

ALASKA LEGISLATURE COMMITTEE FILES 1903-1900 00/2

3977 SHES HB 98 - HB 114 833

1 mentally retarded and who are financially eligible as determined by  
2 the standards of the federal aid to families with dependent children  
3 program;

4 (6) persons in a medical or intermediate care facility  
5 whose income while in the facility does not exceed 300 percent of the  
6 supplemental security income benefit rate under 42 U.S.C. 1381 - 1383c  
7 (Title XVI, Social Security Act) but who would not be eligible for an  
8 optional state supplementary payment if they left the hospital or  
9 other facility;

10 (7) persons under age 21 who are [YEARS OF AGE] receiving  
11 active treatment in a psychiatric hospital and who are financially  
12 eligible as determined by the standards of 42 U.S.C. 601 - 615 (Title  
13 IV-A, Social Security Act, Aid to Families with Dependent Children);

14 (8) persons under age 21 and not covered under (a) of this  
15 section, [YEARS OF AGE] who would be eligible for benefits under the  
16 federal aid to families with dependent children program, except that  
17 they have the care and support of both their natural and adoptive  
18 parents [BUT WHO DO NOT QUALIFY BECAUSE THEY ARE NOT DEPENDENT CHILD-  
19 REN];

20 (9) [WOMEN WHO ARE] pregnant women not covered under (a) of  
21 this section and who meet the income and resource requirements of the  
22 federal aid to families with dependent children program.

23 \* Sec. 4. AS 47.07.030 is repealed and reenacted to read:

24 Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. (a) The de-  
25 partment shall offer all mandatory services required under 42 U.S.C.  
26 1396 - 1396p (Title XIX of the Social Security Act).

27 (b) In addition to the mandatory services specified in (a) of  
28 this section, the department may offer only the following optional  
29 services: personal care services in a recipient's home; emergency

1 hospital services; long-term care noninstitutional services; medical  
 2 supplies and equipment; clinic services; inpatient psychiatric facili-  
 3 ty services for individuals age 65 or older and individuals under age  
 4 21; physical therapy; occupational therapy; chiropractic services;  
 5 treatment of speech, hearing, and language disorders; adult dental  
 6 services; prosthetic devices and eyeglasses; optometrists' services;  
 7 intermediate care facility services, including intermediate care  
 8 facility services for the mentally retarded; skilled nursing facility  
 9 services for individuals under age 21; and reasonable transportation  
 10 to and from the point of medical care.

11 \* Sec. 5. AS 47.07.035 is repealed and reenacted to read:

12 Sec. 47.07.035. PRIORITY OF MEDICAL ASSISTANCE. If the depart-  
 13 ment finds that the cost of medical assistance for all persons eligi-  
 14 ble under this chapter will exceed the amount allocated in the state  
 15 budget for that assistance for the fiscal year, the department shall  
 16 eliminate coverage for optional medical services and optionally eligi-  
 17 ble groups of individuals in the following order:

- 18        ✓(1) chiropractic services;
- 19        ✓(2) adult dental services;
- 20            (3) emergency hospital services;
- 21            (4) treatment of speech, hearing, and language disorders;
- 22            (5) optometrists' services and eyeglasses;
- 23            (6) occupational therapy;
- 24            (7) prosthetic devices;
- 25            (8) medical supplies and equipment;
- 26            (9) clinic services;
- 27            (10) physical therapy;
- 28        ✓(11) personal care services in a recipient's home;
- 29            (12) long-term care noninstitutional services;

1 (13) inpatient psychiatric facility services;

2 (14) intermediate care facility services for the mentally  
3 retarded;

4 (15) intermediate care facility services;

5 (16) individuals under age 21 who are not eligible for  
6 benefits under the federal aid to families with dependent children  
7 program because they are not deprived of one or more of their natural  
8 or adoptive parents;

9 (17) skilled nursing facility services for persons under age  
10 21;

11 (18) aged, blind, and disabled individuals who, because they  
12 do not meet the income requirements, do not receive supplemental  
13 security income under Title XVI of the Social Security Act, but who  
14 are eligible, or would be eligible if they were not in a skilled  
15 nursing facility or intermediate care facility, to receive an optional  
16 state supplementary payment;

17 (19) individuals in a hospital, skilled nursing facility, or  
18 intermediate care facility whose income while in the facility does not  
19 exceed 300 percent of the supplemental security income benefit rate  
20 under Title XVI of the Social Security Act, but who, because of in-  
21 come, are not eligible for the optional state supplementary payment;

22 (20) individuals under age 21 under supervision of the  
23 department, for whom maintenance is being paid in whole or in part  
24 from public money and who are in foster homes or private child-care  
25 institutions.

26 \* Sec. 6. AS 47.07.040 is amended to read:

27 Sec. 47.07.040. STATE PLAN FOR PROVISION OF MEDICAL ASSISTANCE.  
28 The department shall prepare a state plan in accordance with the  
29 provisions of 42 U.S.C. 1396 1396p (Title XIX, Social Security Act,

1 Medical Assistance) and submit it for approval to the United States  
2 Department of Health and Human Services. The plan shall designate  
3 that the Department of Health and Social Services is the single state  
4 agency to administer this plan. The department shall act for the  
5 state in any negotiations relative to the submission and approval of  
6 the plan. The department, including the Medicaid Rate Commission,  
7 [AND] may make those arrangements or regulatory changes, not inconsis-  
8 tent with law, as may be required under federal law to obtain and  
9 retain approval of the United States Department of Health and Human  
10 Services to secure for the state the optimum federal payment under the  
11 provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act,  
12 Medical Assistance). In addition, the department shall provide a  
13 report to the legislature no later than March 15 of each year concern-  
14 ing the status of this program and recommendations, with supporting  
15 fiscal data, as to any changes in the coverage of eligible persons or  
16 services to be provided.

17 \* Sec. 7. AS 47.07.070 is amended by adding a new subsection to read:

18 (d) In determining a rate of payment to a health facility under  
19 this section, the commission shall consider the appropriation limit  
20 set by the legislature for the department's programs under this chap-  
21 ter and under AS 47.25.120 - 47.25.300, and available federal revenue.

22 \* Sec. 8. AS 47.07.180 is repealed and reenacted to read:

23 Sec. 47.07.180. DUTIES. (a) The commission shall review pro-  
24 posed payment rates for health facilities under this chapter and  
25 AS 47.25.120 - 47.25.300.

26 (b) The commission may review budgets of, and shall establish  
27 payment rates for, health facilities under this chapter and AS 47.-  
28 25.120 - 47.25. 300.

29 (c) The commission shall consult with the department on the

1 state plan as it relates to health facilities. The commission may not  
2 change the unit of payment without the written consent of the depart-  
3 ment.

4 (d) By March 1 of each year, the commission shall develop for  
5 the fiscal year starting the next July 1 an annual estimate of medical  
6 assistance program expenditures in health facilities under the jurisdic-  
7 tion of the commission. The estimate shall consider anticipated  
8 utilization and payment rates for each facility. The methodology used  
9 by the commission to develop the estimate shall be consistent with the  
10 regulations governing the commission's rate-setting process.

11 \* Sec. 9. AS 47.07.900(1) is amended to read:

12 (1) "clinic services" means services provided by state-  
13 approved outpatient community mental health clinics that receive  
14 grants under AS 47.30.520 - 47.30.620, state-operated community mental  
15 health clinics, outpatient surgical care centers, and physician clin-  
16 ics;

17 \* Sec. 10. AS 47.07.900 is amended by adding new paragraphs to read:

18 (7) "adult dental services" means minimum treatment for the  
19 immediate relief of pain and acute infection provided by a licensed  
20 dentist;

21 (8) "chiropractic services" includes only services that are  
22 provided by a chiropractor licensed under AS 08.20 that consist of  
23 treatment by means of manual manipulation of the spine and x-rays  
24 necessary for treatment;

25 (9) "emergency hospital services" means services that

26 (A) are necessary to prevent the death or serious  
27 impairment of the health of the individual; and

28 (B) because of the threat to the life or health of the  
29 individual, necessitate the use of the most accessible hospital

1 available that is equipped to furnish the services, even if the  
2 hospital does not currently meet

3 (i) the conditions for participation under Medi-  
4 care; or

5 (ii) the definitions of inpatient or outpatient  
6 hospital services under 42 C.F.R. secs. 440.10 and 440.20.

7 (10) "personal care services in a recipient's home" means  
8 services prescribed by a physician in accordance with the recipient's  
9 plan of treatment and provided by an individual who is

10 (A) qualified to provide the services;

11 (B) supervised by a registered nurse; and

12 (C) not a member of the recipient's family.

13 \* Sec. 11. AS 44.77.010(b) is repealed.

14 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*James O. Smith*  
Signature of Camera Operator

*10/31/89*  
Date

H B

1 1 4

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: HB 114

Sponsor: GOVERNOR

Date referred to committee: 5/7

Synopsis completed:

Fiscal note:

Further referrals: JUDICIARY, FINANCE

propose 11/13/85. Will prepare position paper (support of 3 technical amendments) & fiscal note (zero).

CONTACTS:

Madine Winters, Corrections 3376 Anch 501-4426

Mike Stark, A.G. 3460

Public Safety (Joe Reeves) 4349 request update fiscal note 1-10-86  
phoned 1/13/87 - no change from '86

Rep Miller, Hayden Kadyn 4990

Karla Forsythe, Ct. System 264-8228 (will not attend)

Don Rouleau, District Council Laborers 6-3707

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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May, 1988

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

Mary Van Nimwegen

|      |         |         |
|------|---------|---------|
| HESS | 3-27-86 | 1:38 PM |
|      | 3-18-86 | 1:38 PM |
|      | 3-11-86 | 1:37 PM |

SECTIONAL ANALYSIS

Distributed by  
Sen. Fahrenkamp

- SEC. 1 TOLL STATUTE OF LIMITATIONS
- SEC. 2 SERVICE OF FELONS AS JURORS
- SEC. 3-4 FAILURE TO RETURN FROM FURLOUGH
- SEC. 5 FURLOUGH OF GUILTY-BUT-MENTALLY-ILL PERSONS
- SEC. 6 COMMISSIONER'S DUTIES:
- 33.30.011 MEDICAL AND PSYCHIATRIC SERVICES
  - 33.30.021 REGULATIONS
  - 33.30.031 CONTRACTING FOR CONFINEMENT
  - 33.30.041 LEASE OF FACILITY TO MUNICIPALITY
  - 33.30.051-.061 OUT-OF-STATE FACILITIES
  - 33.30.071 PUBLIC SAFETY'S ROLE
  - 33.30.081 TRANSPORTATION OF PRISONERS
  - 33.30.091 TREATMENT PROGRAMS
  - 33.30.101-.041 FURLOUGHS
  - 33.30.151 CORRECTIONAL RESTITUTION CENTERS  
-.181
  - 33.30.191 PRISONER EMPLOYMENT
  - 33.30.201 PRISONER PAY
  - 33.30.211-.221 DOCUMENTS AND OATHS
  - 33.30.231 TELEPHONE
  - 33.30.241 CIVIL RIGHTS
  - 33.30.251 ABANDONED PERSONAL PROPERTY
  - 33.30.261 CONTRABAND
  - 33.30.271 FORFEITURE OF PROPERTY
  - 33.30.281 CRIME AGAINST SENTENCED PRISONER
  - 33.30.291 TREATIES
  - 33.30.901 DEFINITIONS

Continued →

continued

SEC. 7-9 FREE VENTURE INDUSTRIES

SEC. 10 CREDITED SERVICE

SEC. 11 CONSTRUCTION OF CORRECTIONAL FACILITIES/INMATE LABOR

SEC. 12 REPEALERS (ALL EXISTING CORRECTIONS STATUTES THAT ARE  
REWRITTEN IN THIS BILL).

SEC. 13 EXISTING REGULATIONS

COMMITTEE REPORT  
SENATE

FURTHER:

JUDICIARY  
FINANCE

5/7/85

Date

3 27 85

Mr. President

The Committee on HESS considered CSBE 114 (Jud) am

correctional facilities, and the imprisonment and rehabilitation of offenders.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for CSBE 114 (Jud) am
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

Distributed by  
Sen. Fahrenkamp

DEPARTMENT OF CORRECTIONS  
May 8, 1986

Major Points of Senate CS for CS fo: HB 114 (Jud.)

1. First comprehensive update of Alaska's laws on correctional facilities and the imprisonment and rehabilitation of offenders since statehood.
2. Repeals tolling of statute of limitations for prisoners who sue. Treats prisoners same as citizens and prisoners no longer have an advantage.
3. Codifies standard of medical care from Supreme Court decision.
4. Requires determination that rehabilitation will not be impaired before designating an out-of-state facility for a prisoner.
5. Clarifies responsibility for confinement and care of prisoners pending commitment to a state correctional facility.
6. Delineates authority of court and commissioner in transportation of prisoners. Limits court's authority to order transportation only for purposes related to court actions.
7. Sets out criteria consistent with court decisions which should be considered in assigning a prisoner to a treatment or rehabilitative program.
8. Establishes more comprehensive furlough system with specific criteria for eligibility and mandatory safeguards for the public.
9. Incorporates restitution center bill (SLA 1985 ch. 72) into statutory scheme in a more cohesive fashion.
10. Expands work opportunities for prisoners, thus reducing idleness, and enhancing rehabilitation, while protecting existing industry and labor from competition with prisoners.
11. Limits access to telephones for high risk prisoners; permits monitoring of prisoner telephone calls (except to attorneys) to preserve security and to protect the public.
12. Clarifies effect of criminal conviction on civil rights of a prisoner.
13. Provides much needed authorization to dispose of abandoned personal property.

14. Provides authority to forfeit excess money; will deter gambling and sale and use of drugs.
15. Makes Alaska a signatory to prisoner transfer treaties between the United States and foreign governments.
16. Permits commissioner to enter into a joint cooperative venture with private industry for the employment of prisoners (Free Venture Correctional Industry) as long as it does not compete with an existing industry or labor force in the state. A free venture industry is subject to competitive bidding requirements.
17. Permits Department of Corrections and Department of Transportation and Public Facilities to enter into agreements whereby DOTPF may delegate responsibility for construction, renovation or repair of a state correctional facility to DOC up to an estimated \$100,000 per project. Considerable cost savings to the state.

# Alaska State Legislature

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



*Sandra*

P O BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

### M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, March 11, 1986

DATE: March 10, 1986

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On Tuesday, March 11, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear:

CSHB 114(Jud) am Relating to correctional facilities and the imprisonment and rehabilitation of offenders

A sectional analysis prepared by the Attorney General's office is attached. The following areas are addressed:

Section 1 Service of felons as jurors allowed once discharged from supervision.

Sections 2-3 Failure to return from furlough is crime of unlawful evasion.

Section 4 Furlough of guilty but mentally ill prisoners allowed for treatment purposes.

Section 5 Specifies commissioner's duties in regard to:

- AS 33.30.011 Medical and psychiatric services
- AS 33.30.031 Contracting for confinement of misdemeanants and furloughed felons
- AS 33.30.061 Incarceration in out-of-state facilities
- AS 33.30.081 Transportation of prisoners
- AS 33.30.091 Treatment programs
- AS 33.30.111 Furloughs

AS 33.30.151 Employment of prisoners  
AS 33.30.181 Telephone access  
AS 33.30.191 Suspension of civil rights  
AS 33.30.211 Confiscation of contraband

Sections 6-8 "Free Venture" correctional industries in which the private sector provides tools, training and marketing and Corrections provides the labor force.

Section 10 Construction and renovation of correctional facilities with inmate labor.

Two amendments proposed by the Department are attached:

1. Make the statute of limitations for prisoners the same as for other citizens, and allow the commissioner to determine whether a prisoner should be transported for purposes unrelated to court action.
2. Incorporate language enacted last year in SB 4, relating to correctional restitution centers.

In addition, as follow-up to the Committee's earlier hearing on prison population growth, Commissioner Endell will discuss the Department's proposed budget amendment (attached) which would fund operation of an additional 362 beds and 10 probation officers.

The hearing will be teleconferenced to Anchorage and Fairbanks.

Changes: p. 1, line 24  
p. 2, line 7  
p. 3, line 29  
p. 4, line 3, 5, 9-11  
Offered: 4/25/85  
Referred: Finance

p. 7, line 18  
p. 10, line 8  
p. 11, lines 9, 18  
p. 12, line 25  
p. 13, line 10  
p. 14, lines 2, 3, 4, 10, 23, 29  
p. 15, lines 8, 20, 29  
p. 16, lines 7, 26, 29  
p. 20, line 6  
p. 21, lines 1, 4

HB 114

Plus see attached language. Changes at: p. 7, line 16  
p. 12, line 23  
p. 17, lines 2, 4

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SCS CS FOR HOUSE BILL NO. 114 (Judiciary) am (Hess)

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 imprisonment and rehabilitation of offenders."

7

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 disqualified from serving [TO ACT] as a juror if the person

11

12

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

13

14

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

15

16

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

17

18

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

19

20

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

21

22

23

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

24

25

(b) Unlawful evasion in the first degree is a class A misdemeanor.

26

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 including privileges granted under AS 33.30.181  
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

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

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

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

- 16 (A) a prisoner exhibits symptoms of a serious disease
- 17 or injury that is curable or may be substantially alleviated; and
- 18 (B) the potential for harm to the prisoner by reason
- 19 of delay or denial of care is substantial.

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

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

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

29 provided through with a public agency agreement may be in this state or in another state.  
Correctional facilities provided through agreement with a private agency  
must be located in this state. 3- CSHB 114(Jud) am

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

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<sup>or AS 33.30.151-33.30.181</sup> 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.

*See attached  
language  
on transportation  
(e)-(h)* →

17 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in  
18 and AS 33.30.161 AS 33.30.111, the commissioner may assign a prisoner committed to the  
19 commissioner's custody to a program established under AS 33.30.011(3)  
20 considering

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

1 court;

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

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

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

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

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

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

15 (2) secure or attend vocational training;

16 (3) obtain medical or psychiatric treatment;

17 (4) secure or engage in employment;

18 (5) attend educational institutions;

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

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

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

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

29 (1) the factors in AS 33.30.091;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) a prisoner who is denied discretionary parole under  
8 AS 33.15.080 <sup>AS 33.16.130</sup> may not be granted a prerelease furlough for a period of  
9 at least one year following the denial unless the board of parole  
10 expressly waives this provision.

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

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

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

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

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

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

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

9 OR CORRECTIONAL RESTITUTION CENTER PLACEMENT  
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 or as part of serving time in a correctional restitution center under AS 33.30.151 - 33.30.181.

20 the earnings of the prisoner shall be delivered to the commissioner.

21 If an employer transmits the earnings to the commissioner, the em-  
22 ployer has no liability to the prisoner for the earnings. The commis-  
23 sioner shall disburse the earnings of the prisoner, in an order deter-  
24 mined appropriate, under procedures adopted by the commissioner to

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

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

29 (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;

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

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

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

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

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

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

24 ARTICLE 3. GENERAL PROVISIONS.

25 Sec. 33.30.<sup>191</sup>151 EMPLOYMENT OF PRISON INMATES. (a) It is the  
26 policy of the state that prisoners be productively employed for as  
27 many hours each day as feasible, not to exceed 40 hours a week unless  
28 overtime has been specifically approved by the commissioner.

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

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181

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

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

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

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

17 (2) education including both academic and vocational;

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

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

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

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

1 Correctional Industries Commission under AS 33.32.015.

2 Sec. 33.30.<sup>201</sup>~~156~~ PAY OF PRISON INMATES. Each prisoner who is  
3 productively employed, as defined in AS 33.30.<sup>191</sup>~~151~~(d)(1) or 33.30.-  
4 <sup>191</sup>~~151~~(d)(3) - (6), may receive for that work compensation at a rate  
5 determined by the commissioner under AS 33.32.050 if the money is  
6 available from legislative appropriations. The provisions of AS 33.-  
7 32.050 and AS 33.32.040(b) apply to prisoners employed in the correc-  
8 tional industries program and to prisoners productively employed in  
9 activities outside that program.

10 Sec. 33.30.<sup>211</sup>~~161~~ TRANSMISSION OF DOCUMENTS. (a) When a prisoner  
11 is admitted to a correctional facility, a copy of the commitment shall  
12 be delivered with the prisoner as evidence of the authority of the  
13 correctional facility to hold the prisoner.

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

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

23 Sec. 33.30.<sup>221</sup>~~171~~ SUPERINTENDENT OF CORRECTIONAL FACILITY MAY  
24 ADMINISTER OATHS AND ACKNOWLEDGMENTS. The superintendent of a correc-  
25 tional facility or the superintendent's assistant may administer oaths  
26 to and take acknowledgments from a prisoner, but may not request or  
27 accept compensation from a prisoner for acts performed under this  
28 section.

29 Sec. 33.30.<sup>231</sup>~~181~~ TELEPHONE ACCESS AND MONITORING INSIDE

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

3 (b) A prisoner who is classified maximum custody, is placed in  
4 segregation as punishment for a rule infraction, or is placed in  
5 segregation because the prisoner poses a threat to others or to the  
6 security of a correctional facility may not have access to a telephone  
7 except to communicate with an attorney, to otherwise communicate as  
8 provided in <sup>AS 12.25.150.</sup> ~~Rule 5(b) of the Alaska Rules of Criminal Procedure~~ or in  
9 an emergency as determined appropriate by the commissioner.

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

20 <sup>241</sup>  
Sec. 33.30. ~~(19)~~ 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 <sup>251</sup>  
Sec. 33.30. ~~(20)~~ DISPOSAL OF ABANDONED PERSONAL PROPERTY. (a)

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

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

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

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

17 Sec. 33.30 <sup>261</sup>~~(211)~~ EXCESS MONEY AS CONTRABAND. (a) A prisoner who  
18 possesses money in an amount greater than that permitted by the com-  
19 missioner is subject to disciplinary sanctions under regulations  
20 adopted by the commissioner.

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

26 Sec. 33.30 <sup>271</sup>~~(221)~~ FORFEITURE OF PROPERTY. A conviction of a  
27 person for a crime does not work a forfeiture of property, except in  
28 cases where a forfeiture is expressly provided by law.

29 Sec. 33.30 <sup>281</sup>~~(231)~~ CRIME AGAINST SENTENCED PRISONER. A person who

See attached language on treaties 33.30.301  
See attached language on definitions (1), (3) and renumber

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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;

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

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

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

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

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

12           (b) The commissioner of corrections may

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 33.30.030, 33.30.040, 33.30.050, 33.30.060, <sup>33.30.062</sup> 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. 33.30.282, 33.30.283, 33.30.284, 33.30.286, 33.30.288

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.

①

I(e). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 2 and before line 3: Add a section which reads as follows:

Sec. 33.30.301. TREATIES. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of prisoners sentenced to serve a term of incarceration to the country where they are citizens or nationals, the commissioner may, on behalf of the state and subject to the terms of the treaty, consent to the transfer or exchange of prisoners and take any other action necessary to initiate the participation of the state in the treaty.

Explanation - This section is necessary for Alaska to be able to participate in prisoner transfer programs entered into by treaty between the United States and foreign countries.

2a

I(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, after line 16 and before line 17: Insert the following new subsections.

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

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

(g) Except as provided in (h) of this section, the expenses associated with the transportation of a prisoner ordered under (f) of this section, including but not limited to the costs of travel for the prisoner and escorting officers and the salary and per diem costs of the escorting officers, must be borne by the party who has requested the prisoner's appearance, and must be paid to

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the commissioner of public safety before the prisoner is transported.

(h) A prisoner who is a party to a civil action is not required to bear the full costs of the prisoner's own transportation under (g) of this section if the court determines that the prisoner is indigent. In such cases, the court may require the prisoner to bear a portion of the costs, and the commissioner of public safety shall bear the remaining costs of transporting the prisoner. If an indigent prisoner recovers a money judgment, the court may require the prisoner to bear all or part of the expenses required under (g) of this section.

Explanation - These proposed subsections are intended to help resolve two longstanding problems related to prisoner transportation. The first problem is the involvement of the courts in ordering prisoners transported to various locations for such occasions as funerals, births, hospitals to visit sick relatives, etc. These orders have frequently required state troopers to drop more important work, tied up critical manpower, and failed to consider risks to the public presented by some very dangerous prisoners. The first subsection will leave it to the discretion of the commissioner whether a prisoner may be transported for a purpose unrelated to a court action.

3a

II(e). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 12, after line 23 and before line 24: Add four new sections (taking the numbers .151 -- .161) as follows:

Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS.

(a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain nonviolent offenders with rehabilitation through community service and employment while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

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

(1) requirements that the centers be secure and in compliance with state and local safety laws;

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

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

(4) standards for classifying prisoners to centers;

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

36

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

Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to serve time in a correctional restitution center unless the commissioner specifically finds that the prisoner meets the eligibility requirements imposed by this section.

(b) To be eligible to serve time in a correctional restitution center, the prisoner

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

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

(3) may not have been convicted of an offense under AS 11.41.410 -- 11.41.470 or an offense in the state or another jurisdiction having elements substantially identical to an offense under AS 11.41.410 -- 11.41.470.

3c

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

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

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

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

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

4

II(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 4: Add two new definitions as follows and renumber remaining definitions alphabetically:

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

and

(3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit.

Explanation - These two definitions became existing law as part of SLA 1985 ch. 72 (SB 4 - Restitution Center bill). This amendment simply inserts these definitions in the appropriate place.

# Alaska State Legislature

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



## Senate Committee on Health, Education and Social Services

### LETTER OF INTENT

SCS FOR CS FOR HOUSE BILL 114 (HESS)

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

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

*- adopted by HESS  
- not adopted by  
Senate,  
'cause  
concept  
embodied  
in Jud. CS.*

P O BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3634  
(907) 465-3762

I(a). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 1, line 9: Add new section to read as follows:

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

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

2. Renumber all remaining sections accordingly.

Explanation - This amendment would reinstate a section which was in an earlier version of this bill, but which was removed by the House Judiciary Committee.

This <sup>stops</sup> ~~amends~~ <sup>stops</sup> ~~tolls~~ would repeal the provision in AS 09.10.140 which ~~tolls~~, for the period of imprisonment, the running of the period of time (statute of limitations) in which a prisoner may commence a lawsuit for an action which accrues

during imprisonment. This statute was originally enacted as a counterpart to AS 33.30.310, which suspended the civil rights of a prisoner during incarceration, including the right to file an action in court.

Since the right to access to the courts is no longer precluded for prisoners (under both section 33.30.191 of this Act and the great weight of court decisions), it would give a prisoner an unequal advantage over a normal citizen to retain the tolling of the statute of limitations for prisoners.

I(b). Proposed Amendment to CS for HB 114 (Judiciary)

Page 4, line 3: Take out words "and regulations".

Explanation - These two words are unnecessary as regulations in Alaska have the force and effect of law.

I(c). Proposed Amendment to CS for HB 114 (Judiciary)

Page 10, line 8: Delete AS 33.15.180 and insert AS 33.16.130  
in its place.

Explanation - This is a housekeeping amendment necessitated by  
changes in the parole statutes in 1985 SLA ch. 88.

I(d). Proposed Amendment to CS for HB 114 (Judiciary)

Page 15, line 8: Insert AS 12.25.150 after "in" and delete "Rule 5(b) of the Alaska Rules of Criminal Procedure".

Explanation - The suggested change is the correct citation and will result in no substantive change. In addition this will avoid a potential problem that might occur if the Supreme Court were to change Criminal Rule 5(b).

I(e). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 2 and before line 3: Add a section which reads as follows:

Sec. 33.30.301. TREATIES. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of prisoners sentenced to serve a term of incarceration to the country where they are citizens or nationals, the commissioner may, on behalf of the state and subject to the terms of the treaty, consent to the transfer or exchange of prisoners and take any other action necessary to initiate the participation of the state in the treaty.

Explanation - This section is necessary for Alaska to be able to participate in prisoner transfer programs entered into by treaty between the United States and foreign countries.

*Josephson will review.*

I(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, after line 16 and before line 17: Insert the following new subsections.

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

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

(g) Except as provided in (h) of this section, the expenses associated with the transportation of a prisoner ordered under (f) of this section, including but not limited to the costs of travel for the prisoner and escorting officers and the salary and per diem costs of the escorting officers, must be borne by the party who has requested the prisoner's appearance, and must be paid to

*Josephson  
amendment rule  
in fair rights  
parties? (litigant)  
desires whose  
testimony desired  
in court  
stark - could still  
be deposed or testify  
by phone*

the commissioner of public safety before the prisoner is transported.

(h) A prisoner who is a party to a civil action is not required to bear the full costs of the prisoner's own transportation under (g) of this section if the court determines that the prisoner is indigent. In such cases, the court may require the prisoner to bear a portion of the costs, and the commissioner of public safety shall bear the remaining costs of transporting the prisoner. If an indigent prisoner recovers a money judgment, the court may require the prisoner to bear all or part of the expenses required under (g) of this section.

Explanation - These proposed subsections are intended to help resolve two longstanding problems related to prisoner transportation. The first problem is the involvement of the courts in ordering prisoners transported to various locations for such occasions as funerals, births, hospitals to visit sick relatives, etc. These orders have frequently required state troopers to drop more important work, tied up critical manpower, and failed to consider risks to the public presented by some very dangerous prisoners. The first subsection will leave it to the discretion of the commissioner whether a prisoner may be transported for a purpose unrelated to a court action.

The next subsection sets out the standard under which a judge may order the personal appearance of a prisoner to testify in court -- i.e., the prisoner's personal appearance is essential to a just determination of a court action. This is a recognition of a prisoner's right to access to the courts, but not necessarily to personally appear in court either as a witness or a party to a lawsuit. Frequently, telephone or deposition testimony will suffice; however the court before whom any action is pending will make the final decision. This is an approach taken by several states (e.g., Minnesota and New York) in recognition of the risk to the public in the possible escape of prisoners and the fact that prisoners often times file actions just to get out of a correctional facility. It is also an attempt to maximize the time of state troopers in law enforcement related activities as opposed to prisoner transportation.

Additionally, the last two subsections address a serious concern of the department of public safety -- namely the cost of transporting, escorting and guarding prisoners who testify in civil actions. These amendments will relieve the state from subsidizing private civil litigants by requiring the litigants to pay for the transportation costs of prisoners who testify in the case. This is especially critical in a time of declining revenues.

# Dept. Corrections

#2

## II(a). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 1, line 24: After "period" insert ", including privileges granted under AS 33.30.181".
2. Page 2, line 7: After "period" insert ", including privileges granted under AS 33.30.181".

Explanation - The sections of this bill will have to be renumbered so that the various provisions of 1985 SLA ch. 72 (SB 4 - Correctional Restitution Center bill) can be inserted in the appropriate place. Under this proposed amendment (and others accompanying it), 33.30.181 will become what is presently AS 33.30.288, which allows prisoners to be absent from a correctional restitution center only for carefully delineated purposes.

*Mark* - <sup>risk factors</sup> <sup>liability concerns</sup> <sup>training of staff</sup> <sup>of staff</sup> ~~pure~~ confinement of felons - state responsibility  
contract of felons for rehab. OK  
This 1st yr for misdemeanants per SB 4 last yr.

*No state contracts  
contracts have held  
harmless clause  
to protect state  
from liability.*

II(b). Procceed Amendment to CS for HB 114 (Judiciary)

- Page 3, line 29: After "agreement" insert "with a public agency".
  
- 2. Page 3, after line 29: Insert "Correctional facilities provided through agreement with a private agency must be located in this state."
  
- 3. Page 4, line 5: After "AS 33.30.091 -- 33.30.131" add "or AS 33.30.151 -- 33.30.181".
  
- 4. Page 4, lines 9-11: Remove existing subsection (c) and replace it with the following language:  

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

Explanation - All of these amendments reflect present law (AS 33.30.060 and .062) as a result of the passage of SLA 1985 ch. 72 (SB 4 - the Restitution Center bill) last session. They make clear that any private agency which the commissioner contracts with for the placement of inmates must be located in the state, and must be secured through competitive bids. Further, the commissioner may only contract with a private

agency to confine persons convicted of a misdemeanor, to house prisoners on a furlough or for placement in a restitution center.

II(c). Proposed Amendment to CS for HB 114 (Judiciary)

Page 7, line 18: After "AS 33.30.111" add "and AS 33.30.161".

Explanation - Under the renumbered sections suggested with this and other accompanying proposed amendments, the new sec. 33.30.161 will be what is presently 33.30.283, which discusses eligibility criteria to serve time in a correctional restitution center.

This proposed amendment makes clear that the commissioner may assign a prisoner to any program as long as it does not conflict with eligibility criteria for placement in a restitution center or on a pre-release furlough.

II(d). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 11, line 9: After "FURLOUGH" insert "OR CORRECTIONAL RESTITUTION CENTER PLACEMENT".
2. Page 11, line 18: At the beginning of the line insert the words "or as part of serving time in a correctional restitution center under AS 33.30.151 -- 33.30.181".

Explanation - This amendment makes no substantive change to existing law, but rather inserts the requirements of AS 33.30.-286 into this section such that the earnings of prisoners who are working while serving time in a correctional restitution center are treated the same as prisoners who are working while out on furlough.

II(e). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 12, after line 23 and before line 24: Add four new sections (taking the numbers .151 -- .161) as follows:

Sec. 33.30.151. CORRECTIONAL RESTITUTION CENTERS.

(a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain nonviolent offenders with rehabilitation through community service and employment while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

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

(1) requirements that the centers be secure and in compliance with state and local safety laws;

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

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

(4) standards for classifying prisoners to centers;

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

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

Sec. 33.30.161. ELIGIBILITY TO SERVE TIME IN A CORRECTIONAL RESTITUTION CENTER. (a) The commissioner may not allow a prisoner to serve time in a correctional restitution center unless the commissioner specifically finds that the prisoner meets the eligibility requirements imposed by this section.

(b) To be eligible to serve time in a correctional restitution center, the prisoner

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

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

(3) may not have been convicted of an offense under AS 11.41.410 -- 11.41.470 or an offense in the state or another jurisdiction having elements substantially identical to an offense under AS 11.41.410 -- 11.41.470.

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

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

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

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

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

2. Pages 12-16: Renumber sections 33.30.151 -- 33.30.231 to 33.30.191 -- 33.30.281.
3. Page 14 lines 3 and 4: Change the references to "33.30.-151" to "33.30.191".

Explanation - These proposed amendments simply insert a number of the provisions of SLA 1985 ch. 72 (SB 4 - Correctional Restitution Center bill) into the appropriate place (i.e., at the end of Article II, which includes programs), thus necessitating the renumbering of the four provisions which have been displaced. Thus under these amendments, AS 33.30.282 becomes 33.30.151; AS 33.30.283 becomes 33.30.161; AS 33.30.284 becomes 33.30.171; and AS 33.30.288 becomes 33.30.181. Consequently, existing proposed 33.30.151 becomes 33.30.191 and the remaining sections in this Article are renumbered accordingly.

The third amendment is a housekeeping one to maintain internal consistency.

II(f). Proposed Amendment to CS for HB 114 (Judiciary)

Page 17, after line 4: Add two new definitions as follows and renumber remaining definitions alphabetically:

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

and

(3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit.

Explanation - These two definitions became existing law as part of SLA 1985 ch. 72 (SB 4 - Restitution Center bill). This amendment simply inserts these definitions in the appropriate place.

II(g). Proposed Amendment to CS for HB 114 (Judiciary)

1. Page 21, line 1: Between "33.30.060," and "33.30.070" add "33.30.062,".
  
2. Page 21, line 4: Between "33.30.260," and "33.30.290" add "33.30.282, 33.30.283, 33.30.284, 33.30.286, 33.30.288,".

Explanation - This is a housekeeping amendment. Since all the provisions of SLA 1985 ch. 72 (SB 4 - Restitution Center bill) have been incorporated into this bill, it is necessary to repeal the existing provisions.

# Comparison of CS HB 114 (Jud) am to existing law.

*Superseded*

Offered: 4/25/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
 2 CS FOR HOUSE BILL NO. 114 (Judiciary) am  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - FIRST SESSION  
 5 A BILL  
 6 For an Act entitled: "An Act relating to correctional facilities, and the  
 7 imprisonment and rehabilitation of offenders."  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
 9 \* Section 1. AS 09.20.020 is amended to read:  
 10 Sec. 09.20.020. DISQUALIFICATION OF JURORS. A person is dis-  
 11 qualified from serving [TO ACT] as a juror if the person  
 12 (1) has served as a juror in the state within one year of  
 13 the time of examination for service; or  
 14 (2) has been convicted of a felony for which the person has  
 15 not been unconditionally discharged. Unconditional discharge has the  
 16 meaning given in AS 12.55.185 [FELONY AND THE CIVIL RIGHTS OF THE  
 17 PERSON HAVE NOT BEEN RESTORED].  
 18 \* Sec. 2. AS 11.56.340 is repealed and reenacted to read:  
 19 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. A  
 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 - 33.30.111 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.

Existing 09.20.020.

Existing AS 33.30.150 makes  
no distinction between  
felonies + misdemeanors.

Existing 33.30.150 makes no distinction between felonies & misdemeanors

Existing 12.47.050(d)

(1) existing 33.30.010 and 33.30.040

(2) existing 33.30.020

(3) existing 33.30.020 requires Dept to establish rehabilitation & treatment programs. Adds furlough programs, & adds goals for the treatment programs.

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

(4) existing AS 33.30.050 - provide services either directly or under contract

(5) new provision under the standard articulated by the AK Supreme Ct. in Rust vs. State.

existing AS 33.30.030

existing 33.30.060 limits the Dept.'s contracting authority to public agencies.

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

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

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

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

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

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

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

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

(b) Existing 33.30.062.

(c) Existing 33.30.62

(d) New provision. See Section  
33.30.131 of this bill.

(e) Existing 33.30.070.  
Agreements with other states  
are currently under Interstate  
Compacts

Existing 33.30.080

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. (furlough)

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 [reasonable]<sup>(4)</sup> 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

Existing 33.30.090

Existing 33.30.100 and 33.30.110

New provision.

Existing 33.30.130, but it doesn't address, who's responsible for medical care if the arrest is because of intoxication (47.37.170) or for an emergency mental evaluation (47.30.705).

New provision.. Codifies practice based on 1977 AG opinion.

New provision. Codifies practice based on 1977 AG opinion.

Existing 33.30.130(b) & 33.30.160

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.

(b) New provision. Codifies current practice.

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.

(c) New provision. Codifies current practice.

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 facility.  
12

(d) Existing 33.30.160.

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.

New provision. Based on case law.

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 33.30.111(2)  
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 class-  
29 ification committee and any recommendations made by the sentencing

New provision.  
Existing law does not state  
purpose of furlough.

New provision. Existing law  
does not specify standards  
for determining who is  
furlough-eligible. 33.30.250  
merely directs the Dept. to  
determine "if the person is a fit  
subject for a furlough."

1 court;  
2 (7) the record of convictions of the prisoner with particu-  
3 lar emphasis on crimes specified in AS 11.41;  
4 (8) the use of drugs or alcohol by the prisoner;  
5 (9) the length of the prisoner's sentence; and  
6 (10) other criteria considered appropriate by the commis-  
7 sioner, including experimental evaluation of correctional programs  
8 that are consistent with protection of the public and reformation of  
9 the prisoner.  
10 Sec. 33.30.101. FURLOUGHS. (a) The commissioner shall adopt  
11 regulations governing the granting of prerelease and short-duration  
12 furloughs to prisoners to  
13 (1) obtain counseling and treatment for alcohol or drug  
14 abuse;  
15 (2) secure or attend vocational training;  
16 (3) obtain medical or psychiatric treatment;  
17 (4) secure or engage in employment;  
18 (5) attend educational institutions;  
19 (6) secure a residence or make other preparation for re-  
20 lease;  
21 (7) appear before a group whose purpose is a better under-  
22 standing of crime or corrections; or  
23 (8) for any other rehabilitative purpose the commissioner  
24 determines to be in the interests of the prisoner and the public.  
25 (b) If the commissioner determines with reasonable probability  
26 that a prisoner can live under reduced supervision without violating  
27 the law or the conditions established for the conduct of the prisoner,  
28 the commissioner may grant a furlough after considering  
29 (1) the factors in AS 33.30.091;

New provision. Existing statute does not state purpose of furlough.

(b) Existing 33.30.250(c) limits housing of a furloughed prisoner to a prison facility (which includes a halfway house).

(c) New provision. Minimum safeguards not addressed in current statute.

(d) New provision. Eligibility criteria for furlough not addressed in current statute.

- 1                   (2) violations, if any, by the prisoner of a condition of a  
2 prior furlough;
- 3                   (3) the history, if any, of institutional misconduct by the  
4 prisoner; and
- 5                   (4) the best interests of the prisoner and the public.
- 6                   Sec. 33.30.111. PRERELEASE FURLOWHS. (a) Furlough programs  
7 established under AS 33.30.101 must include prerelease furloughs  
8 designed to facilitate the reintegration of a prisoner into society.
- 9                   (b) A facility that is specifically adapted to provide a resi-  
10 dence outside prison, including a halfway house, ~~group home, or other~~  
11 placement that provides varying levels of restriction and supervision,  
12 may be used for a prisoner on a prerelease furlough.
- 13                   (c) The restrictions and supervision required for a prerelease  
14 furlough shall provide safeguards that minimize risk to the public and  
15 include, as a minimum.
- 16                   (1) frequent contact with the prisoner by persons supervis-  
17 ing the prisoner;
- 18                   (2) knowledge by supervisory staff of the location of the  
19 prisoner;
- 20                   (3) periodic reports by supervisory staff to the commis-  
21 sioner on the performance of the prisoner while on furlough; and
- 22                   (4) a residential setting in which persons supervising a  
23 prisoner are obliged to immediately report to the commissioner any  
24 violation of a condition set for the prisoner's conduct.
- 25                   (d) Notwithstanding AS 33.30.101(b), and other eligibility  
26 criteria established by the commissioner, that relate to risks to the  
27 public posed by the proposed furlough of a prisoner.
- 28                   (1) a prisoner sentenced to a definite term of imprisonment  
29 of more than one year but less than five years is not eligible for a

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

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

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

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

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

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

(e) New provision.

(f) Existing 33.30.250<sup>(h)</sup> & 260<sup>(b)</sup>

[The victim shall keep the Dept. apprised of the victim's address.]

(see next page)

(1) existing AS 33.30.150

(2) New provision. Currently within Dept.'s general powers.

(a) existing AS 33.30.250 (b)

Existing AS 33.30.250(d) limits use of prisoner's wages to room & board, dependent support.

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

3 (1) family visitations, that may not exceed one week or  
4 occur more frequently than once in each <sup>(6)</sup>four-month period; or

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

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

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

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

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

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

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

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

3 (5) support the dependents of the prisoner, and to provide  
4 child support payments as required by AS 09.65.112.

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

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

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

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

24 ARTICLE 3. GENERAL PROVISIONS.

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

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

(c) Existing AS 33.30.250(d).

(d) Existing AS 33.30.250(d)

Existing AS 33.30.250(e).

Existing AS 33.30.250 (f)

Existing 33.30.225 (a)

Existing 33.30.225 (b)

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

(c) Existing 33.30.225(c)

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

(d) Existing 33.30.225(a)

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

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

17 (2) education including both academic and vocational;

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

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

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

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

X

Existing 33.30.227

(a) Existing 33.30.185(a)

(b) Existing 33.30.185(a)

(c) Existing 33.30.185(b)

Existing 33.30.190

New provision. Existing statute does not address use of telephone.

[Commissioner]

1 Correctional Industries Commission under AS 33.32.015.

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

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

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

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

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

29 Sec. 33.30.181. TELEPHONE ACCESS AND MONITORING INSIDE

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

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

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

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

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

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

29 Sec. 33.30.201. DISPOSAL OF ABANDONED PERSONAL PROPERTY. a,

Existing 33.30.310 and 33.30.320  
suspend all civil rights during the  
term of imprisonment.

New provision. Existing law does not  
address abandoned personal property.

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

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

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

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

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

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

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

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

New provision. Existing statute does not address the confiscation and forfeiture of excess money. Practice was to place it in the prisoner's account upon discovery.

Existing 33.30.290. Also provides for a lien against all a felon's property for the purpose of satisfying a judgment. Existing 33.30.300.

Existing 33.30.900 also defines  
"center", "community service",  
"political subdivision."

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

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

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

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

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

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

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

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

24 (7) "health care provider" means

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

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

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

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

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

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

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

12                  (b) The commissioner of corrections may

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

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

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

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

Existing 33.32.015(b)