

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

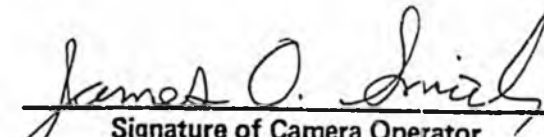
3285 HJUD HB 112 - HB 114

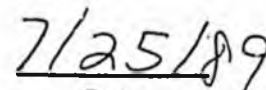


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Date

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STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/11/85	1:30 pm
" "	2/12/85	1:30 pm

COMMITTEE REPORT
HOUSE

2/15

(7)

FURTHER: FINANCE

1/25/35

Date: 2-12-35

The Committee on JUDICIARY has had HB 112

"An Act relating to confidentiality of Department of Revenue documents."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 112 (old) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signatures]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signatures]

[Handwritten signature]
CHAIRMAN

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 112 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidentiality of Department of
7 Revenue documents."

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

9 * Section 1. AS 43.05.230(g) is amended to read:

10 (g) The information contained in a license or permit issued by
11 the commissioner of revenue under AS 43.35, AS 43.40, AS 43.50,
12 AS 43.60, AS 43.65, AS 43.70, and AS 43.75 is public information.

13 * Sec. 2. AS 43.05.230 is amended by adding a new subsection to read:

14 (h) The department may furnish information contained in the
15 applications filed under AS 43.23 to another state department or
16 agency for state governmental purposes, restricted to determining eli-
17 gibility for a state program or establishing residency. The depart-
18 ment shall adopt regulations under the Administrative Procedure Act
19 (AS 44.62) prescribing the information that may be released under this
20 subsection. The names and mailing addresses contained in applications
21 under AS 43.23 are public information.

Introduced: 1/25/85
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 112

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to confidentiality of Department of
7 Revenue documents."

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15 applications filed under AS 43.23 to another state department or
16 agency for state governmental purposes, including determining eli-
17 gibility for a state program and establishing residency. The depart-
18 ment shall adopt regulations under the Administrative Procedure Act
19 (AS 44.62) prescribing the information that may be released under this
20 subsection.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 10/22/84

REQUEST

Bill/Resolution No: HB 112
Title: An act relating to confidentiality of PFD apps. and license apps.
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Revenue Collection and Management
BRU, Program or Subprogram(s) Affected: Permanent Fund Dividend BRU and Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>.0</u>
<u>CAPITAL</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>REVENUE</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: No fiscal impact.

Prepared By: Martin J. Richard
Division: Public Services Division
Approved by Commissioner: Mary J. Sturdale
Agency: Department of Revenue

Phone: 465-2392
Date: October 22, 1984
Date: December 5, 1984

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor

Office of Management and Budget
Impacted Agency(ies)

HB 112

HOUSE BILL NO. 112 by the Rules Committee by request of the Governor, entitled:

"An Act relating to confidentiality of Department of Revenue documents."

was read the first time and referred to the Judiciary and Finance Committees.

A zero fiscal note was attached.

The Governor's transmittal letter, dated January 23, 1985, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the confidentiality of Department of Revenue records. The bill amends current statutory provisions making documents in the possession of the Department of Revenue confidential.

Section 1 makes technical amendments to AS 43.05.240, making it clear that licenses and permits issued under certain tax statutes are public information.

Section 2 allows the department to release information contained in permanent fund dividend (PFD) applications to other state agencies for official purposes, such as the determination of residency or eligibility for a state program. Since PFD information is generally the most current and accurate data base available on state residents, it seems foolish not to allow other state agencies access to this information for legitimate state purposes. In the past, some agencies have been unable to gain access to PFD information even though obtaining it would have provided an efficient means of fulfilling their statutory obligations.

Sincerely,

/s/

Bill Sheffield
Governor

HB 113

HOUSE BILL NO. 113 by the Rules Committee by request of the Governor, entitled:

"An Act providing a reserve for the payment of cash benefits for state employees; and providing for an effective date."

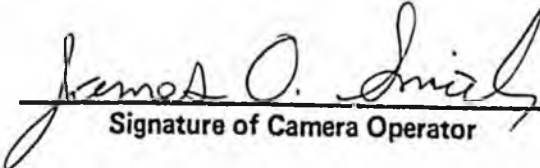
was read the first time and referred to the State Affairs and Finance Committees.

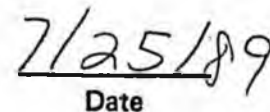


RECORDS CERTIFICATION

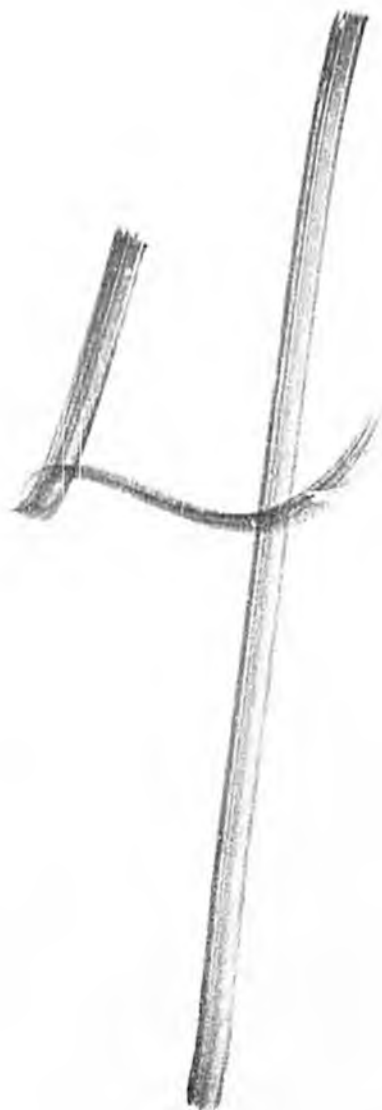


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Date

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STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNE 11, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1986

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Jeanie Henry

House Judiciary Jt mtg =	Hess	2/21/85	1:30 pm
" " " " " "	"	2/22/85	1:30 pm
" " " " " "	"	2/25/85	1:30 pm
" " " " " "	"	2/26/85	1:00 pm
" " " " " "	"	2/27/85	1:30 pm
" " " " " "	"	2/28/85	1:30 pm
" " " " " "	"	3/1/85	1:30 pm
" " " " " "	"		
House Judiciary		3/30/85	9 Am
" "		4/2/85	7 pm
" "		4/9/85	1:30 pm
" "		4/9/85	7 pm
" "		4/16/85	7 pm
" "		4/23/85	7 pm
" "		4/24/85	1:30 pm

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 114 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (2) on parole.

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

20 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

26 (2) classify prisoners;

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

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

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

(5) provide necessary psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

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

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

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

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

(a) The commissioner shall determine the availability of state correctional facilities suitable for the detention and confinement of persons held under authority of state law. If the commissioner determines that suitable state correctional facilities are not available, the commissioner may enter into an agreement with a public or private agency to provide necessary facilities. Correctional facilities provided through agreement may be in this state or in another state.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

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

3 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

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

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

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

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

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

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

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

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

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

21 (1) safeguards to the public;
22 (2) the prospects for the prisoner's rehabilitation;
23 (3) the availability of program and facility space;
24 (4) the prospect of future judicial proceedings requiring
25 the presence of the prisoner;

26 (5) the nature and circumstances of the offense for which
27 the prisoner was sentenced;

28 (6) the needs of the prisoner as determined by a classi-
29 fication committee and any recommendations made by the sentencing

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court;

(7) the record of convictions of the prisoner with particular emphasis on crimes specified in AS 11.41;

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

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

(10) other criteria considered appropriate by the commissioner, including experimental evaluation of correctional programs that are consistent with protection of the public and reformation of the prisoner.

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

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

(2) secure or attend vocational training;

(3) obtain medical or psychiatric treatment;

(4) secure or engage in employment;

(5) attend educational institutions;

(6) secure a residence or make other preparation for release;

(7) appear before a group whose purpose is a better understanding of crime or corrections; or

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

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

(1) the factors in AS 33.30.091;

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

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

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

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

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

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

(1) frequent contact with the prisoner by persons supervising the prisoner;

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

(3) periodic reports by supervisory staff to the commissioner on the performance of the prisoner while on furlough; and

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

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

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

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

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

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

(e) A prisoner may request a prerelease furlough under procedures adopted by the commissioner. If the commissioner denies a request for a prerelease furlough, the commissioner shall provide the prisoner with a written explanation of the reasons for the denial.

(f) Upon request of the victim, in the case of a prisoner convicted of a crime against a person, notice of the commissioner's intent to consider the prisoner for a prerelease furlough shall be sent to the victim. The victim may comment in writing on the intent of the commissioner to release the prisoner on prerelease furlough status. The commissioner shall consider the comments of the victim before making a final decision to release a prisoner on a prerelease furlough. If the victim requests notification, the commissioner shall make every reasonable effort to notify the victim of an intent to release the prisoner on a prerelease furlough. The notice must contain the expected date of the prisoner's release, the geographic area in which the prisoner will reside and other pertinent information concerning the prisoner's release that may affect the victim.

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

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

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

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

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

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

(b) Unless alternative arrangements are expressly approved by the commissioner, when a prisoner is employed outside a correctional facility as part of a prerelease or short-duration furlough program, the earnings of the prisoner shall be delivered to the commissioner. If an employer transmits the earnings to the commissioner, the employer has no liability to the prisoner for the earnings. The commissioner shall disburse the earnings of the prisoner, in an order determined appropriate, under procedures adopted by the commissioner to

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

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

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

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

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

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

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

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

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

26 ARTICLE 3. GENERAL PROVISIONS.

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

(b) The commissioner may enter into contracts or cooperative

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

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

(d) In this section "productively employed" includes the following kinds of employment:

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

(2) education including both academic and vocational;

(3) industrial, agricultural, and service activities conducted in accordance with AS 33.32;

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

(5) renovation, repair or alteration of existing correctional facilities as permitted by AS 44.65.050(d); and

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

Correctional Industries Commission under AS 33.32.015.

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

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

(b) When a person is sentenced to a term of imprisonment, copies of the pre-sentence report, sentencing report prepared under AS 12.55.025, and any other information of the probation office or of the court that may affect the person's rehabilitation shall be transmitted to the superintendent of the correctional facility in which the prisoner will be confined.

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

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

Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE
CSHB 114(Jud) -14-

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

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

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

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

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

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

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

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

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

(c) A prisoner's personal property that remains at a correctional facility after 90 days from the date of the prisoner's release or transfer is considered abandoned, and shall be delivered to the Department of Administration for disposal under AS 44.71.010.

(d) The state is not liable for any loss or damage to personal property properly determined to be abandoned under (c) of this section.

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

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

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

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

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

Sec. 33.30.901. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

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

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

(4) "crime against a person" means a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330; or a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330;

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

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

(7) "health care provider" means

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

(B) a mental health professional as defined in AS 47.30.915;

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

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

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

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

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

(b) The commissioner of corrections may

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

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

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

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

under AS 33.30.151 for the employment of a prisoner if the Correctional Industries Commission determines that the employment will have minimal negative impact on an existing private industry or labor force in the state; and

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

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

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

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

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

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

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

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

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

(f) The provisions of this section do not apply to "Free Venture" industries established under AS 33.32.017.

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

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.031 or former AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961, and the effective date of the transfer of the facility to the state.

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

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

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

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

6 * Sec. 12. Regulations adopted under a statute amended or repealed by
7 this Act continue in effect until amended or repealed by the commissioner
8 of corrections, except to the extent that a regulation is inconsistent or
9 in conflict with a provision of this Act.
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Edwards
4/24/85

Original sponsor: Rules/Governor

1
2 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

3 CS FOR HOUSE BILL NO. 114 (Judiciary)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

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

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

10 * Section 1. AS 09.20.020 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) on parole.

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

21 ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

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

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

27 (2) classify prisoners;

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

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

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

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

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

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

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

23 Sec. 33.30.(31). CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

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

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

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

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

4 Sec. 33.30.071. RESPONSIBILITY FOR PRISONERS PENDING COMMITMENT.

5 (a) Notwithstanding AS 33.30.011(1), the commissioner of public
6 safety shall provide for the custody, care, and discipline of prison-
7 ers pending arraignment, commitment by a court to the custody of the
8 commissioner of corrections, or admission to a state correctional
9 facility. Except as provided in (c) of this section, the responsibil-
10 ity for providing necessary medical services for prisoners remains
11 with the commissioner of corrections under AS 33.30.011(3). The
12 commissioner of corrections and the commissioner of public safety are
13 not responsible for providing custody, care, and discipline for a
14 person detained under AS 47.30.705 or AS 47.37.170, unless the person
15 is admitted into a state correctional facility.

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

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

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

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

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

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

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

18 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
19 AS 33.30.111, the commissioner may assign a prisoner committed to the
20 commissioner's custody to a program established under AS 33.30.011(2)
21 considering

22 (1) safeguards to the public;
23 (2) the prospects for the prisoner's rehabilitation;
24 (3) the availability of program and facility space;
25 (4) the prospect of future judicial proceedings requiring
26 the presence of the prisoner;

27 (5) the nature and circumstances of the offense for which
28 the prisoner was sentenced;

29 (6) the needs of the prisoner as determined by a classi-
fication committee and any recommendations made by the sentencing

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2 court;

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

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

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

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

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

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

16 (2) secure or attend vocational training;

17 (3) obtain medical or psychiatric treatment;

18 (4) secure or engage in employment;

19 (5) attend educational institutions;

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

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

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

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

(1) the factors in AS 33.30.091;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A prisoner may request a prerelease furlough under procedures adopted by the commissioner. If the commissioner denies a request for a prerelease furlough, the commissioner shall provide the prisoner with a written explanation of the reasons for the denial.

(f) Upon request of the victim, in the case of a prisoner convicted of a crime against a person, notice of the commissioner's intent to consider the prisoner for a prerelease furlough shall be sent to the victim. The victim may comment in writing on the intent of the commissioner to release the prisoner on prerelease furlough status. The commissioner shall consider the comments of the victim before making a final decision to release a prisoner on a prerelease furlough. If the victim requests notification, the commissioner shall make every reasonable effort to notify the victim of an intent to release the prisoner on a prerelease furlough. The notice must contain the expected date of the prisoner's release, the geographic area in which the prisoner will reside and other pertinent information concerning the prisoner's release that may affect the victim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ARTICLE 3. GENERAL PROVISIONS.

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

(b) The commissioner may enter into contracts or cooperative

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

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

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

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

18 (2) education including both academic and vocational;

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

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

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

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

1 Correctional Industries Commission under AS 33.32.015.

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

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

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

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

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

Sec. 33.30.181. TELEPHONE MONITORING INSIDE CORRECTIONAL

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

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

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

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

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

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

29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)
Except as provided in (b) of this section, it is the obligation of

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each person committed to the custody of the commissioner to provide for the appropriate disposition of all of the person's property remaining at a correctional facility within 90 days of the date of the person's release or transfer from the correction facility.

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

(c) A prisoner's personal property that remains at a correctional facility after 90 days from the date of the prisoner's release or transfer is considered abandoned, and shall be delivered to the Department of Administration for disposal under AS 44.71.010.

(d) The state is not liable for any loss or damage to personal property properly determined to be abandoned under (c) of this section.

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

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

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

Sec. 33.30.231. CRIME AGAINST SENTENCED PRISONER. A person who commits a crime against a sentenced prisoner is punishable as if the

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2 prisoner was not sentenced and incarcerated.

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

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

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

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

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

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

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

24 (7) "health care provider" means

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

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

(8) "municipality" means a borough or city in the state, or

1
2 a municipality unified under AS 29.68.240 - 29.68.440, authorized by
3 law to establish a correctional facility;

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

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

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

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

12 (b) The commissioner of corrections may

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

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

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

28 (4) authorize a prisoner to engage in productive employment
29 within or outside a correctional facility or enter into a contract
under AS 33.30.151 for the employment of a prisoner if the

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2 Correctional Industries Commission determines that the employment will
3 have minimal negative impact on an existing private industry or labor
4 force in the state; and

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

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

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

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

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

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

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

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

7
8 * Sec. 8. AS 33.32.030 is amended by adding a new subsection to read:

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

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

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

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

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

29 * Sec. 11. The following laws are repealed: AS 33.30.010, 33.30.020,
33.30.030, 33.30.040, 33.30.050, 33.30.060, 33.30.070, 33.30.080,
CSHB 114(Jud)

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33.30.090, 33.30.100, 33.30.110, 33.30.120, 33.30.130, 33.30.140, 33.30.-
150, 33.30.160, 33.30.170, 33.30.180, 33.30.185, 33.30.190, 33.30.225,
33.30.227, 33.30.250, 33.30.260, 33.30.290, 33.30.300, 33.30.310, 33.30.-
320, and 33.30.900.

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

COMMITTEE REPORT
HOUSE

(7)

FURTHER: FINANCE

3/25/55

Date: _____

The Committee on JUDICIARY has had HR 114

"An Act relating to correctional facilities, and the imprisonment and rehabilitation of offenders."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 114 (TUD) same title
- new title
- and recommends do not pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M.M. Miller _____

Sund _____

Gruenberg _____

Taylor _____

Phillips _____

Clocks in _____

Petty John _____

CHAIRMAN



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, S. Capitol
Juneau, Alaska 99811
(907) 465-3991

April 19, 1985

MEMORANDUM

TO: Representative M. Mike Miller

ATTN: Hayden Kaden

FROM: Katherine Hazard *KH*
Legislative Analyst

RE: Phone Access for Pretrial Detainees
Research Request 85-316

You asked for information about the policies in other states for providing phone access to pretrial detainees. We were asked specifically: whether calls are monitored; if so, what provisions are made for calls to the detainee's attorney; and whether there are differences among inmates in privileges to phone access.

I called six states for information: California, Massachusetts, New York, Oregon, Texas and Washington. Except in rare cases, pretrial detainees are kept in municipal or county jails and are not detained in state penitentiaries. Because you inquired about differences in phone access privileges among inmates of varying security classes, I have included some information about phone privileges in state penitentiaries.

Summary

In the six states called, pretrial detainees have access to phones during the day. Their calls are not monitored. In addition, the county jail that I called in Oregon has a special line to the public defenders and to several attorneys that take indigent cases. In all of the states, higher security inmates had less access to phones than permitted pretrial detainees and lower security inmates.

With the exception of the New York City Department of Corrections, all agencies I spoke with had a phone system for prisoner use, whereby no incoming calls are received and all calls, local and long distance, are collect. When the inmate picks up the receiver an operator is on the line and will place only collect calls.

California

Sacramento County Correctional Facilities:

- After booking, pretrial detainees have unrestricted access to phones during the day;
- Calls are generally not monitored. Calls are only monitored if wardens are suspicious of an inmate;
- There is one phone for approximately 12 inmates; and
- There is no separate system for calling attorneys.¹

California State Penitentiaries:

- Inmates are allowed 1 - 4 calls per week. Phone privileges are granted according to which group the inmate is in. Inmates are grouped according to behavior, security risk and participation in work incentive programs.² Inmates in "administrative segregation", as a disciplinary measure, are permitted to call only in the case of an emergency.
- A supervisor will notify the security officer when an inmate is going to call his/her counsel, so that the tower officer will not monitor the call.
- Calls are limited to 15 minutes.

¹Lt. Cheris, Chief Deputy of the Sacramento County Correctional Facilities, said that if in monitoring a call the warden overhears a conversation between an inmate and counsel, they will cease monitoring and "disregard what they heard "

²Two institutions have phones on the yard. The officer on duty in the yard determines whether or not an inmate can use the phone. Sheila Mahonie of the Department of Corrections, said that several years ago the Department of Corrections lost a court case; they had monitored a phone call without first informing the inmate. The federal court said that this was wire tapping. Since then, phone calls have not been monitored and are not logged. Mail and visits are logged.

Representative Miller
April 19, 1985
Page 3

Massachusetts

Cambridge Facilities: (This institution houses pretrial detainees and convicted inmates.)

- Every cell block has a phone;
- Inmates can use the phone whenever they are out on recreation;
- Phone calls are never monitored or logged; and
- There is approximately one phone per 15 inmates.

Terry McCarthy, of the Cambridge Facilities, said this system is the same everywhere in the state. Inmates have called in bomb scares and phoned the fire department, but he said the new system (with the collect only phones) has worked very well and they haven't had any problems.

Massachusetts State Penitentiaries:

- The general population of inmates have access to phones during the day. There is no limit to the number of calls they can make.
- Inmates in isolation or disciplinary status are in their cells most of the time; their access to phones is restricted.

New York

New York City Department of Corrections (this institution houses pre-trial detainees and convicted inmates serving less than a year time.)

Pretrial Detainees

- Pretrial detainees have access to phones during all lockout periods (approximately 14 hours per day);
- Each detainee is permitted one free completed local call per day; they must pay for other calls;
- If there is an emergency, the Department of Corrections will pay for the call;
- The department pays for calls to the court or the detainee's attorney; and
- Calls are not monitored. The department does check phone bills to keep records of how many calls are made.

Sentenced prisoners

- Sentenced prisoners are allowed two completed local calls per week;
- They might have access to the phone during other times, but they work most of the day; and
- Calls are not monitored, except that a record is kept of how many calls are made.

New York State Penitentiaries:

- Medium security inmates have access to a phone in the day room and may use it as they wish;
- Maximum security inmates have access to a phone once every two weeks;
- Notice is posted by the phones that the calls may be monitored;³
- Generally, phone calls are not monitored; there would need to be a specific reason to monitor a phone call; and
- No record is kept of where calls are made to.⁴

³Chester Clark, Director of Classification and Movement at the Department of Correctional Services, said he did not know whether inmates are told when their calls are being monitored. He said staff would be prohibited from listening to inmates' calls to counsel, but he said that calls to counsel would be very rare. He added that visits are not monitored.

⁴Chester Clark said that with the collect only phones it is possible to get a record of calls from the phone company, but it is very expensive.

Oregon

Multnomah County Jail:

- Pretrial detainees have access to phones from 7:00 a.m. to 11:30 p.m. during the week, except during meals. On weekends, there is access to phones until about 1:30 a.m.;
- Phone calls are not monitored;
- No records are kept of where inmates call;
- High security prisoners are only in the day room about 4 hours per day, so their access to the phones is limited in this manner;
- Most inmates have access to phones during the day;
- There are approximately ten people per phone;
- In addition to these phones, the jail has a special line for calls to public defenders and several law offices that handle indigent defense. On this phone line, the incarcerated person can dial to the public defender or law office. There is no need to place a collect call. Thus inmates who have an attorney who would not accept a collect call can still contact an attorney.

Booking Area

In the booking facility, there are phones in the one-person cells and in the holding area (capacity of ten inmates). In the booking facility area, the ratio of people to phones is about 2 to 1.

Oregon State Penitentiaries:

- An inmate may use the phone every third night.

Representative Miller
April 19, 1985
Page 6

Texas

Jail Division of the Houston Police Department:

- Pretrial detainees are guaranteed one phone call;
- There are phones in the "tanks" that may be used any time during the day. At night, they could be used a couple of times, but this is more restricted because the guard needs to allow the person access to the phone;
- Calls are not monitored; and
- Calls can be terminated by the guard from a switch;⁵

Texas State Penitentiaries:

- Inmates do not have access to a phone. They may use a phone only in an emergency, such as a death in the family, and even then, the call is placed by the chaplain and the prison staff may or may not permit the inmate to talk on the phone; and
- Inmates cannot call counsel.

Washington

Pierce County Jail:

- Pretrial detainees and other inmates have access to phones from 7 a.m. to 11 p.m.;
- Calls are limited to 30 minutes;
- Phones are not monitored;
- No record is kept of where the call is placed;

⁵These rules of access to phones apply to convicted as well as pretrial inmates. Pretrial detainees are transferred to the county jails within 24 hours. I was not able to reach a Texas county jail. However, Captain Burnett, Commander of the Jail Division of the Houston Police said that there is access to phones most of the time in the municipal and county jails. Phones are in the day area.

Representative Miller
April 19, 1985
Page 7

- There is one phone to approximately ten inmates; and
- High security inmates have access to phones at least one or two times a day.

Washington State Penitentiaries:

- Phone calls are not monitored;
- No record is kept of phone calls;
- Maximum security inmates have access to a phone during the one hour per day when they are out of the cell for exercise.

Please call if you have further questions.

KH

If there are any questions, call Mike Stark 465-3460

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

Introduction

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

Section 1. AS 09.20.020, Disqualification of Jurors.

This section amends one of the two statutory bases for which a person is disqualified from serving as a juror. Under this section, a person convicted of a felony is disqualified from serving as a juror until the person is unconditionally discharged from any supervision. Under former AS 09.20.020, a person was disqualified from serving as a juror if the person was convicted of a felony and had not had his or her civil rights restored. This is a technical amendment only.

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

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

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

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

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

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

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

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

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

ARTICLE 1. ESTABLISHMENT, CONTROL, AND MANAGEMENT.

Section 33.30.011. Duties of Commissioner.

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

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

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

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

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

Section 33.30.021. Regulations.

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

Section 33.30.031. Contract for Care and Confinement of Prisoners.

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

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

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

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

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

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

Section 33.30.041. Lease of Correctional Facility to Municipality.

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

ARTICLE 2. COMMITMENTS, PROGRAMS, AND FURLOUGHS.

Section 33.30.051. Commitment to Commissioner.

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

Section 33.30.061. Commissioner to Designate Facility.

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

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

Section 33.30.071. Responsibility for Prisoners Pending Commitment.

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

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

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

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

Section 33.30.081. Transportation of Prisoners.

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

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

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

Section 33.30.091. Designation of Programs.

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

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

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

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

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

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

This section is consistent with these principles.

Section 33.30.101. Furloughs.

This section sets out the purposes for which a prisoner may be granted a furlough and the factors which must be considered before a furlough is granted. Former AS 33.30.150, 33.30.250 and 33.30.270 described available furlough programs. This section and AS 33.30.111--33.30.141 address furlough programs in a much more comprehensive fashion. The types of furloughs available to prisoners (prerelease and short-duration) and the particular requirements are addressed in AS 33.30.111 and AS 33.30.121 and the commentary to these sections.

Section 33.30.111. Pre-Release Furloughs.

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

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

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

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

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

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

Section 33.30.121. Short-Duration Furloughs.

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

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

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

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

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

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

ARTICLE 3. GENERAL PROVISIONS

Section 33.30.151. Employment of Prison Inmates.

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

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

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

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

Section 33.30.156. Pay of Prison Inmates.

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

Section 33.30.161. Transmission of Documents.

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

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

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

Section 33.30.181. Telephone Access and Monitoring Inside Correctional Institutions.

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

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

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

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

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

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

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

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

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