2003	AZ	\$ -	\$ 881.43	\$ 3,821.46	\$ 4,702.89	Lung lesion
7/2025	AZ	\$ 8,565.76	\$ 2,321.55	\$ 20,588.67	\$ 31,475.98	Multiple aortic aneurysms; kidney disease
		\$ 281,400.31	\$ 242,008.43	\$ 509,570.18	\$ 1,032,978.92	\$2,065,958

Alaska State Legislature
House Finance Committee

REPRESENTATIVE
BILL WILLIAMS

Co-Chair

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State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE
JOHN HARRIS

Co-Chair

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State Capitol, Room 507

Juneau, AK 99801-1182

**COMMITTEE SUBSTITUTE FOR HOUSE BILL 229 (STA)
SPONSOR STATEMENT**

House Bill 229 gives the Alaska Board of Parole the flexibility to grant or deny medical parole to applicants. This allows the board to release severely disabled prisoners from confinement and gives the Department of Corrections relief from the high cost of providing medical service for these prisoners.

The Alaska Parole Board has a proven track record in their decision-making abilities. Over the past seven years, the Alaska Board of Parole has granted parole to approximately 45% of all *discretionary* parole applicants. Less than 8% of these parolees have violated their conditions (i.e., missed a meeting with a parole officer) and approximately 1% committed a new offense. This number is particularly compelling when compared to the 77% return rate of *mandatory* parole violators. Two applicants were considered for special medical parole in 2002 and both were denied.

When making a determination for Medical Parole the following are considered:

1. Department of Corrections' medical report
2. The seriousness of the criminal offense
3. Release plan
4. Parole Officer/DOC recommendation
5. Will not pose a threat to the public if released

House Bill 229 will allow the Alaska Board of Parole and the Department of Corrections to work together to determine an appropriate and cost effective release plan. The cost of health care to the Department of Corrections has significantly increased over the last few years. Some of the factors causing these increases are the increased population of terminally ill inmates and hospitalization of prisoners for long-term assisted care. This bill will give the department and the Parole Board another tool to ensure public safety and at the same time, help the department reduce the rising costs associated with providing medical service for prisoners afflicted with debilitating physical and mental disabilities.

Alaska State Legislature
House Finance Committee

REPRESENTATIVE
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State Capitol, Juneau, Alaska 99801-1182

SECTIONAL ANALYSIS
COMMITTEE SUBSTITUTE for HOUSE BILL 229 (STA)
“An Act relating to special medical parole and to prisoners who are severely medically and cognitively disabled.”

Section 1: Amends AS 33.16.085(a). Special medical parole. Removes the language stating that a prisoner who may be considered for medical parole may not be convicted of an offense in violation of AS 11.41.434 through AS 11.41.438 (Sexual abuse of a minor^{1,2,3}) and was not severely medically disabled or a quadriplegic at the time of the offense.

Adds language that the prisoner must be either severely medically disabled or have a cognitive disability. In addition to the above, other provisions allowing for special medical parole are:

- The prisoner was not suffering from the medical or cognitive disability at the time of the offense was committed or the medical or cognitive disability the prisoner had at the time of offense has progressed so that the likelihood of the prisoner committing the same or similar offense is low;
- The care and supervision required of the prisoner can be provided in a more medically appropriate or cost effective manner than can be provided by the Department of Corrections;
- The prisoner is incapacitated to the extent that institutional confinement does not offer additional restrictions; and
- The prisoner is likely to die or remain subject to the condition throughout the entire period of parole and there is no reasonable expectation that the prisoner's disability will improve noticeably.
- A discharge plan that addresses basic life domains of the prisoner to include care coordination, housing, eligibility for public benefits and health care and medication must be formulated prior to release.

Section 2: Amends AS 33.16.087(a). Rights of certain victims in connection with special medical parole. Removes the words "against a person or arson in the first degree". This allows victims of any crime to request notice of a scheduled hearing to review or consider special medical parole. The parole board is required to send notice 30 days before the hearing.

Section 3: Amends AS 33.16.900(11). Definitions. Adds "or cognitively" disabled to the definition of severely medically disabled. Also adds "or a cognitive condition" to the definition. The words "eliminates" and "physical" are removed. Eliminates is replaced by reduces. Removal of the word "physical" allows for any disability to be considered for medical parole.

Section 4: Amends AS 33.16.900(12). Definitions. Amends the definition of special medical parole to include "or cognitively".

Section 5: Amends AS 33.30.017(c). Adds cognitively to this section of statute.



Sec. 33.16.085. Special medical parole.

(a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a prisoner may be serving or any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term of at least 181 days, may, upon application by the prisoner or the commissioner be released by the board on special medical parole if the board determines

(1) for a prisoner convicted of

(A) an offense other than a violation of AS 11.41.434 - 11.41.438, that the prisoner is severely medically disabled or a quadriplegic as certified in writing by a physician licensed under AS 08.64, was not severely medically disabled or a quadriplegic at the time the prisoner committed the offense or parole or probation violation for which the prisoner is presently incarcerated; or

(B) a violation of AS 11.41.434 - 11.41.438, that the prisoner is a quadriplegic as certified by a physician licensed under AS 08.64 and was not a quadriplegic at the time the prisoner committed the offense or parole or probation violation for which the prisoner is presently incarcerated; and

(2) that a reasonable probability exists that

(A) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(B) because of being severely medically disabled or a quadriplegic, the prisoner will not pose a threat of harm to the public if released on parole; and

(C) release of the prisoner on parole would not diminish the seriousness of the crime.

(b) If the board finds a change in circumstances or discovers new information concerning a prisoner who has been granted a special medical parole release date, the board may rescind or revise the previously granted parole release date.

(c) The board shall issue its decision to grant or deny special medical parole, or to rescind or revise the release date of a prisoner granted special medical parole, in writing and provide a basis for the decision. A copy of the decision shall be provided to the prisoner.



Sec. 11.41.434. Sexual abuse of a minor in the first degree.

(a) An offender commits the crime of sexual abuse of a minor in the first degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or

(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.436. Sexual abuse of a minor in the second degree.

(a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455 (a)(2) - (6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the

offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is a class B felony.

Sec. 11.41.438. Sexual abuse of a minor in the third degree.

(a) An offender commits the crime of sexual abuse of a minor in the third degree if

(1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the third degree is a class C felony.



Sec. 33.16.087. Rights of certain victims in connection with special medical parole.

(a) If the victim of a crime against a person or arson in the first degree requests notice of a scheduled hearing to review or consider special medical parole for a prisoner convicted of that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's or commissioner's application for parole submitted under AS 33.16.085. However, the copy of the application sent to the victim may not include the prisoner's proposed residence and employment addresses.

(b) A victim who requests notice under this section shall maintain a current, valid mailing address on file with the board. The board shall send the notice required by this section to the last known address of the victim. The victim's address may not be disclosed to the prisoner or the prisoner's attorney.

(c) The victim has a right to attend meetings of the parole board in which the status of the prisoner convicted of the crime against that victim is officially considered and to comment, in writing or in person, on the proposed action of the board. Copies of any written comments shall be provided to the prisoner and the prisoner's attorney before action by the board.

(d) The board shall consider the comments presented under (c) of this section in deciding whether to release the prisoner on special medical parole.

(e) If the victim requests, the board shall make every reasonable effort to notify the victim as soon as practicable in writing of its decision to grant or deny special medical parole. The notice under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.



Sec. 33.16.900 Definitions.

In this chapter

- (1) "board" means the board of parole;
- (2) "commissioner" means the commissioner of corrections;
- (3) "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;
- (4) "crime against a person" has the meaning given in AS 33.30.901 ;
- (5) "crime involving domestic violence" and "domestic violence" have the meanings given in AS 18.66.990 .
- (6) "department" means the Department of Corrections;
- (7) "discretionary parole" means the release of a prisoner by the board before the expiration of a term, subject to conditions imposed by the board and subject to its custody and jurisdiction; "discretionary parole" does not include "special medical parole";
- (8) "mandatory parole" means the release of a prisoner who was sentenced to one or more terms of imprisonment of two years or more, for the period of good time credited under AS 33.20, subject to conditions imposed by the board and subject to its custody and jurisdiction;
- (9) "parolee" means a prisoner, sentenced to one or more terms of imprisonment exceeding 180 days in the case of discretionary parole and of two years or more in the case of mandatory parole, released by the board or by operation of law before the expiration of the term, subject to the custody and jurisdiction of the board;
- (10) "prisoner" means an offender confined for a violation of state law, but does not include a person confined under AS 47;
- (11) "severely medically disabled" means that a person has a medical condition that substantially eliminates the physical ability to commit an offense similar to the offense for which the person was convicted or to commit an offense in violation of AS 11.41 that is punishable as a felony, and the person is likely to
 - (A) remain subject to the medical condition throughout the entire period of parole; or
 - (B) die from the medical condition;
- (12) "special medical parole" means the release by the board before the expiration of a term, subject to conditions imposed by the board and subject to its custody and jurisdiction, of a prisoner who is severely medically disabled or a quadriplegic.

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



Sec. 33.30.017. Fees for utilities services for prisoners.

(a) The commissioner shall establish a reasonable utility fee for electrical utilities that are used by prisoners who are confined in a state correctional facility.

(b) The commissioner shall

(1) charge each prisoner who possesses at least one major electrical appliance the utility fee established in (a) of this section; the commissioner may deduct the utility fee monthly from the account established for a prisoner into which money due the prisoner for labor is paid; if a prisoner is indigent, the commissioner shall make the deduction from any amount credited to the indigent inmate's account;

(2) if available from legislative appropriation, expend money deducted and collected under (1) of this subsection to offset the cost of the department's utility expenses; the commissioner shall annually report on the amounts that are collected and expended under this paragraph.

(c) The provisions of (b) of this section do not apply to prisoners

(1) who are

(A) developmentally disabled; or

(B) severely medically disabled, as that term is defined in AS 33.16.900;

(2) who are housed in a mental health unit or psychiatric unit of a state correctional facility; or

(3) while placed in a state correctional facility awaiting classification under classification procedures for the purpose of making the appropriate assignment of the prisoner.

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46-23-210. Medical parole. (1) The board may release on medical parole by appropriate order a person placed in a correctional institution or program, except a person under sentence of death. To be eligible for a medical parole, a person must have an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The diagnosis must include:

(a) a determination that the person suffers from an incapacitating physical condition, disease, or syndrome;

(b) a description of the physical condition, disease, or syndrome and a detailed description of the person's physical incapacity; and

(c) a prognosis addressing the likelihood of the person's recovery from the physical condition, disease, or syndrome and the extent of any potential recovery.

(2) The diagnosis must be reviewed and accepted by the department before the board may consider granting a medical parole. The board may not grant a medical parole unless the incapacitating physical condition, disease, or syndrome renders the person highly unlikely to present a clear and present danger to public safety.

(3) The board shall require as a condition of medical parole that the person agree to placement in an environment chosen by the department during the parole period, including but not limited to a hospital, nursing home, or family home. The board may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician. If either the board or department determines that the person's physical capacity has improved to the extent that the person is likely to pose a possible detriment to society, the board may revoke the parole and return the person to the custody of the department.

(4) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's parent, grandparent, child, or sibling by submitting the request in writing to the administrator of the correctional institution in which the person is incarcerated.

(5) A grant or denial of medical parole does not affect the person's eligibility for nonmedical parole.

(6) Sections 46-23-203, 46-23-205 through 46-23-207, and 46-23-215 through 46-23-218 apply to nonmedical parole.

History: En. Sec. 1, Ch. 248, L. 1991; amd. Sec. 1, Ch. 381, L. 1993; amd. Sec. 23, Ch. 125, L. 1995; amd. Sec. 3, Ch. 420, L. 1997.

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Help

Next Section 

Provided by Montana Legislative Services

Administrative Rule 20.25.302A

20.25.302A MEDICAL PAROLE (1) The board may release a person on medical parole except a person under sentence of death. To be eligible for a medical parole, a person must have an examination and written diagnosis by a physician licensed under Title 37, MCA to practice medicine. The diagnosis must include a determination that the person suffers from an incapacitating physical condition, disease, or syndrome, a description of the physical condition, disease, or syndrome and a detailed description of the person's physical incapacity and a prognosis addressing the likelihood of the person's recovery from the physical condition, disease, or syndrome and the extent of any potential recovery.

(2) The diagnosis must be reviewed and accepted by the department of corrections before the board may consider granting a medical parole.

(3) The board may not grant a medical parole unless the incapacitating physical condition, disease, or syndrome renders the person highly unlikely to present a clear and present danger to the public safety.

(4) The board shall require as a condition of medical parole that the person agree to placement in an environment chosen by the department during the parole period, including but not limited to a hospital, nursing home or family home. The board may require as a condition of parole that the person agree to periodic examinations and diagnosis at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician. If either the board or department determines that the person's physical capacity has improved to the extent that the person is likely to pose a possible detriment to society, the board may revoke the medical parole and return the person to the custody of the department.

(5) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's parent, grandparent, child, or sibling by submitting the request in writing to the administrator of the correctional institution in which the person is incarcerated.

(6) After receiving a request for a medical parole hearing from the warden/superintendent or their designate, the board will schedule a hearing in a timely manner.

(7) Prior to the medical parole hearing, the board, through its staff, shall gather for the board's formal deliberations, all pertinent information on each inmate, including but not limited to the nature of the offense, social history, criminal history, institutional performance, and any medical and mental examinations which may have been made while in custody.

(8) Upon receiving notification from the department that a medical parolee is eligible for nonmedical parole, the board will consider the

person for nonmedical parole according to the rules established for nonmedical parole consideration. Unless the board otherwise orders or there has been a substantial change in the person's physical condition, disease or syndrome, after medical parole consideration an applicant may not reappear for medical parole consideration for a period of 12 months.

(9) A grant or denial of medical parole does not affect a person's eligibility for nonmedical parole.

(10) Revocation procedures for a medical parolee shall be consistent with the procedural rules adopted for revocation of release. (History: 46-23-218, MCA; IMP, 46-23-210, MCA; NEW, 1993 MAR p. 297, Eff. 2/26/93; AMD, 1994 MAR p. 168, Eff. 1/28/94; AMD, 1999 MAR p. 290, Eff. 2/12/99.)



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DEPARTMENT OF CORRECTIONS
POLICIES AND PROCEDURES

Policy No.: DOC 4.7.1	Subject: MEDICAL PAROLE
Chapter 4: FACILITY / PROGRAM SERVICES	Page 1 of 6
Section 7: Releases / Placement	Revision Date: Jan. 5, 1998
Signature: /s/ by Director Rick Day 1/5/98	Effective Date: Mar. 11, 1996

I. POLICY:

It is the policy of the Department of Corrections that selected offenders, housed in correctional facilities or programs, may be considered for medical parole. This policy, and the Montana Codes Annotated specifically preclude persons under sentence of death from eligibility for medical parole.

II. AUTHORITY:

53-1-203, MCA. Powers and Duties of the Department

46-23-210, MCA. Medical Parole

Title 37, Chapter 3, MCA. Professions and Occupations, Medicine, Licensing

III. DEFINITIONS:

Medical Parolee means an offender who has been released on medical parole to the community supervision of the Department, by the Board of Pardons and Parole, after a licensed physician has determined that the person suffers from an incapacitating physical condition, disease, or syndrome and the Board of Pardons and Parole has determined that such condition renders the person highly unlikely to present a clear and present danger to public safety.

Medical Parole Candidate (Parole Candidate) means an offender placed in a correctional facility or program for whom the status of medical parole is under consideration.

Division Administrator means the Administrator of the Community Corrections Division of the Department of Corrections.

Board means the Board of Pardons and Parole.

Department means the Department of Corrections.

IPPO means Institutional Probation and Parole Officer.

IV. PROCEDURES:

Consideration of medical parole will be based upon a medical diagnosis that the offender suffers from an incapacitating physical condition, disease, or syndrome; a description of the disease; the offender's incapacity; and a prognosis addressing the offender's likelihood of recovery. The Board may not grant medical parole unless it finds that the incapacitating condition, disease or syndrome renders the offender highly unlikely to present a clear and present danger to public safety.

A. Request for Medical Parole

Medical parole may be requested by the Board, the Department, the offender, the offender's parent, grandparent, child, sibling or a recognized representative. The request must be made in writing to the Warden/Superintendent of the correctional facility where the offender is incarcerated, or to the Division Administrator if the offender is residing in a community corrections program. The written request must include:

1. The reasons for the requested medical parole.
2. The relationship of the parole candidate to the requesting party (if the request is not from the offender).
3. The name, address and telephone number of the proposed individual or facility which has agreed to provide care to the parole candidate.
4. The name, address and telephone number of the physician who has agreed to provide medical care to the parole candidate while on medical parole.
5. A statement documenting the parole candidate's ability to pay for residential care and on-going medical care.
6. Specific travel arrangements for transporting the medical parolee to the caretaking person or facility.
7. A statement of the requesting party's willingness to cooperate with the Board and the Department in all matters relating to the status of the medical parolee.

B. Medical Documentation

Attached to the Request for Medical Parole must be written documentation of a thorough medical examination conducted by a physician licensed to practice medicine under Title 37 Montana Codes Annotated. The written diagnosis resulting from this examination must include:

Subject: **MEDICAL PAROLE**

1. A determination that the parole candidate suffers from an incapacitating physical condition, disease or syndrome.
2. A description of the physical condition, disease or syndrome, and a detailed description of the offender's physical incapacity.
3. A prognosis regarding the offender's likelihood of recovery from the incapacitating physical condition, disease or syndrome and the extent of any potential recovery.

C. Medical Examinations/Diagnosis

1. The parole candidate, or another person designated in statute to make a request on behalf of the parole candidate, may submit a written request for a medical diagnosis to the Warden, Superintendent or Division Administrator. Copies of the request must be submitted to the Department medical coordinator for review and comment.
2. The medical examination and diagnosis will typically be completed by a physician named by the Department. When the Department makes the request for a medical examination and names the physician, the Department will assume the expense of the examination and the diagnosis.
3. In the event that the parole candidate or designee requests a medical examination by a physician of the candidate's choice, payment will be the responsibility of the candidate and/or the requesting party.
4. The Department reserves the right to review, and accept or deny the medical diagnosis, regardless of who designates the physician, before the Board considers granting a medical parole.

D. Location of Placement

1. As a condition of medical parole, placement of a parole candidate must be established at a location acceptable to the Department prior to the offender's release on medical parole.
2. Placement may be in a hospital, nursing home, family home, or other location acceptable to the Department.

E. Approval/Disapproval of a Request for Medical Parole

Subject: MEDICAL PAROLE

1. The final decision to grant, deny or revoke a medical parole is within the discretion of the Board. Nothing herein shall be construed as creating a right to medical parole, or otherwise reducing the Board's discretion as provided for by statute.
2. The Department reserves the right to make decisions relative to the eligibility of a parole candidate to be considered by the Board for Medical Parole. Eligibility decisions by the Department will be made based on the medical diagnosis and examination; however, the Department will take into consideration the potential risk that the parole candidate may pose to the safety and security of the community. Eligibility decisions of the Department are not appealable.
3. When the medical examination and diagnosis is complete, the party requesting the medical parole will attach written documentation to the Request for Medical Parole and submit that documentation to the Warden, Superintendent, or the Division Administrator.
4. The Warden, Superintendent or Division Administrator will consult with the medical coordinator to determine whether further medical examination is appropriate and necessary.
5. If the Warden, Superintendent, or the Division Administrator denies the request, the denying party will provide the individual that requested the medical parole with written reasons for the disapproval.
6. If the request is approved on behalf of the Department, it will be forwarded with a letter of approval to the Institutional Probation and Parole Officer (IPPO) who is assigned to the parole candidate.
7. The IPPO, in consultation with correctional facility staff, will prepare, and/or request preparation, of all pre-parole documents required by the Board. Attachments to the request to the Board will include the Request for Medical Parole, medical diagnosis, letter of approval from the Department representative, and recommended conditions for parole. The IPPO will be responsible for forwarding all pre-parole documents to the Board.
8. The Board will schedule a hearing in a timely manner and approve or disapprove the medical parole request. All decisions of the Board must be in writing and signed by at least two Board members and delivered to the parole candidate within thirty days from the date of the hearing. If the medical parole is approved, the IPPO shall provide the parolee a waiver of release of medical information. The parolee, or a recognized representative, must sign the waiver prior to

Subject: **MEDICAL PAROLE**

release from the facility or program to medical parole. Copies of the waiver will be provided to the Department, the Board and the care-giver in the community.

9. After the Board has approved the medical parole, the Probation and Parole Bureau will investigate the medical parole plan and send the findings to the Board.
10. When a medical parole plan is approved by the Board, the parolee or a recognized representative will sign the standard conditions of parole, as well as any conditions set by the Board which are specific to the parolee's circumstances. Normal parole sign up procedures will be followed by the parolee, the Board and the supervising Probation and Parole Officer.
11. If the medical parole plan is denied, the plan will be returned to the IPPO to determine if concerns that the Board has identified can be addressed and if the plan can be resubmitted for further consideration by the Board at a future date.
12. An applicant may not reapply for medical parole consideration for a period of twelve months unless there has been a documented and substantial change in the offender's physical condition, disease or syndrome. The Board may, on its own motion, consider exceptions to this requirement in the event that special circumstances warrant reconsideration.
13. Decisions by the Board on any request for Medical Parole are not reviewable.

F. Conditions of Medical Parole

The Board may require additional conditions for the medical parolee, including but not limited to periodic medical examinations and updated prognoses of the parolee. Periodic medical examinations and updates to the original diagnosis will be at the expense of the parolee. If such examinations and prognoses are required by the Board, copies of the results shall be submitted to the Board and the Department by the examining physician. The parolee must sign a release of information allowing the Department and the Board to be provided with information on all medical treatment received during the time of medical parole.

G. Consideration for Non-Medical Parole

Policy No.: DOC 4.7.1	Chapter: Facility/Program Services	Page 6 of 6
Subject: MEDICAL PAROLE		

1. When a medical parolee is 60 days from the regular parole eligibility date, the Records Supervisor responsible for maintaining records for the parolee will inform the Board and the supervising officer of the date of non-medical parole eligibility.
2. Upon notification that the medical parolee is being considered for non-medical parole status, the supervising probation and parole officer will be responsible for providing the Board with all pre-parole documents, reports, and recommendations.
3. The Board will, within its regular course of business, conduct a hearing to determine whether the parolee should remain on medical parole status or be granted a non-medical parole. The Board will inform all appropriate parties of its decision, in writing, in a timely manner.

H. Violation of Conditions of Medical Parole

1. If it is alleged that the parolee has violated the conditions of medical parole, or that the offender's physical capabilities have improved to the extent that the parolee may pose a threat to public safety, normal procedures for parole revocation may be implemented by the supervising Probation and Parole Officer.
2. Either the Board or the Department may determine that the parolee is likely to pose a danger to public safety. If that determination is made, the Board may revoke the parole and return the offender to the custody of the Department.

V. CLOSING:

Questions concerning this policy should be directed to the Warden/Superintendent, Community Corrections Division Administrator, the Board of Pardons and Parole, or the Director of the Department of Corrections.

TITLE 13

Criminals – Correctional Institutions

CHAPTER 13-8.1

Medical Parole

SECTION 13-8.1-4

§ 13-8.1-4 Procedure. – (a) The parole board is authorized to grant release of a prisoner, except a prisoner serving life without parole, at any time, who is determined to be terminally ill or permanently physically incapacitated within the meaning of § 13-8.1-3.

(b) In order to apply for this relief, the prisoner, with an attending physician's written approval, or an attending physician, on behalf of the prisoner, shall file an application with the director of the department of corrections. Within seventy-two (72) hours after the filing of any application, the director shall refer the application to the health service unit of the department of corrections for a medical report and a medical discharge plan to be completed within five (5) days. Upon receipt of the medical discharge plan the director of the department of corrections shall immediately transfer the medical discharge plan together with the application to the parole board for its consideration and decision.

(c) The report shall contain, at a minimum, the following information:

(1) Diagnosis of the prisoner's medical conditions, including related medical history;

(2) Detailed description of the conditions and treatments;

(3) Prognosis, including life expectancy, likelihood of recovery, likelihood of improvement, mobility, and rate of debilitation;

(4) Degree of incapacity or disability, including an assessment of whether the prisoner is ambulatory, capable of engaging in any substantial physical activity, and the extent of that activity;

(5) An opinion from the medical director as to whether the person is terminally ill, and if so, the stage of the illness or whether the person is permanently physically incapacitated.

(d) When the director of corrections refers a prisoner to the parole board for medical parole, the director shall provide to the parole board a medical discharge plan which is acceptable to the parole board.

(e) The department of corrections and the parole board shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting. The discharge plan should ensure at the minimum that:

(1) An appropriate placement for the prisoner has been secured, including, but not limited to, a

hospital, nursing facility, hospice, or family home;

(2) A source for payment of the prisoner's medical expenses has been secured;

(3) A physician continues to examine the releasee and report back to the board.

(f) If the parole board finds from the credible medical evidence that the prisoner is terminally ill or permanently physically incapacitated, the board shall grant release to the prisoner but only after the board also considers whether, in light of the prisoner's medical condition, there is a reasonable probability that the prisoner, if released, will live and remain at liberty without violating the law, and that the release is compatible with the welfare of society and will not so depreciate the seriousness of the crime as to undermine respect for the law. Notwithstanding any other provision of law, release may be granted at any time during the term of a prisoner's sentence.

(g) There shall be a presumption that the opinion of the physician and/or medical director will be accepted. However, the applicant, the physician, the director, or the parole board may request an independent medical evaluation within seven (7) days after the physician's and/or medical director's report is presented. The evaluation shall be completed and a report, containing the information required by subsection (b) of this section, filed with the director and the parole board and a copy sent to the applicant within fourteen (14) days from the date of the request.

(h) Within seven (7) days of receiving the application, the medical report and the discharge plan, the parole board shall determine whether the application, on its face, demonstrates that relief may be warranted. If the face of the application clearly demonstrates that relief is unwarranted, the board may deny the application without a hearing or further proceedings, and within seven (7) days shall notify the prisoner in writing of its decision to deny the application, setting forth its factual findings and a brief statement of the reasons for denying release without a hearing. Denial of release does not preclude the prisoner from reapplying for medical parole after the expiration of sixty (60) days. A reapplication under this section must demonstrate a material change in circumstances.

(i) Upon receipt of the application from the director of the department of corrections the parole board shall, except as provided in subsection (h) of this section, set the case for a hearing within fourteen (14) days;

(2) Notice of the hearing shall be sent to the prosecutor and the victim(s), if any, of the offense(s) for which the prisoner is incarcerated, and the prosecutor and the victim(s) shall have the right to be heard at the hearing, or in writing, or both;

(3) At the hearing, the prisoner shall be entitled to be represented by an attorney or by the public defender if qualified or other representative.

(j) Within seven (7) days of the hearing, the parole board shall issue a written decision granting or denying medical parole and explaining the reasons for the decision. If the board determines that medical parole is warranted, it shall impose conditions of release, which shall include the following:

(1) Periodic medical examinations;

(2) Periodic reporting to a parole officer, and the reporting interval;

(3) Any other terms or conditions that the board deems necessary.

(k) If after release the releasee's condition or circumstances change so that he or she would not then be eligible for medical parole, the parole board may order him or her returned to custody to await a hearing to determine whether his or her release should be revoked. A release may also be revoked for violation of conditions otherwise applicable to parole.

(l) An annual report shall be prepared by the director of corrections for the parole board and the general assembly. The report shall include:

- (1) The number of inmates who have applied for medical parole;
- (2) The number who have been granted medical parole;
- (3) The nature of the illness of the applicants, and the nature of the placement pursuant to the medical discharge plan;
- (4) The categories of reasons for denial for those who have been denied;
- (5) The number of releasees on medical parole who have been returned to the custody of the department of corrections and the reasons for return.

HB

229

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED BY

MAY 14 2003

DATE: 5/7/03

FURTHER:

SENATE FINANCE
COMMITTEE

DATE TURNED
IN TO OFFICE:

14 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 229(FIN)

HB 229 PAROLE FOR MEDICAL/COGNITIVE DISABILITY

"An Act relating to special medical parole and to prisoners who are severely medically or cognitively disabled."

and recommends:

- be replaced with S CS CS HB 229 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DHSS ^{HLTH P.b.} _{Asst.}	4/25/03	8.7		#4
DHSS Medical SVCS	4/25/03	363.7		#3
Corrections	4/25/03	(500.0)		#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Adrian L. Taylor</i>	✓			
<i>[Signature]</i>	✓			
<i>Thomas P. [Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>Ben Stevens</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

MAY 14 2003

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2 SENATE FINANCE
Bill Version: CSHB 229(FIN)
(H) Publish Date: 5/2/03

Revision Date/Time (Note if correction): 4/28/03 8:45am Dept. Affect: Department of Corrections
Title: Parole for Medical/Cognitive Disability BRU: Administration & Operations
Component: Inmate Health Care
Sponsor: _____
Requester: _____ Component No. 705

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (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	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(500.0)	(550.0)	(605.0)	(665.5)	(732.1)	(805.3)

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: X

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)

The annual average savings from passage of this legislation is calculated to be approximately \$500,000. The numbers of inmates who qualify for medical parole and their cost of care may vary greatly from year to year. The Governor's FY 04 budget contains a \$500,000 decrement to inmate medical care which assumes passage of this legislation.

Amounts are for informational purposes only.

Prepared by: Jerry D. Burnett, Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone 465-3339
Date/Time 4/28/03 12:51 PM
Date 4/28/2003

FISCAL NOTE #2

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 229(FIN)

ANALYSIS CONTINUATION

Key assumptions underlying this analysis:

- Continued growth of critically ill inmates incarcerated by the Department of Corrections (DOC).
- Highest proportion of medical expenditures occurs in the last six weeks of life.
- Expertise exists whereby the DOC can identify with a high degree of medical certainty inmates at risk of death in 3-6 months, one year as a maximum projected survival time frame.
- A continued medical cost of living index increase approximating 10% per year (This comes from national projections and is not unique to Alaska). Projected savings for the first year must utilize this fact in calculating savings beyond the first year.
- Cost savings look only at the medical savings to the DOC and not the potential savings that may occur due to reduced security costs.
- Estimate utilizes actual costs to the DOC on selected patients who represent a cross-section of the type of inmate who would be eligible for medical parole.
- Projections are conservative and represent the most probable minimum savings to the DOC; actual future savings could be greater.

Projected Savings by increased flexibility in Medical Parole

Analysis utilizes actual costs (billings paid) on twenty-seven selected inmates for the time period FY01 – April 2003 (representing 30 months of billings) with significant medical conditions who have incurred medical costs ranging from \$22,170 to \$547,000.

Four inmates from this analysis are deceased and fit the profile for the type of person who potentially would be identified and released with a more flexible medical parole state statute; namely these individuals died within six months of being medically recognized as being at high risk for death. These four inmates incurred costs ranging from \$46,210 to \$269,456, for an average of \$120,000. Cause of death were due to:

- Advanced cardiac disease with congestive heart failure
- Metastatic cancers (Nasal & Melanoma)
- End-stage liver disease

Analysis for total group based on 27 selected inmates

Total expenditures over 2.5 years (30 months) = \$3,775,000
Average monthly costs over thirty month period = \$125,830
Annual cost projected from monthly average over 30 months = \$1,509,960
Annual cost per inmate averaged annually = \$55,925

Assume after review of all factors (Medical, nature of crime and resources available to a specific inmate, i.e. personal and family resources, public assistance eligibility, etc.), the Parole Board grants medical parole to ONLY nine inmates (33%) of all potential candidates reviewed.

Projected savings based on above = 9 inmates x \$55,925 (Annualized savings) = \$503,325

Note: This is a conservative analysis based on only 33% granting of medical parole. If this were increased to one in two candidates (i.e. 50%), the savings could increase to \$755,000. Additionally, although annualized, the total number of potential candidates for medical parole could be greater. Based on 2.5 years experience, the number of inmates who may qualify for medical parole is not anticipated to decrease significantly.

FISCAL NOTE

MAY 14 2003

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 229(FIN)
(H) Publish Date: 5/2/03

Revision Date/Time (Note if correction): 4/25/2003

Dept. Affected: Health & Social Services

Title SPECIAL MEDICAL PAROLE

BRU Medical Assistance

Component Medicaid Services

Sponsor HOUSE(FIN)

Requester _____

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.7	400.1	440.1	484.1	532.5	585.7
Miscellaneous						
TOTAL OPERATING	363.7	400.1	440.1	484.1	532.5	585.7

CAPITAL EXPENDITURES

CHANGE IN REVENUES (0)

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	218.2	240.1	264.1	290.5	319.5	351.4
1003 GF Mental Health	145.5	160.0	176.0	193.6	213.0	234.3
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	363.7	400.1	440.1	484.1	532.5	585.7

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill gives the Department of Corrections greater discretion to grant special medical parole to "severely medically disabled" prisoners whose medical or cognitive condition, including irreversible dementia, substantially reduces, rather than substantially eliminates, the prisoner's ability to re-offend. This bill is seen as one way to reduce Department of Correction costs by paroling prisoners so that they can receive health care services in a more cost-effective and appropriate manner. Much of the health care costs are shifted to Medicaid, which receives federal matching funds.

Prepared by: Kevin Henderson Phone 465-5821
 Division Medical Assistance Date/Time 04/25/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/25/2003
 Agency Department of Health and Social Services

ANALYSIS CONTINUATION
ASSUMPTIONS

Our assumptions are based upon the list of 13 inmates that the Department of Corrections identified as representative of the type of parolees they would consider for medical parole under this bill. The Department of Corrections estimates that the typical parolee under this bill will have a life expectancy of 6 months or less. We reviewed the age and medical condition of each and estimated that 9 of the 13 are likely to be categorically eligible for Medicaid, 4 would not. We do not have income or resource information for the remaining 9 inmates, but we are assuming that because of their lengthy incarceration they would have very little income or resources available to them upon release and, therefore, will be financially eligible for Medicaid.

The anticipate cost for each parolee is based upon the following Medicaid categories and the average annual cost of Medicaid recipients in those categories:

Parolees	Category	FY02 average annual cost
2	Disabled	\$11,408
2	Old Age	\$10,869
5	Nursing Home	\$63,954

We estimated the life expectancy of a parolee released under this bill to be 6 months. Medical care in the final months of life is higher than the average costs listed above. Therefore, we started with one-half of the average annual cost listed above, but increased that amount by 50 percent to adjust for the higher cost associated with the end of life.

Nationwide health care costs are growing at an annual rate of 10%, consequently Medicaid expenditures are estimated to grow at the same rate.

Federal Medicaid match rate is 60%.

MAY 14 2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 229(FIN)
 (H) Publish Date: 5/2/03
 Dept. Affected: Health & Social Services
 BRU Public Assistance
 Component Adult Public Assistance

Revision Date/Time (Note if correction): 4/25/2003
 Title SPECIAL MEDICAL PAROLE

Sponsor HOUSE(FIN)
 Requester _____

Component No. 222

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	8.7	8.7	8.7	8.7	8.7	8.7
Miscellaneous						
TOTAL OPERATING	8.7	8.7	8.7	8.7	8.7	8.7

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	8.7	8.7	8.7	8.7	8.7	8.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	8.7	8.7	8.7	8.7	8.7	8.7

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill gives the Department of Corrections greater discretion to grant special medical parole to severely medically disabled prisoners.

Of the nine severely medically disabled prisoners identified by the Department of Corrections as potential medical parolees, four appear to be eligible for Adult Public Assistance (APA) upon their release.

Continued on page 2.

Prepared by: Angela Salerno Phone 465-3200
 Division Public Assistance Date/Time 01/15/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/25/2003
 Agency Department of Health and Social Services

ANALYSIS CONTINUATION

Assumptions

Of the nine inmates identified as potential medical parolees, five will need Nursing Home level of care and will not be eligible for APA. Four parolees will be eligible for APA in FY 04.

As life expectancy for these parolees is six months, those paroleed in FY 04 will die, and only four new medical parolees will become eligible for APA in FY 05. We expect this trend to continue so that in FY06 and each fiscal year beyond, we anticipate a total of four parolees will be APA eligible.

Because of their lengthy incarceration, the potential medical parolees identified would have very limited income or resources and would be eligible for the maximum APA benefit of \$362/mo.

Calculations

FY 04 - FY 09: 4 persons x \$362/mo x 6 months = \$8.7

Robin - You'll need to request SCR

23-LS1127A
Cook\Luckhau,
5/9/03

SENATE CONCURRENT RESOLUTION NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced:
Referred:

A RESOLUTION

1 Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State
2 Legislature, concerning House Bill No. 229, relating to special medical parole and to
3 prisoners who are severely medically or cognitively disabled.

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
7 changes to the title of a bill, are suspended in consideration of House Bill No. 229, relating to
8 special medical parole and to prisoners who are severely medically or cognitively disabled.

This is needed because of title change.

You don't need to do anything - Just to know that a SCR will be introduced

SENATE FINANCE
COMMITTEE
Amendment Number: #1
Bill Number: HB 229
Sponsor: Wilken Date: 5/10/03
Logged In By: Robin

ADOPTED

23-LS0885S.1
Luckhaupt
5/9/03

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 229(FIN)

1 Page 1, line 2:

2 Following "disabled":

3 Insert "; relating to a severe acute respiratory syndrome control program; and
4 providing for an effective date."

5

6 Page 1, following line 3:

7 Insert new bill sections to read:

8 "* Section. 1. The uncodified law of the State of Alaska is amended by adding a new
9 section to read:

10 PURPOSE. (a) The purpose of sec. 2 of this Act is to clarify the law and expressly
11 establish a comprehensive program for health care decisions to control severe acute
12 respiratory syndrome (SARS) in this state, including reporting, examinations, orders, and
13 detention to protect the public health.

14 (b) The purpose of secs. 3 - 7 of this Act is to clarify standards for special medical
15 parole and to address prisoners who are severely medically or cognitively disabled.

16 * Sec. 2. AS 18.15 is amended by adding a new section to read:

17 Article 1A. Severe Acute Respiratory Syndrome (SARS).

18 Sec. 18.15.112. SARS control program authorization. (a) A severe acute
19 respiratory syndrome (SARS) control program is authorized in the department. The
20 SARS control program shall be administered in the same manner and has the same
21 powers, authority, obligations, and limited immunities as does the program for the
22 control of tuberculosis under AS 18.15.120 - 18.15.149, except for the following:

23 (1) the provisions of the control program described in AS 18.15.120(1)

1 and (7);

2 (2) reports to state medical officers under AS 18.15.131;

3 (3) examinations of persons under AS 18.15.133;

4 (4) title to and inventory of equipment allotted to private institutions
5 under AS 18.15.140;

6 (5) the screening of school employees under AS 18.15.145.

7 (b) In this section, "SARS" or "severe acute respiratory syndrome" means the
8 infectious disease caused by the SARS-CoV or the SARS coronavirus and the
9 mutations of that disease."

10

11 Page 1, line 4:

12 Delete "Section 1"

13 Insert "Sec. 3"

14

15 Renumber the following bill sections accordingly.

16

17 Page 4, following line 12:

18 Insert a new bill section to read:

19 "* Sec. 8. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c)."

Proof

23-LS0885\U

SENATE CS FOR CS FOR HOUSE BILL NO. 229(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

Can you
OK proof
Need this
SCR for time change
SPI

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to special medical parole and to prisoners who are severely medically
2 or cognitively disabled; relating to a severe acute respiratory syndrome control
3 program; and providing for an effective date."

Amend
#1

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 PURPOSE. (a) The purpose of sec. 2 of this Act is to clarify the law and expressly
8 establish a comprehensive program for health care decisions to control severe acute
9 respiratory syndrome (SARS) in this state, including reporting, examinations, orders, and
10 detention to protect the public health.

#1

11 (b) The purpose of secs. 3 - 7 of this Act is to clarify standards for special medical
12 parole and to address prisoners who are severely medically or cognitively disabled.

13 * Sec. 2. AS 18.15 is amended by adding a new section to read:

14 Article 1A. Severe Acute Respiratory Syndrome (SARS).

1 **Sec. 18.15.112. SARS control program authorization.** (a) A severe acute
2 respiratory syndrome (SARS) control program is authorized in the department. The
3 SARS control program shall be administered in the same manner and has the same
4 powers, authority, obligations, and limited immunities as does the program for the
5 control of tuberculosis under AS 18.15.120 - 18.15.149, except for the following:

6 (1) the provisions of the control program described in AS 18.15.120(1)
7 and (7);

8 (2) reports to state medical officers under AS 18.15.131;

9 (3) examinations of persons under AS 18.15.133;

10 (4) title to and inventory of equipment allotted to private institutions
11 under AS 18.15.140;

12 (5) the screening of school employees under AS 18.15.145.

13 (b) In this section, "SARS" or "severe acute respiratory syndrome" means the infectious
14 disease caused by the SARS-CoV or the SARS coronavirus and the mutations of that disease.

15 * **Sec. 3.** AS 33.16.085(a) is amended to read:

16 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a
17 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a
18 prisoner who is serving a term of at least 181 days, may, upon application by the
19 prisoner or the commissioner, be released by the board on special medical parole if the
20 board determines that

21 (1) the [FOR A] prisoner has not been convicted of [(A)] an offense
22 under AS 11.41.410 - 11.41.425 or [OTHER THAN A VIOLATION OF]
23 AS 11.41.434 - 11.41.438 and [THAT] the prisoner is severely medically or
24 cognitively disabled [OR A QUADRIPLÉGIC] as certified in writing by a physician
25 licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY DISABLED OR A
26 QUADRIPLÉGIC AT THE TIME THE PRISONER COMMITTED THE OFFENSE
27 OR PAROLE OR PROBATION VIOLATION FOR WHICH THE PRISONER IS
28 PRESENTLY INCARCERATED; OR

29 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT
30 THE PRISONER IS A QUADRIPLÉGIC AS CERTIFIED BY A
31 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A

1 QUADRIPLAGIC AT THE TIME THE PRISONER COMMITTED THE
2 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE
3 PRISONER IS PRESENTLY INCARCERATED]; [AND]

4 (2) [THAT] a reasonable probability exists that

5 (A) the prisoner will live and remain at liberty without
6 violating any laws or conditions imposed by the board;

7 (B) because of the prisoner's severe medical or cognitive
8 disability [BEING SEVERELY MEDICALLY DISABLED OR A
9 QUADRIPLAGIC], the prisoner will not pose a threat of harm to the public if
10 released on parole; and

11 (C) release of the prisoner on parole would not diminish the
12 seriousness of the crime;

13 (3) the prisoner

14 (A) was not suffering from the severe medical or cognitive
15 disability at the time the prisoner committed the offense or parole or
16 probation violation for which the prisoner is presently incarcerated; or

17 (B) was suffering from the severe medical or cognitive
18 disability at the time the prisoner committed the offense or parole or
19 probation violation for which the prisoner is presently incarcerated and
20 the medical or cognitive disability has progressed so that the likelihood of
21 the prisoner's committing the same or a similar offense is low;

22 (4) the care and supervision that the prisoner requires can be
23 provided in a more medically appropriate or cost-effective manner than by the
24 department;

25 (5) the prisoner is incapacitated to an extent that incarceration
26 does not impose significant additional restrictions on the prisoner; and

27 (6) the prisoner is likely to remain subject to the severe medical or
28 cognitive disability throughout the entire period of parole or to die and there is
29 no reasonable expectation that the prisoner's medical or cognitive disability will
30 improve noticeably; and

31 (7) an appropriate discharge plan has been formulated that

1 addresses basic life domains of the prisoner, including care coordination,
 2 housing, eligibility for public benefits, and health care, including necessary
 3 medication.

4 * Sec. 4. AS 33.16.087(a) is amended to read:

5 (a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE
 6 FIRST DEGREE] requests notice of a scheduled hearing to review or consider special
 7 medical parole for a prisoner convicted of that crime, the board shall send notice of the
 8 hearing to the victim at least 30 days before the hearing. The notice must be
 9 accompanied by a copy of the prisoner's or commissioner's application for parole
 10 submitted under AS 33.16.085. The [HOWEVER, THE] copy of the application sent
 11 to the victim must [MAY NOT] include the prisoner's proposed residence and
 12 employment addresses.

13 * Sec. 5. AS 33.16.900(11) is amended to read:

14 (11) "severely medically or cognitively disabled!" means that a person
 15 has a medical condition, or a cognitive condition, that substantially reduces
 16 [ELIMINATES] the [PHYSICAL] ability to commit an offense similar to the offense
 17 for which the person was convicted or to commit an offense in violation of AS 11.41
 18 that is punishable as a felony, and the person is likely to

19 (A) remain subject to the severe medical or cognitive
 20 condition throughout the entire period of parole; or

21 (B) die from the medical or cognitive condition;

22 * Sec. 6. AS 33.16.900(12) is amended to read:

23 (12) "special medical parole" means the release by the board before the
 24 expiration of a term, subject to conditions imposed by the board and subject to its
 25 custody and jurisdiction, of a prisoner who is severely medically or cognitively
 26 disabled [OR A QUADRIPLEGIC].

27 * Sec. 7. AS 33.30.017(c) is amended to read:

28 (c) The provisions of (b) of this section do not apply to prisoners

29 (1) who are

30 (A) developmentally disabled; or

31 (B) severely medically or cognitively disabled, as that term is

1 defined in AS 33.16.900;

2 (2) who are housed in a mental health unit or psychiatric unit of a state
3 correctional facility; or

4 (3) while placed in a state correctional facility awaiting classification
5 under classification procedures for the purpose of making the appropriate assignment
6 of the prisoner.

7 * Sec. 8. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

1

HB 229

Are we getting
a new fiscal
note?

The dept testified
there was no fiscal
impact with the
amendment so the old
FN should be good —



Official Business

Alaska State Senate

Senate Finance Committee

Faxed 10:20 am

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 14 May 2003 TIME: 10:20 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
~~HB~~ CS HB 229(FIN) 23-LS0885\S
plus 1 amendment S.1

Thanks
Mindy

Plus: Final SCR no.
Title Change 23-LS1127\A
Cook\Luckhaupt
5/9/03

Alaska State Legislature

House Finance Committee

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Co-Chair

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Juneau, AK 99801-1182

COMMITTEE SUBSTITUTE FOR HOUSE BILL 229 (FIN) SPONSOR STATEMENT

House Bill 229 gives the Alaska Board of Parole the flexibility to grant or deny medical parole to applicants. This allows the board to release severely disabled prisoners from confinement and gives the Department of Corrections relief from the high cost of providing medical service for these prisoners.

The Alaska Parole Board has a proven track record in their decision-making abilities. Over the past seven years, the Alaska Board of Parole has granted parole to approximately 45% of all *discretionary* parole applicants. Less than 8% of these parolees have violated their conditions (i.e., missed a meeting with a parole officer) and approximately 1% committed a new offense. This number is particularly compelling when compared to the 77% return rate of *mandatory* parole violators. Two applicants were considered for special medical parole in 2002 and both were denied.

When making a determination for Medical Parole the following are considered:

1. Department of Corrections' medical report
2. The seriousness of the criminal offense
3. Release plan
4. Parole Officer/DOC recommendation
5. Will not pose a threat to the public if released

House Bill 229 will allow the Alaska Board of Parole and the Department of Corrections to work together to determine an appropriate and cost effective release plan. The cost of health care to the Department of Corrections has significantly increased over the last few years. Some of the factors causing these increases are the increased population of terminally ill inmates and hospitalization of prisoners for long-term assisted care. This bill will give the department and the Parole Board another tool to ensure public safety and at the same time, help the department reduce the rising costs associated with providing medical service for prisoners afflicted with debilitating physical and mental disabilities.

Alaska State Legislature
House Finance Committee

REPRESENTATIVE
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SECTIONAL ANALYSIS
COMMITTEE SUBSTITUTE for HOUSE BILL 229 (FIN)
“An Act relating to special medical parole and to prisoners who are severely medically and cognitively disabled.”

Section 1: Amends AS 33.16.085(a). Special medical parole. Removes the language stating that a prisoner who may be considered for medical parole was not severely medically disabled or a quadriplegic at the time of the offense. Adds language to deny medical parole to those convicted of sexual assault or sexual abuse of a minor (AS 11.41.410-425 and AS 11.41.434-438).

Adds language that the prisoner must be either severely medically disabled or have a cognitive disability. In addition to the above, other provisions allowing for special medical parole are:

- The prisoner was not suffering from the severe medical or cognitive disability at the time of the offense was committed or the severe medical or cognitive disability the prisoner had at the time of offense has progressed so that the likelihood of the prisoner committing the same or similar offense is low;
- The care and supervision required of the prisoner can be provided in a more medically appropriate or cost effective manner than can be provided by the Department of Corrections;
- The prisoner is incapacitated to the extent that institutional confinement does not offer additional restrictions; and
- The prisoner is likely to die or remain subject to the condition throughout the entire period of parole and there is no reasonable expectation that the prisoner's disability will improve noticeably.
- A discharge plan that addresses basic life domains of the prisoner to include care coordination, housing, eligibility for public benefits and health care and medication must be formulated prior to release.

Section 2: Amends AS 33.16.087(a). Rights of certain victims in connection with special medical parole. Removes the words "against a person or arson in the first degree". This allows victims of any crime to request notice of a scheduled hearing to review or consider special medical parole. The parole board is required to send notice 30 days before the hearing.

Section 3: Amends AS 33.16.900(11). Definitions. Adds "or cognitively" disabled to the definition of severely medically disabled. Also adds "or a cognitive condition" to the definition. The words "eliminates" and "physical" are removed. Eliminates is replaced by reduces. Removal of the word "physical" allows for any disability to be considered for medical parole. "Severe" is added when describing the medical condition.

Section 4: Amends AS 33.16.900(12). Definitions. Amends the definition of special medical parole to include "or cognitively".

Section 5: Amends AS 33.30.017(c). Adds cognitively to this section of statute.

Medical parole

Financial aspects of Medical Parole

Proposal is both cost shifting and cost containing:

1. The number of inmates with terminal illnesses and conditions of advanced dementia are increasing in the Alaska DOC reflecting national trends. While age > 50 yrs. is not as medically significant in the general community in corrections it represents an important cut-point where significant medical illnesses begin to manifest themselves. This is due in part to prior lifestyles as well as reduced access to health care prior to incarceration. Presently there are approximately 430 inmates > 50 yrs. of age that are sentenced (includes institutions and community residential centers) for who the DOC is medically responsible. 23% of these are > 60 years of age, representing increasing risk for complex medical conditions.
2. Medical Parole would allow access to resources and matched monies not available during incarceration. While incarcerated inmates are NOT eligible for Medicare, Medicaid, Native American health benefits, and as a general rule Veteran's benefits. Once released, these benefits become available.
3. Medical care rendered in a correctional setting such as Alaska is substantially more costly than that in the community due to "economy of scale" (insufficient cases in the DOC) as well as the need to provide ongoing security (off-site office assignments) while care and medical evaluation is being accomplished in the community.

See next section

4. Medical parole obviates the need for officer on duty, for one inmate year with a single officer the cost saved is \$36 (hourly rate) x 24 hrs x 365 days = \$315,360.
Note: This security cost has historically been a DOC absorbed cost ascribed to Institutions budget rather than viewed as a medical expenditure per se.

Provided by Rep. Harris

5. Medical parole allows families to participate in sharing some care costs.
6. Medical parole allows for transfer when appropriate to lower 48 (Medical cost index saving of when Anchorage is compared to Portland, OR is, i.e. across the board medical expenditures are ~ 30% lower.
7. In computing projected costs, survival of inmates released under this program should not be assumed except to exceed 12 months with rare exception. The majority will succumb to their condition in 3- 6 months time from release. Future savings computations must factor medical cost index into the savings portion of the equation, i.e. if \$500,000 is saved in year one, given double-digit inflation for medical costs, in year two the saving would be \$550,000.
8. The vast majority of end-of-life care expenditures are concentrated in the last six weeks of life.

Overview of logistics:

- Parole consideration is only for those with a negligible possibility to re-offend due to severity of dysfunction (medical and/or cognitive). These candidates for medical parole are **not** able to live independently. A full medical overview is provided to the Board in every instance with a physician able to clarify the degree of disability. Upon discharge they continue to be followed by an assigned parole officer so they must still report to the DOC for supervision purposes. ***Note: These inmates did not arrive in the system with the disability that makes them a possible candidate for medical parole; rather the condition is new or has progressed substantially to the point that their medical or cognitive condition is markedly different from that which existed at the time of intake.***
- The inmate must be discharged with an individualized care plan, i.e. Medical continuity arranged, housing, etc. assured. Inmates are not presented as a candidate if this cannot be accounted for to parole board or to attending physician's satisfaction.
- Please be advised examples presented with medical backgrounds should be viewed only for purposes of discussion as "potential" candidates. Following a full review, many might no longer be considered appropriate for consideration for medical parole. The dollars however, represent actual expenditures encountered, excluding the security costs as noted in the introductory section.

REQUEST FOR MEDICAL PAROLE:						Updated 4/6/03
Release Date	Site	Costs FY'01	Costs FY'02	Costs FY'03	Costs to Date	Diagnosis
12/3/2010	AJ	\$ -	\$ 5,671.00	\$ 107,632.00	\$ 113,303.00	Heart condition
9/14/2038	SCCC	\$ -	\$ -	\$ 85,372.93	\$ 85,372.93	
8/2007	HMCC	\$ 183,591.00	\$ 2,500.00	\$ 89,103.00	\$ 275,194.00	Liver failure; hepatitis C; alcoholic cirrhosis
9/9/2002	Released	\$ 88,026.42	\$ 2,308.00	\$ -	\$ 90,334.42	Hodgkins
3/13/2011	SCCC	\$ 133,636.25	\$ 47,513.67	\$ 554.00	\$ 181,703.92	Advanced cardiac stroke
1/11/2004	AJ	\$ -	\$ 10,443.38	\$ 59,204.00	\$ 69,647.38	
10/2/2004	AJ	\$ -	\$ 23,734.27	\$ 50,459.64	\$ 74,193.91	Heart condition
9/10/2000	Deceased	\$ 46,202.99	\$ -	\$ -	\$ 46,202.99	Nasal Pharynx CA
7/28/2003	AJ	\$ -	\$ 212,589.00	\$ 335,351.59	\$ 547,940.59	Chronic abdominal blockages
	CIPT	\$ 150,631.22	\$ -	\$ 14,178.09	\$ 164,809.31	Advanced cardiac
10/16/2008	PCC	\$ 53,874.90	\$ 84,148.70	Not Available	\$ 138,023.60	CAD-CABG x 5
	Probation	\$ 123,067.20	\$ 2,477.80	\$ -	\$ 125,545.00	Nasal Pharynx CA
10/0/03	SCCC	\$ 193,700.00	\$ 500.00	\$ 26,293.20	\$ 220,493.20	Paraplegia - requires full-time aid
2/10/2001	Deceased	\$ 269,456.36	\$ -	\$ -	\$ 269,456.36	Advanced cardiac
	CIPT	\$ 19,387.49	\$ 24,698.61	\$ 59,011.04	\$ 103,097.14	
	Probation	\$ -	\$ -	\$ 22,169.70	\$ 22,169.70	Terminal metastatic cancer
11/17/2002	Deceased	\$ -	\$ 469.00	\$ 85,389.85	\$ 85,858.85	
11/22/2005	HMCC	\$ 70.00	\$ 29,625.60	\$ 110.00	\$ 29,805.60	Chronic anemia/splenectomy/lymphoma
3/29/2005	CIPT	\$ 300.00	\$ -	\$ 46,887.08	\$ 47,187.08	
8/17/2005	HMCC	\$ -	\$ -	\$ 70,030.59	\$ 70,030.59	Renal cell carcinoma
	CIPT	\$ 5,000.00	\$ 5,253.00	\$ 617.50	\$ 10,870.50	Alzheimers
4/22/2004	SCCC	\$ -	\$ -	\$ 5,558.83	\$ 5,558.83	Kidney mass
		\$ 1,266,943.83	\$ 451,932.03	\$ 1,057,923.04	\$ 2,776,798.90	\$5,553,598