

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

6829 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

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* DELIVER TO: LHSCHES
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* ORIGINAL
* SENT: 04/04/91 TIME: 10:16
* FROM: LTCCKTN
* SUBJECT: 91-04-011;FS;CORR/HEALTH;4-4
* PRINT DATE: 04/04/91 TIME: 10:16
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T/C NO: 91-04-011
DATE: APRIL 4, 1991
SPONSOR: HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
SUBJECT: HB 151: PAROLE ELIGIBILITY/REHABILITATION PROGRAM
        HB 174: ALTERNATIVE INCARCERATION PROGRAM
        HB 230: HEPATITIS B TESTING AND VACCINATIONS
        HB 214: STATE AID FOR NONPROFIT HEALTH FACILITIES
        HCR 20: SUDDEN INFANT DEATH SYNDROME AWARENESS
MODERATOR: JUNE ROBBINS
SITE: KETCHIKAN

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FINAL STATS

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TESTIFIED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ED MAHN, KETCHIKAN GENERAL HOSPITAL	3100 TONGASS AVE. KETCHIKAN	99901 225-5171	HB 214

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OBSERVED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. CONSTANCE GRIFFITH	2509 4TH AVE. KETCHIKAN	99901 225-5069	HB151 AND HB174

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TESTIFIED: 1
UNABLE: 0
OBSERVED: 1
TOTAL: 2

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* DELIVER TO: LHSCHES
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* ORIGINAL
* SENT: 04/04/91 TIME: 10:52
* FROM: LTCCFBX
* SUBJECT: 91-04-011;FS;HHESS;4-4
* PRINT DATE: 04/04/91 TIME: 10:52
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SUBJECT LINE TO READ: TC NO.,PL/FS,SHORT SUBJECT,DATE

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T/C NO: 91-04-011
DATE: APRIL 4, 1991
SPONSOR: HOUSE HESS
SUBJECT: HB 151: HB 174: HB 230: HB 214: HCR 20
MODERATOR: FRAN
SITE: FAIRBANKS

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FINAL STATS

TO TESTIFY

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. RON MURRAY, 315 HB151,174	BARNETTE,	FBX,99701	451-7762
2. GLENN HACKNEY, 1136 HB151,174	SUNSET DR.,	FBX,99709	474-0610 HB 174-MADD
3. JOAN KOPONEN, 710 HB151,174	CHENA RIDGE,	FBX,99709	479-6782

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. LEW REECE, 315 HB151,174	BARNETTE,	FBX,99701	451-7762 Dept. of Correc.
2.			

TESTIFIED: 3

UNABLE:

OBSERVED: 1

TOTAL: 4

START TIME: 8:00 A.M. END TIME: 10:10 A.M.

M E M O R A N D U M

TO: HOUSE HESS MEMBERS
FR: PATTI, HESS SECRETARY, EXT 4923
DT: APRIL 15, 1991
RE: HB 174

Patti

SOMETHING NEW!!!!

ATTACHED IS THE CS FOR HB 174 WHICH WILL BE DISCUSSED ON
TUESDAY, APRIL 16, 1991.

PLEASE ADD TO YOUR HESS FILE -- HB 174.

SEE YOU TUESDAY....8:00 A.M.

7-LS0787NG ✓
Luckhaupt
4/12/91

CS FOR HOUSE BILL NO. 174 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KOPONEN

A BILL

FOR AN ACT ENTITLED

1 "An Act related to sentencing and the service of sentences; providing for alternative
2 incarceration programs; providing for an alternative incarceration pilot program; and
3 providing for an effective date."

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

5 * Section 1. AS 11.56.340(a) is amended to read:

6 (a) A person commits the crime of unlawful evasion in the first degree if, while charged
7 with or convicted of a felony,

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

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

14 (3) the person, while sentenced or assigned to an alternative incarceration

1 program, leaves the place of the alternative incarceration without permission.

2 * Sec. 2. AS 11.56.350(a) is amended to read:

3 (a) A person commits the crime of unlawful evasion in the second degree if, while
4 charged with or convicted of a misdemeanor,

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

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

11 (3) the person, while sentenced or assigned to an alternative incarceration
12 program, leaves the place of the alternative incarceration without permission.

13 * Sec. 3. AS 11.56.390 is amended to read:

14 Sec. 11.56.390. DEFINITIONS [DEFINITION]. In AS 11.56.300 - 11.56.390,

15 (1) "alternative incarceration program" means incarceration of a prisoner
16 other than in a correctional facility and exclusive of assignment of the prisoner to a
17 furlough or correctional restitution center; the term includes home arrest or detention
18 enforced through electronic monitoring or phone checks with intensive supervision;

19 (2) "contraband" means any article or thing that [WHICH] persons confined in
20 a correctional facility are prohibited by law from obtaining, making, or possessing in that
21 correctional facility.

22 * Sec. 4. AS 12.55.015(a) is amended to read:

23 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing sentence on
24 a defendant convicted of an offense, may singly or in combination

25 (1) impose a fine when authorized by law and as provided in AS 12.55.035;

26 (2) order the defendant to be placed on probation under conditions specified by
27 the court that may include provision for active supervision;

28 (3) impose a definite term of periodic imprisonment;

29 (4) impose a definite term of continuous imprisonment;

30 (5) order the defendant to make restitution under AS 12.55.045;

31 (6) order the defendant to carry out a continuous or periodic program of

1 community work under AS 12.55.055;

2 (7) suspend execution of all or a portion of the sentence imposed under
3 AS 12.55.080;

4 (8) suspend imposition of sentence under AS 12.55.085;

5 (9) order the forfeiture to the commissioner of public safety of a deadly weapon
6 that was in the actual possession of or used by the defendant during the commission of an
7 offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

8 (10) order the defendant, while incarcerated, to participate in or comply with the
9 treatment plan of a rehabilitation program that is related to the defendant's offense or to the
10 defendant's rehabilitation, if the program is made available to the defendant by the Department
11 of Corrections;

12 (11) order the defendant to successfully complete a periodic or continuous
13 term in an alternative incarceration program under conditions imposed by the court and
14 under the terms and conditions of the alternative incarceration program.

15 * Sec. 5. AS 12.55.085(b) is amended to read:

16 (b) At any time during the probationary term of the person released on probation, a
17 probation officer may, without warrant or other process, rearrest the person so placed in the
18 officer's care and bring the person before the court, or the court may, in its discretion, issue a
19 warrant for the rearrest of the person. The court may revoke and terminate the probation if the
20 interests of justice require, and if the court, in its judgment, has reason to believe that the person
21 placed upon probation is

22 (1) violating the conditions of probation;

23 (2) engaging in criminal practices; [OR]

24 (3) violating an order of the court to participate in or comply with the treatment
25 plan of a rehabilitation program under AS 12.55.015(a)(10); or

26 (4) violating an order of the court to successfully complete a periodic or
27 continuous term in an alternative incarceration program under conditions imposed by the
28 court and under the terms of the alternative incarceration program.

29 * Sec. 6. AS 12.55.100(a) is amended to read:

30 (a) While on probation and among the conditions of probation, the defendant may be
31 required

- 1 (1) to pay a fine in one or several sums;
- 2 (2) to make restitution or reparation to aggrieved parties for actual damages or
- 3 loss caused by the crime for which conviction was had;
- 4 (3) to provide for the support of any persons for whose support the defendant is
- 5 legally responsible;
- 6 (4) to perform community work in accordance with AS 12.55.055;
- 7 (5) to participate in or comply with the treatment plan of an inpatient or outpatient
- 8 rehabilitation program specified by either the court or the defendant's probation officer that is
- 9 related to the defendant's offense or to the defendant's rehabilitation; [AND]
- 10 (6) to satisfy the screening, evaluation, referral, and program requirements of an
- 11 agency authorized by the court to make referrals for rehabilitative treatment or to provide
- 12 rehabilitative treatment; and
- 13 (7) to successfully complete a periodic or continuous term in an alternative
- 14 incarceration program under conditions imposed by the court and under the terms and
- 15 conditions of the alternative incarceration program.

16 * Sec. 7. AS 12.55.110 is amended by adding a new subsection to read:

17 (c) Good cause justifying the revocation of a suspended sentence is established if the

18 defendant has violated an order of the court or a term or condition of an alternative incarceration

19 program that the defendant has been ordered to successfully complete.

20 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

21 (12) "alternative incarceration program" has the meaning given in AS 11.56.390.

22 * Sec. 9. AS 33.30.011 is amended to read:

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

24 (1) establish, maintain, operate, and control correctional facilities suitable for the

25 custody, care, and discipline of persons charged or convicted of offenses against the state or held

26 under authority of state law;

27 (2) classify prisoners;

28 (3) for persons committed to the custody of the commissioner, establish programs,

29 including alternative incarceration programs and furlough programs that are reasonably

30 calculated to

31 (A) protect the public;

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

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

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

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

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

17 (6) establish minimum standards for sex offender treatment programs offered to
 18 persons who are committed to the custody of the commissioner.

19 * Sec. 10. AS 33.30.091 is amended to read:

20 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in AS 33.30.096,
 21 33.30.111, [AS 33.30.111] and 33.30.161, the commissioner may assign a prisoner committed
 22 to the commissioner's custody to a program established under AS 33.30.011(3) considering

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

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

30 (6) the needs of the prisoner as determined by a classification committee and any
 31 recommendations made by the sentencing court;

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

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

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

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

8 * Sec. 11. AS 33.30 is amended by adding a new section to read:

9 Sec. 33.30.096. ALTERNATIVE INCARCERATION. (a) The commissioner may assign
10 a prisoner committed to the commissioner's custody, except for a prisoner sentenced to a period
11 of incarceration under AS 28.35.030, to an alternative incarceration program. Under regulations
12 adopted for the purpose, if the commissioner determines with reasonable probability that a
13 prisoner can live under reduced supervision without violating the law or the conditions
14 established for the conduct of the prisoner, the commissioner may place the prisoner in an
15 alternative incarceration program, after considering

16 (1) the factors in AS 33.30.091;

17 (2) violations, if any, by the prisoner of a condition of a prior furlough or
18 assignment to an alternative incarceration program;

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

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

21 (b) The restrictions and supervision required for an assignment to an alternative
22 incarceration program must provide safeguards that minimize risk to the public and include, as
23 a minimum,

24 (1) detention of the prisoner by means of electronic monitoring, phone checks,
25 and intensive supervision;

26 (2) frequent contact with the prisoner by persons supervising the prisoner;

27 (3) knowledge by supervisory staff of the location of the prisoner;

28 (4) periodic reports by supervisory staff to the commissioner on the performance
29 of the prisoner;

30 (5) a requirement that a person supervising a prisoner is obliged to immediately
31 report to the commissioner any violation of a condition set for the prisoner's conduct; and

1 (6) frequent random urinalysis and breath testing of the prisoner.

2 * Sec. 12. AS 33.30.901 is amended by adding a new paragraph to read:

3 (14) "alternative incarceration program" means incarceration of a prisoner other
4 than in a correctional facility and exclusive of assignment of the prisoner to a furlough or
5 correctional restitution center; the term includes home arrest or detention enforced through phone
6 checks or electronic monitoring, with intensive supervision.

7 * Sec. 13. ALTERNATIVE INCARCERATION PILOT PROGRAM. The commissioner of
8 corrections shall conduct a statewide feasibility study concerning the implementation of an alternative
9 incarceration program. As a part of the feasibility study, the commissioner of corrections shall explore
10 alternatives for rural offenders. The feasibility study shall be completed by February 1, 1992. The
11 commissioner of corrections shall establish by July 1, 1992, an alternative incarceration pilot program
12 in at least two judicial districts of the state. The program shall be designed to initially accommodate
13 at least 20 prisoners selected by the commissioner under AS 33.30.096, enacted by sec. 11 of this Act.
14 The program shall provide, at a minimum, for a period of electronic monitoring, followed by a period
15 of intensive supervision, with gradually decreasing supervision. At least weekly urinalysis and breath
16 testing for alcohol or controlled substances shall be required.

17 * Sec. 14. REPORT TO LEGISLATURE. The commissioner of corrections shall report to the
18 legislature concerning the results of the feasibility study and the progress, problems, and success of the
19 alternative incarceration pilot program established by sec. 13 of this Act. Interim reports shall be filed
20 with the legislature by February 1, 1992, and by February 1, 1993, and a final report by the third day
21 of the second regular session of the Eighteenth Alaska State Legislature.

22 * Sec. 15. Section 13 of this Act is repealed January 1, 1994.

23 * Sec. 16. Sections 4 - 8 of this Act take effect January 1, 1995.

24 * Sec. 17. Sections 1 - 3 and 9 - 15 of this Act take effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED-IN-THE HOUSE
TO: HB 174

BY REPRESENTATIVE KOPONEN

Page 6, line 10, following "custody":

Insert ", except for a prisoner sentenced to a period of incarceration under AS 28.35.030,"

DRIVE DRIVE

2

7-LS0787A.2
Luckhaupt
04/03/91

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE KOPONEN

TO: HB 174

Page 7, following line 19:

Delete all material.

Insert a new bill section to read:

"* Sec. 16. Sections 4 - 8 of this Act take effect January 1, 1995.

* Sec. 17. Sections 1 - 3 and 9 - 16 of this Act take effect immediately under AS 01.10.070(c)."

Renumber the following bill section accordingly.

③
Legal
Judy

A M E N D M E N T

OFFERED IN THE HOUSE
TO: HB 174

BY REPRESENTATIVE KOPONEN

Page 7, line 7, following "corrections":

Insert "shall conduct a feasibility study concerning the implementation of an alternative incarceration program for the state. The feasibility study shall be completed by February 1, 1992. The commissioner of corrections"

Page 7, line 7:

Delete "1991"

Insert "1992"

Delete "two"

Insert "one"

Page 7, line 9:

Delete "in each of the two judicial districts sentenced directly to the program by a court of"

Page 7, line 15, following "concerning":

Insert "the results of the feasibility study and"

Page 7, line 19:

Delete "June 30, 1993"

Insert "January 1, 1994"

During sub-
Committee Mtg - ADDED page 7 line 9

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 1, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/16/91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered

HB 174

HOUSE BILL NO. 174

ALTERNATIVE INCARCERATION PROGRAM

"An Act related to sentencing and the service of sentences; providing for alternative incarceration programs; providing for an alternative incarceration pilot program; and providing for an effective date."

RECOMMENDATIONS:
be replaced with OS HB 174 (HES) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Dept. of Corr. 4/1/91

fiscal note(s) _____

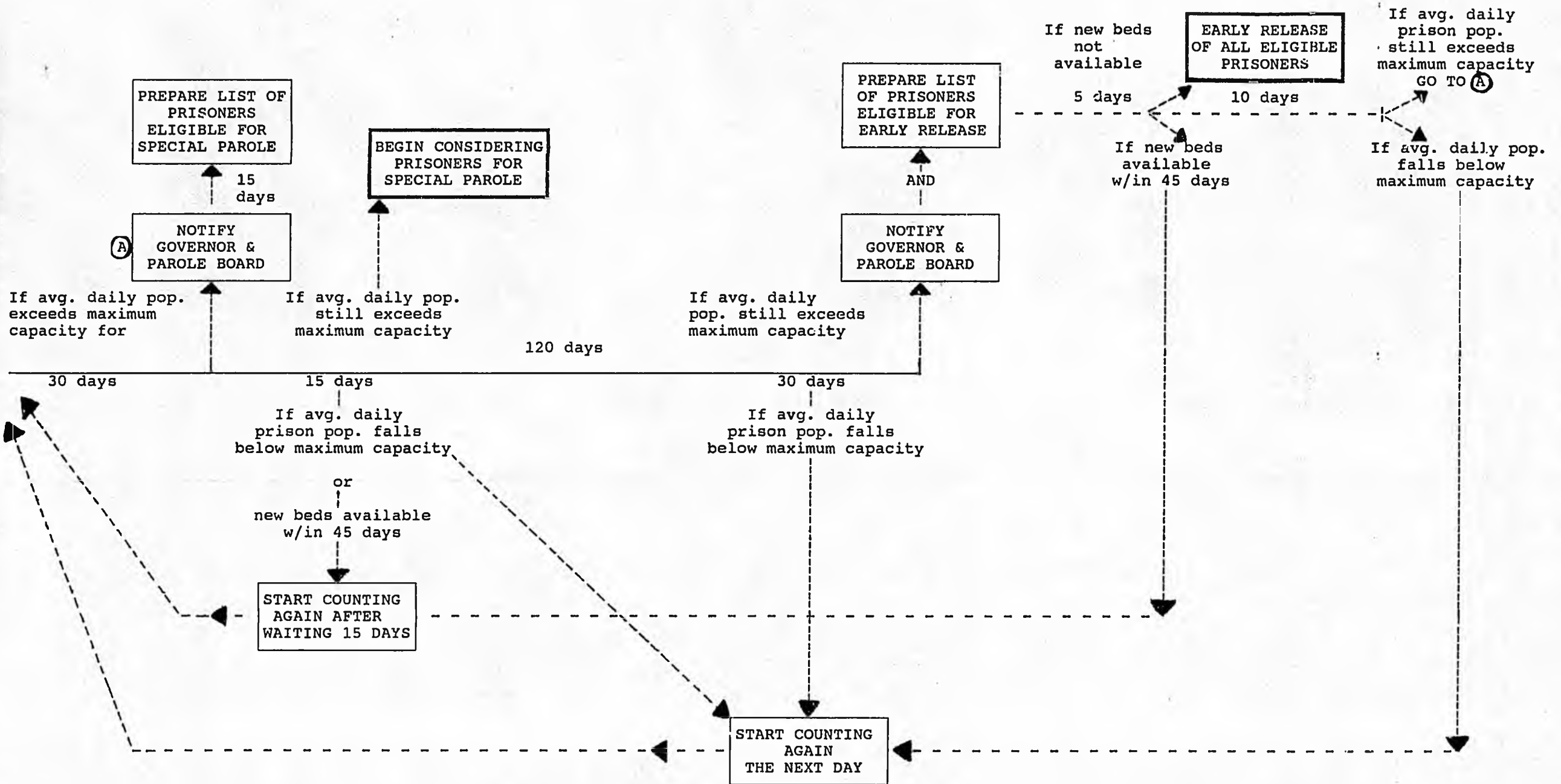
zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Cheri Davis</i>	<input checked="" type="checkbox"/>				
<i>Patricia King</i>	<input checked="" type="checkbox"/>				
<i>J. E. Gonzales</i>	<input checked="" type="checkbox"/>				
<i>Denise Smith</i>	<input checked="" type="checkbox"/>				
		<i>Mark Stanley</i>		<input checked="" type="checkbox"/>	

Denise Smith
CHAIRMAN'S SIGNATURE

FLOW CHART FOR PRISON POPULATION MANAGEMENT ACT



-- Flow Chart --

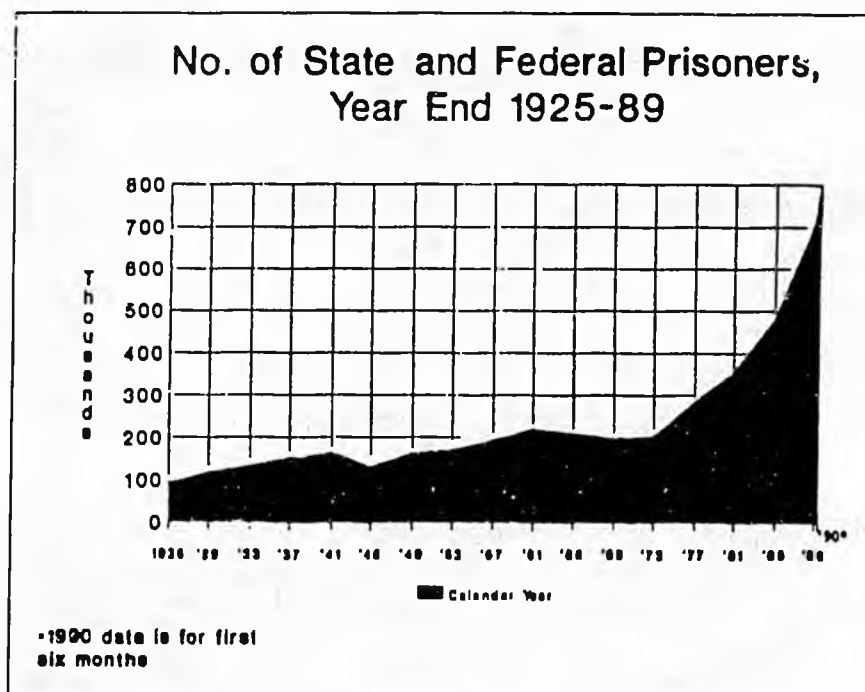
2/1/91

AMERICA'S CORRECTIONAL CRISIS
A REPORT TO STATE AND LOCAL BAR ASSOCIATIONS
FROM
THE SECTION OF CRIMINAL JUSTICE

The growth of America's prison population is out of control. We need the help of the organized bar to bring reason to public debate on this issue.

What is happening?

Despite a basically static crime rate, we have almost quadrupled the number of persons in state and federal prisons since 1970. In 1970 we had roughly 197,000 persons behind bars.¹ In 1980 the number was 316,000.² As of June 30, 1990, it had jumped to 755,425.³ Chart 1 presents the data from 1925 to mid-year 1990.



¹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: State and Federal Prisoners, 1925-85, at 2 (Washington, D.C., October 1986).

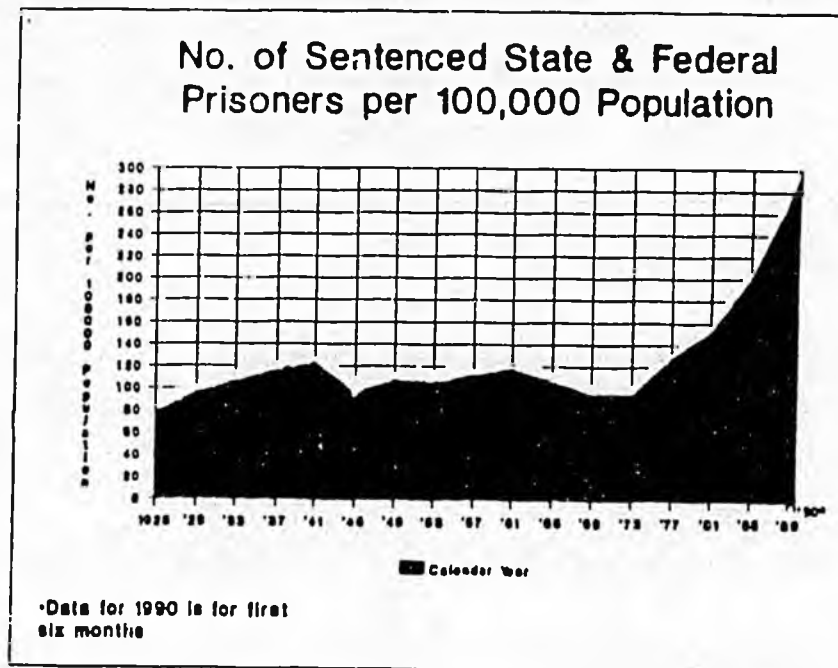
² Ibid.

³ Department of Justice Press Release 90-54(H), at page 1 (October 7, 1990).

The growth is not slowing. It is getting steeper. During the past few years, the rate of growth has been roughly 7% to 8% per year.⁴ During 1989, however, the prison population grew at a rate of 13.1%. We added more than 82,000 inmates last year, more than during any previous twelve months in our history.⁵ That is the equivalent of 1600 more inmates, or four new prisons, per week.

The phenomenal growth rate continued during the first half of 1990, rising another 42,862 inmates--a 12% annual growth rate. The Director of the Justice Department's Bureau of Justice Statistics reported the twelve month growth as "the largest annual growth in 65 years of prison population statistics."⁶

The number of inmates per capita has grown at the same rate. See Chart 2. In 1980 we incarcerated 138 Americans per 100,000 adults in the population.⁷ On June 30, 1990, the number had grown to 289 per 100,000 adults.⁸



⁴ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, at 1 (Washington, D.C., May 1990).

⁵ Ibid.

⁶ Department of Justice press release, supra note 3.

⁷ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: State and Federal Prisoners, 1925-85, supra, note 1.

⁸ Department of Justice Press Release, supra, note 3.

Add the number of inmates in local jails (344,000 in 1988).⁹ The result is more than 1 million Americans behind bars, or one for every 250 adults.

If all of our prison and jail inmates were in one place, its population would exceed that of nine states. Vermont, Rhode Island, North Dakota, South Dakota, Delaware, Montana, Wyoming, Nevada and Alaska each have fewer inhabitants than do our prisons and jails combined.

There are almost 2.5 million persons on probation¹⁰ and another 400,000 on parole.¹¹ Altogether there are almost 4 million Americans under correctional supervision. One in 49 adults is serving a criminal sentence.¹² One in 27 men.¹³ Among men between the ages of 20 and 29, 1 in 4 blacks, 1 in 10 Hispanics and 1 in 16 whites are serving a criminal sentence.¹⁴

The rates of growth are different in different states. The populations in ten states have increased by more than 150% during the past ten years: California (263%); New Hampshire (258%); New Jersey (249%); Alaska (234%); Nevada (193%); Arizona (192%); Ohio (162%); Pennsylvania (162%); Hawaii (157%); Utah (154%).¹⁵

We have been building new prisons at an unprecedented rate. In 1989 alone, we added 40,000 to 60,000 new beds¹⁶ (an 8 to 10%

⁹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Census of Local Jails 1988 (Washington, D.C., February 1990).

¹⁰ U.S. Department of Justice, Bureau of Justice Statistics, Probation and Parole 1988 (Washington, D.C., November 1989).

¹¹ Ibid.

¹² U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Probation and Parole 1988 at 1 (Washington, D.C., November 1989).

¹³ Ibid.

¹⁴ Marc Mauer, Young Black Men and The Criminal Justice System: A Growing National Problem, at 3 (The Sentencing Project, Washington, D.C., February 1990).

¹⁵ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 3.

¹⁶ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 7. (differences based on highest and lowest rated capacities)

increase) at a capital cost of about \$1.5 billion.¹⁷ As a nation, we will spend about \$16 billion this year to build and operate prisons and jails.¹⁸

But we are falling hopelessly behind. At last report, only 10 states were operating at or below 95% of their rated capacity (using the highest of several measures of rated capacity).¹⁹ The Federal system and those of 38 states are filled beyond their highest rated capacities. Prisons in the District of Columbia and 42 states and territories are under federal court order for unconstitutional crowding.²⁰ One in every eight jails has a federal court "cap."²¹

The consequence--a proliferation of "back door" release mechanisms, including more liberal parole policies, increased good time, and emergency release programs when institutions reach their federally-imposed "caps."

It is interesting to note that all seven states reporting a prison population decline during the first six months of 1990 (Colorado, New Mexico, Rhode Island, Tennessee, Alaska, Oregon, and West Virginia) are all under court orders dealing with unconstitutional conditions of confinement.

Why are we doing this--spending fortunes in public funds, at a time of hugh public budget deficits, to lock up more and more people?

It is not because of increased crime. While per capita imprisonment has increased by more than 100% during the past ten years, per capital reported crime has decreased by 3.5%.²² Per

¹⁷ Estimate, based on average construction cost of \$50,000 per cell. National Council on Crime and Delinquency, NCCD Focus (San Francisco, California, December 1989).

¹⁸ Marc Mauer, Americans Behind Bars: A Comparison of International Rates of Incarceration, at 3 (The Sentencing Project, Washington, D.C., January 1991).

¹⁹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 7.

²⁰ National Prison Project, Status Report: The Courts and Prisons, Page i (Washington, D.C., January 1, 1990).

²¹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Census of Local Jails 1988, supra, note 8 at 7.

²² U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports 1989, at 48 (Washington, D.C. 1990).

capita violent crimes have increased by 11%,²³ but per capita murders and burglaries have both actually decreased, by 15% and 24% respectively, over that time.²⁴ The number of households touched by crimes of violence and theft has dropped from one in three in 1975 to one in four in 1989.²⁵

It is true that crime rates in America remain high. One in every 13 households is affected by a burglary or violent crime committed by a stranger each year.²⁶ But it is not true that higher crime rates justify the increases in incarceration that we have experienced.

What other explanations are there?

- o Public opinion. Crime has become a major political issue in this country. Public officials attempt to outdo each other in their "get tough on crime" rhetoric, thereby reinforcing public misperceptions that crime is increasing. In particular, the public perceives, unrealistically, that tougher law enforcement can rid our streets of drugs.
- o Mandatory minimum sentences. The legislative response is ever higher mandatory minimum sentences, which have one overall effect--to force judges to send first offenders, especially first-time drug offenders, to prison.
- o Technology. Better law enforcement information systems produce more complete prior criminal history information. An offender who would have appeared to be a first-offender ten years ago is now shown to have several prior convictions. As a result, he will get a much longer sentence.

Massive urine testing is a second technological factor. Most states now require persons on probation or parole to submit regular urine samples. Courts revoke their status if the samples show drug use. The number of persons entering prison from parole violations is increasing faster than the number of new admissions from court. In California today, more persons are coming into the prisons from parole violations than from new sentenc-

²³ Ibid.

²⁴ Ibid.

²⁵ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Households Touched by Crime, 1989, at 1 (Washington, D.C., September 1990).

²⁶ Id., at 5.

es (including probation violations). The primary reason for parole revocation is "dirty urine."

What should we do?

No one today contends that we should attempt to return to the level of incarceration of 1970, or even 1980. But we do need to stop the trend of ever-higher prison populations. Enough is enough, for our public pocketbooks if for no other reason.

The decade of the '80s was a time for expanding our correctional capacity. The decade of the '90s needs to be devoted to making more effective use of that capacity--by ensuring that space is available to lock up all truly dangerous criminals. To do that, we have to find other ways to punish the non-dangerous.

Two knowledgeable commentators have observed recently that our current process is both too lenient and too severe.²⁷ Because we have few options other than prison and probation, judges put some persons on probation, when they need a more severe sanction, only because their crimes don't warrant jail. Others go to prison merely because their crimes are "too serious" for probation.

A number of programs have been developed in recent years to punish criminals without locking them up. Electronic monitoring to incarcerate an offender in his own home is one. Fines, community service, and restitution are others. Shock probation (including a very short prison stay), night and weekend confinement, and "boot camps" for drug offenders are still others.²⁸

But there is no single answer for the whole country. Our correctional and crime problems differ in different parts of the country and from state to state. Each state will therefore have to devise its own unique answer.

²⁷ Norval Morris and Michael Tonry, Between Prison and Probation--Intermediate Punishments in a Rational Sentencing System (New York, Oxford University Press 1990). See also, Daniel J. Freed and Barry Mahoney, Between Prison and Probation: Using Intermediate Sanctions Effectively, The Judges' Journal, Vol. 29, No. 1 at 6 (Winter 1990).

²⁸ For information on the general topic see Petersilia, Expanding Options for Criminal Sentencing (The Rand Corporation, Santa Monica, California, November, 1987); Electronic Monitoring and Correctional Policy: Techniques and Applications (NIJ Research Report, NCJ 104817); Fines as Criminal Sanctions (NIJ Research in Brief, NCJ 106773); Shock Incarceration: An Overview of Existing Programs (NIJ Issues and Practices, NCJ 114902); Roger J. Lauren, Community Managed Corrections (American Correctional Association, 1988).

What can the organized bar do?

Get involved.

The integrity and legitimacy of our legal system is at stake. The public's view of the courts and the justice system--and hence its view of the legal profession as a whole--is determined by its perception of how well the criminal justice system is working. It is not working very well today.

Almost every state has some sort of statewide advisory committee working on its correctional problems. A representative of the organized bar on such a group could make a difference. Judges and prosecutors, especially those who have to stand for election, have great difficulty taking a strong public position that could be mischaracterized as "soft on crime." Criminal defense lawyers do not have the same public credibility on this issue that the leaders of the organized bar can have.

Lawyers are needed for prison conditions litigation. ABA President Jack Curtin has asked the National Conference of Bar Presidents to create a special committee on this topic. Its goal would be experimental programs in several jurisdictions involving the bar in ensuring that our bulging prisons and jails operate consistently with constitutional requirements.

The ABA's criminal Justice Section stands ready to assist, with information, materials, and speakers with up-to-date information on the problem and possible solutions.



Electronic Monitoring in Intensive Probation and Parole Programs

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Electronic Monitoring in Intensive Probation and Parole Programs

Monograph

Bureau of
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Office of the Director


Washington, D.C. 20531

Few technical innovations in recent years have captured the imagination of corrections officials and criminal justice planners as much as electronic monitoring devices. The use of electronic monitoring for offenders as part of home detention has spread rapidly. However, the use of such devices should be carefully planned and be part of an overall supervision strategy.

Electronic monitoring devices have been used for a variety of criminal justice purposes. This monograph provides a suggested process for defining the objectives of electronic monitoring, developing policies, reviewing equipment bids and securing technical assistance. It is a supplemental document to the previous program brief, Intensive Supervision Probation and Parole (ISP). This document is not intended as a blanket endorsement of electronic monitoring as a component of all community supervision nor as a substitute for jail where appropriate, but as one innovation which can assist certain classes of higher risk offenders on probation or parole supervision.

The Bureau of Justice Assistance and the National Institute of Justice are continuing to evaluate the impact of electronic monitoring for various corrections populations. Over the next two years additional findings will assist probation, parole and other corrections agencies in the best use of electronic monitoring. In the meantime, this monograph should assist those jurisdictions considering the use of electronic monitoring as part of intensive supervision in the best ways to plan, purchase and use these aids. It also summarizes the legal basis for use of electronic monitoring as defined in court cases up to this time.

Sincerely,



Charles P. Smith
Director

Table of Contents

	Page
Acknowledgments	i
Introduction	1
Purpose of Monograph	2
Applications	2
Curfew	2
Home Detention	2
Home Incarceration	2
Goals and Objectives	3
Legal Issues	5
Constitutional Guarantees	5
Equal Protection	5
Right to Privacy	5
Right Against Self-Incrimination	5
Cruel and Unusual Punishment	5
Other Legal Issues	6
Admissibility of Evidence	6
Liability	6
Policy and Procedures: Critical Elements	7
Offender Selection/Placement	7
Significant Others	7
Staffing and Caseload	7
Duration of Monitoring	7
Fee Structures	7

Contact Standards	7
Violation Responses	8
Contingency Planning	8
Training.	8
Implementation Strategies/Steps.	9
Needs Assessment	9
Program Design Statement	9
Systems Support.	9
Enabling Legislation	9
Requests for Proposals: The Bidding Process	11
Description of Program	11
Vendor Qualifications	11
Level of Service	11
Equipment Specification	11
Training.	11
Monitoring.	11
Demonstration of System.	11
Method of Payment.	12
Termination of Contract	12
Research and Evaluation.	13
Program Experience.	15
Colorado	15
Georgia.	16
New Jersey	16
Utah	17
Sources for Further Information.	19
National Perspective	19

Research/Evaluation	19
Background	19
Organizations	19
Newsletter.	20
State Agencies.	20
Probation	20
Parole	20
Juvenile Services.	20
Endnotes	21
Bibliography.	23

Introduction

Electronic signaling devices for monitoring criminal offenders are often seen as a "magic fence" which isolates offenders and protects the public at relatively little cost. Their use has spread rapidly and widely. First used in December 1984, by early 1987 electronic monitoring devices were being used in twenty states and by early 1988 in thirty-two states.

Electronic monitoring equipment is usually classified in terms of its signaling characteristics. One type, capable of programmed contact, is a receiver which requires the offender to respond on cue as directed; the other type has a miniaturized transmitter which emits a continuous signal. The availability of a telephone in the offender's home is implicit to the use of most monitoring technologies.

The programmed contact models operate from a central computer which is programmed to call offenders during times (randomly or specifically) required by the supervision plan. The types of equipment currently available include coded wristlets/anklets, voice verification, visual verification and pagers.

The continuously signaling devices consist of three parts. The first part is a small transmitter which is strapped to the offender. Coded radio signals are transmitted (generally six to ten times per minute) to a receiver/dialer in the offender's home. The devices have a receiving range of 100 to 200 feet. The second part, the receiver-dialer, receives the signal from the transmitter and dials the central computer when the transmitter first is within range or when the signal stops. The central computer compares data to the offender's schedule and reports on offender activities. Some systems alert supervision officers to violations; others simply record the violation, which is handled according to the program design.

Newly introduced "hybrid" systems have combined programmed contact and continuously signaling technology so that some of the limitations of each are reduced or eliminated by the strengths of the complementing system. These systems generally employ voice verification technology to support/verify a continuously signaling system's report of a violation.

Electronic Monitoring

The Missing Link For Successful House Arrest

by Mike Goss

The past seven years have seen a dramatic expansion in the use of electronic monitoring. Currently, there are approximately 7,500 offenders or pre-trial detainees, who would otherwise be in a cell, living in their own residences.

Most of these electronically monitored house arrestees are employed and *paying* taxes rather than consuming them. Those who have families are supporting them, rather than draining heavily burdened welfare rolls. These are offenders who could not otherwise

have been legally released under the rules of criminal justice today.

Without electronically monitored house arrest (or electronic home detention), these 7,500 offenders would need 10 prisons with 500 beds each to hold them. Otherwise, they would be turned loose with no method of determining whether they were observing their court-imposed curfews.

House arrest had previously been used effectively by the military, where carefully controlled conditions and a regimented milieu made it possible to enforce curfews and limited access to the community. However, outside military bases, home detention has always been both ineffectual and fraught with danger because no reasonable amount of added personnel could hope to determine whether an offender had left his/her residence.

With the added dimension of electronically monitoring curfews, it is now feasible to impose reasonable restrictions on the freedom of an individual and be certain those restrictions are being observed.

Suddenly, house arrest has the missing component that makes it effective. The offender's presence at home can be confirmed 24 hours a day, seven days a week. This provides credibility for a program that previously had to be run on trust with persons who had proved they could not be trusted.

One advantage of equipment that has
Continued on page 108



Parole officer Tanya Murray puts an electronic monitor on a parolee, who has been placed under house arrest.

been designed from day one as a high-security, large-volume system for use with high-risk offenders is that it can easily be selected for use in statewide systems that want to grow to very large numbers over a broad geographic area. Michigan, for example, uses electronic monitoring for 1,500 offenders, most of whom are being released from 3-7 year prison sentences and have residences all over the state, ranging from downtown Detroit to the rural areas of the Upper Peninsula.

Key Factors

It would be nice to say this all happened without a hitch, but that isn't true. There were many obstacles to overcome, both technical and programmatic. With the benefit of experience, it is possible to specify some of the common factors among the highly successful programs that are now operational:

1. The population to be addressed is defined and researched to determine if the number of eligible offenders justifies the size of the program.
2. Goals are defined and quantified so the program can later be evaluated.
3. Management and legislative support for funding and future operation are solicited and determined to be sufficient.
4. Sufficient officers to handle the caseload are budgeted and volunteers interested in an innovative approach are requested to apply as officers.
5. A risk assessment is done on the population being affected, and specifications for the equipment to be used are determined based on the features available and the hardware's ability to meet that risk level.
6. Personnel selected to supervise the offenders are brought on board well in advance, educated in the policies and procedures of the program, and trained in the operation of the equipment.
7. Equipment is placed on the officers for familiarization and several elected public officials such as sheriffs and judges are "strapped in" for publicity and public awareness. Media coverage is encouraged.
8. Fewer than 10 offenders are placed

on the equipment for the first two weeks. Each transaction (message from the offender's residence) is scrutinized carefully to understand its implications in relation to the previous and subsequent transactions.

9. Equipment providers' personnel work hand-in-glove on a daily basis in the early days, providing hardware/software support and program guidance based on previous installations. All transactions are checked by the manufacturer from its office (by remote dial-in) until the implications of all apparent anomalies are understood by agency personnel.

It is now feasible to impose reasonable restrictions on the freedom of an individual and be certain those restrictions are being observed.

10. Curfew violations of even one minute are addressed with the offender so they know how tightly the system has absolute awareness of their schedule.

11. As much as possible, statistics are kept as the program progresses. Justification for subsequent funding is collected and comparisons are prepared to determine how well the program is meeting its intended goals.

12. The agency carefully tracks each monitor to record when and on whom it was used in order to build a history for future use in court if the data should be questioned.

Anyone who has implemented such a program could add several more items to this list. The three primary factors that seem to be present in every successful program are prior planning, prior planning, and prior planning. As many problems as possible are anticipated and addressed in the policies and procedures manual. The policies and procedures manual is assumed to be an evolutionary document that matures and grows as the program progresses.


All the effort involved in meeting

these conditions is worth it. Most of the programs running today are effective and reliable. Agencies that had no place to go, with the offender population in rapid growth, are finding relief from those pressures. The law abiding citizen is still safe from the predations of the unscrupulous. The agencies' obligation to the community to punish and control proven offenders has been met. The agencies' mandate from the taxpayer to accomplish these tasks and keep costs under control has been met.

Agencies under court order to reduce their populations can ease the pressure and give themselves time and space to work on the problem instead of just throwing up more construction in a panic.

The evidence so far suggests that house arrest programs, under typical guidelines for intensive supervision probation, give the departments better interaction with the offenders than incarceration could accomplish. This happens because the supervisory personnel do not spend their time resolving the conflicts that occur when people who have shown themselves uncooperative in normal society are clustered in the close confines of an institution. Because most programs require the offender to be employed, and cost of supervision is charged to the participant, the offender is beginning to pick up part of the tab.

Certainly, supervising an offender in the community has its problems, but working on those problems helps to prepare the offender for eventual release to normal society instead of warping him or her from a normal track to an abnormal one.

Federal Parole Commissioner Vince Fechtel stated at a recent professional conference that a new probation or parole officer just starting on a career would be wise to "hitch his wagon to the rising star of electronic-monitored house arrest." The wave of the future in corrections is house arrest, he said, now that the missing link of verification of curfew compliance has been found. It shows promise of playing an increasingly important and valuable role in the profession. 

Mike Goss is a private consultant for technology-oriented alternative sentencing programs.

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Reducing Prison Admissions:

The Potential of Intermediate Sanctions

by Joan Petersilia and Susan Turner

States are placing under intensive supervision offenders who don't need to be confined to prison, but who require more oversight than afforded by regular probation or parole. Intensive supervision programs can reduce prison crowding and are an important option for fitting the punishment to the crime and the criminal.

Spurred by the crisis in prison crowding, more than 40 states offer intermediate sanction programs for offenders who might otherwise go to prison. These community-based programs are designed to be tougher than traditional probation, but less punitive and costly than imprisonment. Intensive supervision, electronically monitored house arrest and community service sentences are among the most popular programs. Although most of these programs are less than five years old, proponents believe that participants have lower recidivism rates than those on regular probation or parole. If that belief is accurate and if participants would have been sentenced to prison in the absence of the programs, then intermediate sanctions could have important benefits. They could take some pressure off crowded prison systems without threatening public safety, keep offenders and their families together and off welfare rolls, and rehabilitate as well as punish.

Whether these programs will deliver such benefits depend largely on how many prison-bound offenders are appropriate candidates for intermediate sanctions. We recently conducted a nationwide survey of intermediate-sanction programs and identified the criteria these programs

commonly use for selecting participants (Petersilia 1987). This article applies these criteria to offenders sentenced to U.S. prisons in 1986 to estimate how many of them would have qualified for intermediate sanction programs, had such programs been in existence.¹ Our analyses are based on the Bureau of Justice Statistics' 1986 *Survey of Inmates of State Correctional Facilities* (NPS). The NPS contains interviews of a sample of imprisoned offenders, which when weighted produces a database reflecting the total U.S. state prison population. The NPS records information on each respondent's criminal background, use of drugs and alcohol, personal background and, for violent offenders, their victims (Innes 1988).

By using information on sentence lengths for NPS offenders' convictions, we approximated an "admissions" cohort to use for this research project.²

Determining Eligibility

Intermediate-sanction programs use a variety of criteria to select eligible participants. Generally, the criteria reflect a jurisdiction's principles regarding punishment and its degree of prison crowding. Jurisdictions with tough punitive philosophies and the budgets to back them up have more restrictive, stringent criteria. Others, which have a history of community-based sanctions or face greater austerity, adopt less stringent criteria.

As examples of these differences, the Utah intensive supervision program accepts sex offenders, but the New Jersey program bars them. Some

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jurisdictions strictly exclude drug and alcohol abusers from their programs, but in others they are prime candidates. Montgomery County, Md., for example, selects first-offender felons with alcohol, drug or mental health problems, but offenders with chronic substance-abuse problems are ineligible for intensive supervision programs in Georgia and Texas (Bryne 1986 and McCarthy 1987).

Although specific criteria differ across jurisdictions, intermediate-sanction programs generally target one of four groups:

- 1) All felons, excluding murderers and rapists.
- 2) Only non-violent felons.
- 3) Only felons convicted of auto theft, forgery, fraud, driving under the influence (DUI), traffic, public disorder, probation or parole revocation, and court offenses.
- 4) Persons revoked for probation or parole violations.

Having identified the target group, programs further limit eligibility by considering the offend-

er's criminal record, including sentence length and history of violence and drug or alcohol abuse. Less common criteria are recency of last conviction and incarceration, the offender's dependence on crime for a livelihood and history of mental illness. These further restrictions can severely reduce the number of eligible candidates regardless of the initial target group.

For example, Oregon's initial criteria for intensive-probation supervision excluded persons with any violent indications, not just those arrested for violence. With such stringent criteria, few prison-bound offenders qualified. Consequently, program managers adjusted the criteria downward until enough offenders qualified to make the program worthwhile.

To identify the range of eligibility criteria that states use, we relied on a nationwide RAND survey of intermediate sanction programs (Petersilia 1987). For our analysis of the NPS, we simulated the most common intermediate sanction criteria in use. The key variables we used in the eligibility analysis are defined in table 1.

Table 1: DEFINITION OF KEY VARIABLES

I. CURRENT COMMITMENT OFFENSE IS: The current commitment offense definitions use four increasingly restrictive criteria, based on the seriousness of the conviction offense.

TARGET GROUP #1 — ALL OFFENDERS, EXCLUDING MURDER AND RAPE

The most serious current commitment offense is one of the following:

- | | |
|------------|-------------------------------|
| Robbery | Drug |
| Assault | Driving Under Influence (DUI) |
| Burglary | Court Offenses |
| Auto Theft | Probation/Parole Revocations |

TARGET GROUP #2 — NON-VIOLENT OFFENDERS

The most serious current commitment offense is one of the following:

- | | |
|------------|------------------------------|
| Burglary | DUI |
| Auto Theft | Court Offenses |
| Drug | Probation/Parole Revocations |

TARGET GROUP #3 — MINOR PROPERTY OFFENDERS

The most serious current commitment offense is one of the following:

- | | |
|------------|------------------------------|
| Auto Theft | Court Offenses |
| DUI | Probation/Parole Revocations |

TARGET GROUP #4 PROBATION/PAROLE REVOCATIONS

The most serious current commitment offense is one of the following:

- Probation/Parole Revocation**

II. PRIOR INCARCERATIONS: The offender has been sentenced to jail or prison before (prior incarcerations include juvenile or adult incarcerations at the local, state or federal level).

III. HISTORY OF VIOLENCE: The offender had been sentenced before (either to probation, jail or prison) for a violent offense (i.e. robbery, assault/other violent, rape, murder/manslaughter).

IV. DRUG INVOLVED: The offenders either admitted a dependence on drugs or the current conviction is for drug trafficking, possession or use.

V. ALCOHOL INVOLVED: The offender admitted having developed a dependence on alcohol.

** While these persons were returned to prison without receiving a new prison sentence from the court, they may have committed a new crime. The NPS does not enable us to determine how many of these revocation cases result from a new criminal arrest versus a violation of the technical conditions of probation or parole.

Few Are Chosen

Our analyses suggest that many of those admitted to prison appear to be candidates for intermediate sanctions, particularly if programs are limited to non-violent offenders. Applying the criteria used by different jurisdictions helps develop a more precise picture.

Most intermediate sanction programs define eligibility in terms of the current offense first, then apply additional restrictions such as excluding violent offenders. We began by considering how many offenders would qualify for program admission if we applied the four target offense groups defined earlier: 1) all felons, excluding murderers and rapists, 2) non-violent felons, 3) "minor property" offenders, and 4) probation and parole revocations. We then successively applied the commonly used program restrictions, (i.e., excluding those with prior incarcerations). After each additional restriction, fewer prison-bound offenders would qualify for intermediate sanctions (see figures 1-4). When all offenders except convicted murderers and rapists are considered, 87 percent of the prison-bound offenders are eligible (figure 1). With the added restriction of no prior jail or prison sentences, the percentage of "still-eligibles" drops to 33 percent (figure 1).

Making offenders with prior incarcerations ineligible for intensive programs reduces the eligible offenders drastically (figures 1-4). Once repeat offenders who served time are excluded, the percentage eligible is little affected by excluding those with prior convictions for violence.

Policy Implications

The initial target group greatly affects the estimated number of prison-bound offenders eligible for intermediate sanctions (figures 1-4). Targeting non-violent felons (figure 2) and property and probation or parole violators (figure 3) could make a substantial difference — if the eligibility criteria were adjusted to reflect the political climate in a jurisdiction and the profile of offenders sentenced there. Jurisdictions might have different needs and uses for intermediate sanction programs, depending on these aspects. Deliberations on policy and programs often overlook this, although it is crucial to planning, budgeting and, most importantly, results.

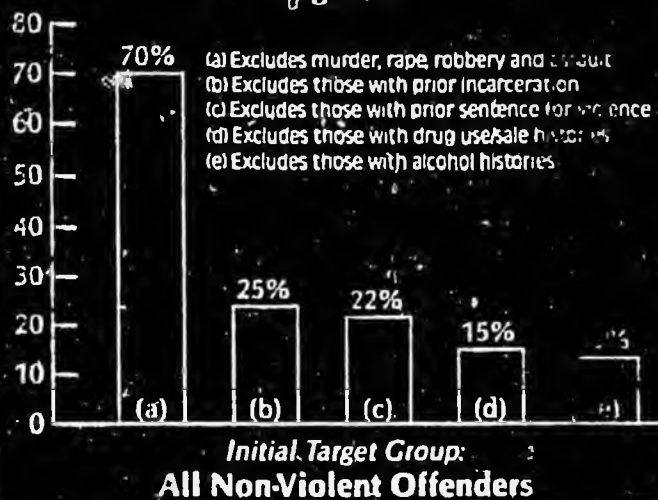
At the other end of the spectrum, targeting only probation or parole revocation cases (figure 4) would render the programs less effective in reducing prison crowding. The number of probation and parole revocations is growing and many believe it does not make sense to use scarce prison space for such people, especially if their revocations resulted from technical violations. Nevertheless, our results indicate that just 4 to 18 per-

PERCENTAGE OF PRISONERS ELIGIBLE FOR INTERMEDIATE SANCTIONS AFTER APPLYING RESTRICTIONS

Figure 1



Figure 2



cent of prison-bound offenders would qualify for intermediate sanctions if being a parole or probation violator was the sole criminal conviction considered.

If states want to ease prison crowding through intermediate sanctions, they need to look at the kinds and proportions of criminals in their jurisdictions. For example, states might decide on groups targeted for intermediate sanctions based on the type of crimes committed — some states prisons house more offenders convicted of serious crimes than others. In other analyses, we found that 70 percent of prison admissions nationwide were convicted of non-violent offenses, whereas

PERCENTAGE OF PRISONERS ELIGIBLE FOR INTERMEDIATE SANCTIONS AFTER APPLYING RESTRICTIONS

Figure 3

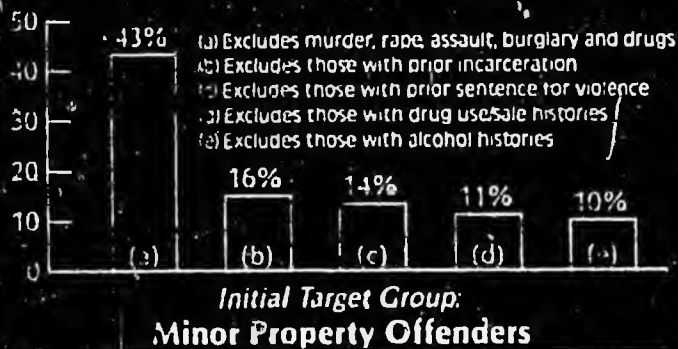
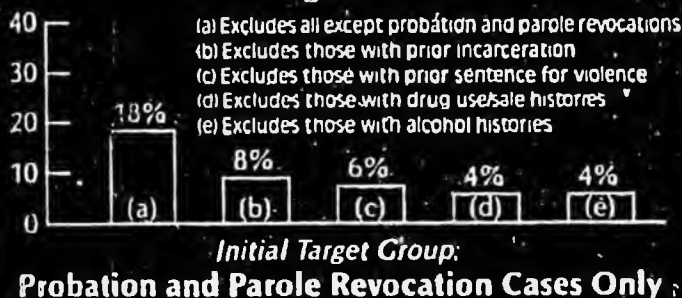


Figure 4



an estimated 35 percent of California admissions are non-violent offenders. Further, 40 percent of inmates nationwide report having no prior incarcerations, whereas fewer than 5 percent of California prison inmates fall in that category.

These findings reinforce the need for individual states and jurisdictions to learn the characteristics of their offender populations before assessing alternative sentencing strategies. In states that have a higher proportion of non-violent offenders with relatively minor records, intermediate sanctions might ease the pressure to build more cells. Jurisdictions with high proportions of violent or felony offenders, however, might consider making the eligibility criteria for non-violent offenders less stringent. Otherwise, the short- and long-term effects on prison crowding will be negligible. By putting the non-violent felons into intermediate sanctions regardless of prior incarceration for non-violent crimes or substance abuse problems, these jurisdictions could help the states reserve prison space for repeat violent offenders. Our results suggest that under those criteria as many as 22 percent of prison-bound offenders can be diverted to intermediate sanctions.

In considering the criteria, policy-makers should carefully consider the substance abuse categories. The public is concerned about drug

traffic and abuse, and wants drug offenders (especially pushers) punished severely. It would be a shame, however, if this sentiment made policy-makers impose a "no substance abuse" criterion on intermediate sanctions programs. In states where offenders with alcohol and drug problems are targeted for intermediate sanctions, the early evidence is positive. Because of the programs' curfews, close supervision, monitoring and random urine testing, these states are having a good success rate with drug users. Of the first 2,322 offenders admitted to Georgia's widely respected intensive probation supervision program, for example, only a handful committed new offenses while under supervision. An evaluation of the program suggests that persons with drug abuse histories benefitted most by the program (Erwin and Bennett 1987).

Our results encourage optimism about the effects intermediate sanctions might have on prison crowding. However, we believe that this optimism should be guarded. In recent years, a greater percentage of persons sentenced to prison are repeat offenders who are becoming progressively less "qualified" in judicial and public eyes for anything other than prison.

Also important in judging the potential impact of alternative programs is that estimates of eligible offenders differ when the eligibility criteria are applied to those offenders "already in prison" as opposed to "prison-bound" offenders. Compared to the general prison population, a lesser percentage of the new admissions (our prison-bound sample) have been convicted of violent crimes and have long records. Once imprisoned, the more serious offenders stay longer, adding their numbers to the more serious offenders who arrived earlier. The less serious offenders are released more quickly. As a result, the prison population on any given day reflects the accumulation of these more serious offenders. If our intermediate sanction criteria were applied to the population in prison on a given day as opposed to the population being sentenced to prison, we would find fewer offenders eligible for the alternative programs.

It is also important to understand that even when a sizeable number of prison-bound offenders is diverted into intermediate-sanction programs, the diversion will not have a particularly large effect on the average population of offenders on any given day. For example, using our sample, if we diverted from prison 25 percent of the prison-bound offenders (those convicted of minor offenses such as DUI, court offenses and probation and parole revocations), the estimated reduction in the prison population would be 14 percent after one year, with no subsequent reductions in the years to follow. Alternatively, if we diverted the 25 percent mentioned above and halved the sentences of persons convicted of burglary, grand

theft auto and drug sales, for those with no prior history of violence (35 percent of the prison-bound offenders), the estimated reduction in the prison population after two years would be 27 percent, with no further reductions in the years to follow. These estimates assume no other changes in the types of offenders sentenced to prison or sentence lengths.

Additional concerns relate to the potential impact of alternative sanctions on the prison population. As evaluations of alternative sanction programs are beginning to show, not all offenders classified as eligible will be placed in alternatives. Oftentimes, numerous parties (sometimes including the offender) must unanimously agree to place an offender in an alternative program. In addition, some offenders who are eligible are not identified as eligible. This can happen if the screening process does not target all sources of potential candidates for the alternative. These factors reduce the number of offenders placed in alternative sanctions.

Furthermore, prison populations are not static. Many states are increasing the length of stay for selected offenders, potentially diminishing our estimated impact of "front-end" changes, which are designed to impact who goes to prison in the first place. As James Austin, research director for the National Council on Crime and Delinquency said, ". . . Such reductions can be made, but only if a state adjusts both the admissions flow and, more importantly, the length of stay."

Our analyses suggest the need to examine not only the numbers of eligible prison-bound offenders, but to project the impact of these "front-end" changes on the prison population.

Conclusion

In sum, we believe intermediate sanctions could relieve the pressure for more prison cells over the long haul. The extent of the effect, however, depends greatly on understanding what types of offenders are sentenced to prison in a given state and whether the local community will accept these offenders being diverted to it. If the eligible pool becomes so reduced by overly stringent criteria, the potential to reduce prison crowding is negated. But, the effect on prison crowding is not the surest justification for intermediate sanctions. More compelling justifica-

tions are that we need sanctions to match the range of criminal behavior, that public safety would be served better by providing an alternative for serious felony offenders now placed in traditional probation because of prison crowding, and that remaining in the community with their families might prevent some offenders from becoming more serious criminals.

Notes

¹ Our definitions apply to offenders being sentenced to prison (an admissions cohort), as distinguished from a sample of offenders in a prison on any given day. An admissions cohort will contain a smaller percentage of people convicted of violent crimes and of people with lengthy criminal records than those in prison on any given day.

² To obtain an admissions cohort, we selected offenders from the NPS survey who entered prison between Oct. 1, 1985 and Jan. 31, 1986. This gave us four months of data. If we went back further in time, too many offenders had already left prison.

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A Conservative Perspective *Alternatives to Incarceration*

by Charles Colson and Daniel W. Van Ness

Conservative politicians are leading the search for alternatives to prison. Such programs are more effective and less costly in the battle against crime than imprisonment for non-violent offenders.

In Michigan, conservative Republican legislators Jack Welborn and William Van Regenmorter worked with liberal Democrat Carolyn Cheeks Kilpatrick to pass a Community Corrections Act (CCA). The result: Non-violent offenders will be punished in their communities instead of prison, which will save money and ease the state's prison overcrowding crisis.

In Indiana, Republican State Sen. Ed Pease led a successful legislative effort to establish home detention as a means of easing the pressure of the state's expanding prison population. Russ Pulliam, editorial writer of the conservative Pulliam newspaper chain, voiced support for the legislation as "one step in the right direction for the future of the criminal justice system in Indiana" (*Indianapolis News* Jan. 20, 1988). (The bill was included in *The Council of State Governments' Suggested State Legislation, 1989*.)

In Florida, conservative businessman Jack Eckerd and former Federal Bureau of Prisons Director Norm Carlson are leading a campaign for expanded use of house arrest, drug treatment and restitution centers as alternatives to imprisonment for non-violent offenders.

In Alabama, conservative Democratic Rep. Claud Walker is sponsoring a Community Corrections

Charles Colson serves as chairman of the Board of Prison Fellowship Ministries, a Christian outreach to prisoners, ex-prisoners and their families. Former special counsel to President Nixon, Colson spent seven months in prison for a Watergate-related offense.

Daniel W. Van Ness is president of Justice Fellowship, the criminal justice reform arm of Prison Fellowship Ministries. Justice Fellowship advocates alternatives to incarceration for non-violent offenders, a formal role for victims in criminal cases, victim-offender reconciliation and victim assistance.

Act aimed at reducing the large percentage of non-violent inmates in state prisons. Alabama Commissioner of Corrections Morris Thigpen and the Alabama Sheriffs Association are backing the bill.

In Arizona, Republican State Sen. Tony West sponsored the Community Punishment Act. The legislation, which recently passed with the support of Arizona Chief Justice Frank Gordon and Maricopa County Chief Presiding Judge B. Michael Dann, will provide communities with state money to establish restitution, community service, victim-offender reconciliation and other non-prison programs for non-dangerous offenders.

Conservatives are often typecast as champions of the "lock 'em up and throw away the key" battle cry of this "get tough on crime" era. Yet, increasingly, all around the country, conservatives of both parties are advocating alternatives to incarceration for non-violent offenders. They may well be the single most potent force for practical, prudent criminal justice reform today.

What's Going On?

No one can deny the crying need for reform in our nation's criminal justice system. In December 1988 there were 627,402 state and federal prisoners in American institutions — twice as many as in 1978 (Department of Justice press release April 23, 1989). The prison population explosion has filled prisons to overflowing. Federal prisons are 73 percent over capacity, while state prisons are on average 20 percent over capacity, according to the Bureau of Justice Statistics (BJS 1988a).

Prison systems in 45 states have been sued because of overcrowding. In 37 states, at least one

major institution is under court order or consent decree. In nine of those 37 states, the entire prison system is under court order. Litigation is pending in eight states (National Prison Project 1988).

The future looks no brighter. The National Council of Crime and Delinquency (NCCD 1988a) estimates that U.S. prison populations will increase by an additional 50 percent in the next 10 years.

Non-violent offenders who might be sentenced to alternative punishments are taking up precious prison space that should be reserved for violent criminals.

Although our country is incarcerating more people than ever, violent and property crimes continue to escalate (BJS 1988b). The indiscriminate "get tough" approach is a grand success in filling prisons. But it fails miserably at reducing crime.

Thankfully, many conservatives actively are pushing saner, wiser solutions to crime's stranglehold on our nation and the prison population explosion.

Why conservatives? Based on Justice Fellowship's work with politicians across the United States, it's clear that many see alternatives to incarceration for non-violent offenders as a natural extension of conservative political philosophy. Legislators cite the following principles: Punishment is appropriate; it should serve victims' needs; public safety is essential; local is better, and wise use of limited government resources is needed.

Let's look at each.

Punishment is appropriate. Since the first "penitentiary" was established in 1790, American criminal justice has been predicated on the belief that crime is the result of environmental or psychiatric factors. Criminals were seen as victims and were sent to prison to be rehabilitated.

This human engineering approach has proven a dismal failure. Studies over the last two decades consistently have concluded that three out of four ex-offenders are rearrested within four years of their release from prison (Federal Bureau of Investigation 1975; Petersilia, Turner and Peterson 1986). Far from rehabilitating offenders, prisons seem better suited to train them in the finer arts of crime.

Pursuing false dreams of rehabilitation undermines the principle of personal accountability. No matter how many environmental factors weigh upon the individual, committing a criminal act is a personal choice. By treating victimizers as victims, society robs them of the dignity belonging to moral agents. They are denied the opportunity to "pay the price" and move on with life.

C. S. Lewis (1949) 1983 put it this way, "To be punished, however severely, because we have deserved it, because we 'ought to have known better' is to be treated as a human person made in God's image."

Treatment programs should be available to offenders who would be helped by them — but justice requires that offenders also must be held accountable for their behavior.

The issue should not be *whether* to punish but *how*. The problem is that our society has increasingly equated "punishment" with "prison" and seems unable to conceive of the notion of punishments aside from prison. Prisons are, of course, necessary for violent offenders. But nearly 50 percent of the American prison population is behind bars for non-violent offenses. Many of them would pose little danger to their communities; they are imprisoned solely for punishment.

For the reasons that follow, many conservatives are concluding that society is not well served by punishing non-violent offenders behind bars. Sound alternatives to prison are available. Restitution, community service and intensive supervision probation are tough and effective punishments that limit freedom and place demands for compensation upon offenders.

Punishment should serve victims' needs. While victims suffer most from crime — physically, emotionally and financially (to the tune of \$13 billion per year) (BJS 1988c) — victims' interests are represented least. From the moment a crime is committed, through the time the offender is convicted and sent to prison, the victim is virtually ignored by the criminal justice system. As Roberta Roper, whose daughter was murdered seven years ago, said, "Crime doesn't pay — but victims do."

This injustice has sparked the growth of victims' rights groups across the United States. In addition to supporting an increased role for victims in the system, many have promoted restitution and other alternatives to incarceration — not to make life easier for offenders but to benefit victims.

For example, the Alabama Victims Compensation Group and Victims of Crime Against Leniency are supporting the Alabama Community Corrections Act because it holds offenders accountable for their crimes and provides for victim assistance officers to help victims secure restitution and compensation. In Maryland, Justice Fellowship worked with the effective and well-respected Stephanie Roper Committee to promote recently passed mandatory restitution legislation.

Victim restitution must become an essential part of criminal punishments. This a matter of simple justice. In an article describing the Sentencing Improvement Act of 1983, U.S. Sens. William Armstrong, R-Colorado, and Sam Nunn, D-Georgia, (1986) recognized the importance of alternative punishments based on restitution:

"Because of growing public concern for crime victims, the restitution concept holds great promise of gaining broad public support. . . . Recent surveys indicate that a great percentage of Americans would prefer to have the non-violent offender repay his victim rather than serve time at public expense."

Public safety is essential. Non-violent offenders who might be sentenced to alternative punishments are taking up precious prison space that should be reserved for violent criminals. (As noted, nearly half of all state prisoners were convicted of non-violent crimes. And 34 percent have never committed a violent crime (BJS 1988d).)

But, prisons are so overcrowded that many states rely on early release to reduce prison populations. This means that some dangerous offenders are let out well before they have served their full sentence. This is the irony of the "get tough" response to crime: By indiscriminately sending more people to prison, communities are less safe.

The case of Charlie Street is illustrative. Street was released from Florida's Martin Correctional Institution in the fall of 1988 after serving only half of his sentence for attempted murder. Ten days later, he gunned down two Dade County police officers — a tragedy that could have been avoided if Street had been kept off the streets and in prison where he belonged. As Jack Eckerd wrote in the *Orlando Sentinel* (Dec. 4, 1988), "We must restore sanity to the system, slamming the door and keeping it shut on violent and career criminals like Charlie Street, while expanding alternate punishments for non-violent offenders."

Any discussion of public safety eventually includes the issue of deterrence. The argument that prisons alone deter is defeated by the facts. Swift and certain punishment deters, not harsh punishment that is neither swift nor certain.

Consider the odds. The federal government reports that out of 100 crimes, 33 will be reported to the police and seven will result in an arrest. Four will end with a conviction, with one offender going to jail, one to prison and two to probation. In other words, for every 100 crimes committed in the United States, one person goes to prison (Colson and Van Ness 1989).

Can we reasonably believe that doubling or tripling the number of people in prison would significantly deter crime? Would a 2 or 3 percent chance of imprisonment actually deter more crime than a 1 percent chance of imprisonment?

Fortunately, experienced criminal justice practitioners know that tough alternative punishments are feared more by convicted offenders than prison. Trial judges in Florida, for example, say that defendants request prison sentences to avoid the state's tough Community Control Program.

Alternatives promote public safety in other ways as well. For example, they keep the non-

violent offender out of prison, the ideal training ground for becoming a more accomplished and dangerous criminal. The Rand Corporation found in a 1986 study (Petersilia, Turner and Peterson) that a group of probationers committed fewer new crimes than an identical group of ex-prisoners. The researchers concluded that "imprisonment was associated with a higher probability of recidivism."

A federal study of Georgia's Intensive Probation Supervision program (National Institute of Justice 1987) found that probationers committed fewer new crimes than comparable prisoners and no violent new crimes.

Community safety depends on increased use of community sanctions.

Can we reasonably believe that doubling or tripling the number of people in prison would significantly deter crime? Would a 2 or 3 percent chance of imprisonment actually deter more crime than a 1 percent chance of imprisonment?

Local is better. Many alternatives to incarceration significantly benefit local communities. Community corrections acts, for example, allow communities to tailor programs to meet their own needs, by dealing with non-violent offenders in their own ways. This also means that communities are involved with their own offenders, who will most likely continue to live in the community after serving their sentences.

Local punishments benefit the state as well. Every offender who stays in a local program is one less person taking up scarce prison space at state expense.

Community service performed by offenders can be another important local benefit. Instead of sending offenders to state prisons, some communities reap the benefits of free or low-pay labor for charitable or governmental agencies. Genesee County, New York, has honed this practice into an art form. Since the establishment of the county's widely acclaimed Genesee Justice program in 1981, offenders performed more than 97,000 hours of community service for 118 community agencies, a total value of \$389,000 (Genesee County Sheriff's Department 1988).

Wise use of limited government resources. There is no question that states will have to increase their prison capacities. But state governments cannot afford to rely on prison construction as the sole means to solve the overcrowding crisis. It costs an average of \$15,900 to keep an inmate in prison for one year (Camp and Camp 1988). In fiscal 1987 alone, state and federal governments spent almost \$5 billion in new prison construction (American Correctional Association 1988).

This is placing an extraordinary strain on state budgets. Norman Carlson (1988), writing of the situation in Florida, summarizes the dilemma facing many states, "Constructing sufficient prison space is not a viable solution. The tremendous costs involved in building and operating the required number of new prisons would overwhelm the limited resources available in the state treasury and would compete with other high priority needs, such as education, medical care and transportation."

No one could deny the severity of America's criminal justice crisis. The time has come for real solutions rather than overheated rhetoric that fuels public passions, reinforces stereotypes about prisons and prisoners and, in the end, results in taxpayers being punished far more than offenders.

Explaining why he worked so hard for passage of the Michigan Community Corrections Act, Michigan State Rep. William Van Regenmorter (1988) said, "Michigan's prison system has been overcrowded since 1975. (In) . . . 1984, the system held about 300 prisoners more than its intended capacity. To combat this problem, the Department of Corrections constructed many new prisons, almost doubling the system's capacity in just three years. The result of this expensive building program? The system was still overcrowded, this time by some 3,000 prisoners!"

And because of the extraordinary increase (141 percent over the last five years), in the corrections budget — due to the massive prison construction program (*Grand Rapids Press* Jan. 2, 1989) — Michigan now faces cuts in social service programs.

New prison construction costs an average of \$80,000 per maximum security cell. The total cost of all current or planned prison construction will be \$25 billion (NCCD 1988b). States cannot afford to make such budget-busting investments in concrete and steel condominiums with bars.

To reduce overcrowding and avoid bankrupting other key state programs, conservatives argue in favor of investing in alternatives to prison, so that prisons can be reserved for the dangerous offenders who must be locked away from society. Some states are taking initiatives to do so.

Program Profiles

Community Corrections Acts (CCAs). These acts provide a statewide mechanism allowing local governments to design, develop and deliver — and state governments to fund — local correctional tools such as intensive supervision, resti-

tution, community service, and drug and alcohol treatment. Thirteen states now have CCAs.

Tennessee diverted 504 offenders from prison in fiscal 1987-88 at a cost of \$7,599 per offender, compared to the state average of \$19,710 for incarceration. In addition, offenders sentenced to community corrections paid \$59,145 in restitution to victims and performed 76,294 hours of community service. The estimated total savings to the state was \$6.1 million (Mike Jones, Tennessee Department of Corrections, telephone interview, September 1988).

Virginia diverted 699 felons from its prisons and jails in fiscal 1987-88. As a result, it saved more than \$8 million, which does not include savings realized by diverting more than 6,500 local felons and misdemeanants from jails. Diverted offenders performed 229,812 hours of community service and paid \$76,870 in restitution (Gwen Cunningham, Virginia Department of Corrections, telephone interview, September 1988).

House arrest confines offenders to their own homes. They are not allowed out except for approved activities such as health care, special religious services, community service or employment, which in turn most often leads to restitution payments to victims (Petersilia 1987). Many jurisdictions are using electronic surveillance measures to ensure compliance.

Florida's Community Control Program is a nationally recognized house arrest program. Established in 1983, Community Control uses community service and restitution sanctions for some 8,000 offenders statewide. The cost to the state is \$2,650 per year per offender, which is 80 percent less than the \$13,140 cost for imprisonment (Carlson 1989). By reducing prison commitments by 180 people a month, Community Control has proven a valuable weapon in Florida's fight against overcrowding. Because only 9 percent of its offenders commit new crimes, it is also an effective weapon against crime.

Intensive Probation Supervision (IPS). The key to this program's success is low caseloads. Ideally, officers maintain caseloads of 15-25 people — as opposed to the supervision possible when harried officers in "normal" probation programs carry caseloads of between 120 and 300 offenders. In many IPS programs, offenders must make daily contact with their officers. Most intensive supervision programs require offenders to maintain employment or go to school and to abide by a strict curfew. Many also include restitution and community service as sanctions.

Illinois regularly supervises 570 offenders in its IPS program — a ratio of 25 offenders for every two officers. The annual cost per offender is \$2,367. Since the program was established in 1984, Illinois has collected approximately \$1 million in restitution, taxes, fines and court costs. Its Intensive Probation Supervision participants

performed 145,349 hours of public service valued at \$489,921. All told, the state saved \$7.7 million in the last five years through IPS (Anderson 1988). And prospects look good for expanding the program to more offenders.

Restitution centers are residential facilities designed to house offenders requiring more supervision than regular or intensive supervision probation but less than total confinement in prison. These centers, which are a tightened-up version of "work release" with a focus on restitution, are used in six states as an alternative to imprisonment.

Georgia's restitution centers can house 2,600 offenders yearly. During fiscal 1987, the state collected from offenders \$256,817 in restitution, \$626,516 in family support, \$1.4 million in room and board, \$940,274 in fines and court fees and \$1.4 million in taxes. The offenders also performed community service worth \$266,516. The annual cost per offender was \$8,249. Seventy-five percent of the residents successfully complete the program (Larry Anderson, Georgia Department of Corrections, telephone interview, 1988).

Florida's Probation and Restitution Centers can hold 382 offenders, far below the 900 offenders who would have qualified for the program in 1987, according to a 1988 report by the state Office of the Auditor General. The annual cost per offender is \$10,909, which the state partially defrays by collecting average annual fees of \$1,900 per offender. Jack Eckerd and Norm Carlson are among those calling for expanded use of these centers in Florida.

Conclusion

No one could deny the severity of America's criminal justice crisis. The time has come for real solutions rather than overheated rhetoric that fuels public passions, reinforces stereotypes about prisons and prisoners and, in the end, results in taxpayers being punished far more than offenders.

Historically, conservatives have been at the forefront of many great movements in the West: the battle for abolition of the slave trade and of slavery, the fight to end industrial abuses in the late 19th century and in efforts to establish public education. We believe the criminal justice arena is one in which conservatives are beginning to lead the way toward measures that will benefit offenders, victims, correctional officials and taxpayers.

Crime is not a partisan issue. Pursuing alternatives to prison for non-violent offenders will take the endurance, creativity and cooperation of men and women from every political perspective. And conservatives, working with moderates and liberals, can play a key role in forging that public consensus for effective criminal justice policy.

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House arrest

Electronic gadget keeps track of man awaiting criminal trial

By SHEILA TOOMEY *ANCH. DAILY NEWS 3/18/91*
Daily News reporter

Life gets boring for Charlie Jenkins, having to stay home all the time except when he's at work. Or when one of his court-appointed custodians takes him somewhere — shopping, or to visit a friend.



But Jenkins is definitely not complaining. He'd rather be home and bored than in jail.

"Compared to being in jail, this is real good," he said.

Jenkins, a 35-year-old warehouse supervisor, is under house arrest in Spenard, tethered by an invisible cord to a monitor two miles away, on the 13th floor of the Denali Towers. He is one of three "prisoners" in Anchorage who are not occupying a pretrial cell thanks to a new electronic monitoring service being offered to the state as a way to save money and free up prison beds.

Jenkins is charged with drunken driving — his fifth such offense in seven years. He was arrested the morning after the Fur Rondy fireworks, although he says he doesn't remember the arrest itself. Bail was set at \$5,000, cash only, an amount he couldn't come up with.

By all accounts, Jenkins isn't a danger to anyone except when he's drunk and behind the wheel of a car. But given his record, it looked like the only way to keep him out of cars was to keep him in jail at a cost of about \$96 a day to the state.

For Jenkins, jail would have cost much more — his job, losing his rented home, finding someone to keep his dog, Bunker. If he had a family, it would mean loss of support for a wife and kids — maybe welfare.

Longtime Anchorage bail bondsman Fred Adkerson has a new business that offers an alternative. Jenkins has been fitted with a sealed, tamper-resistant "bracelet" that straps a beeper-size gray plastic gizmo to his ankle — not noticeable under Jenkins' white socks and work pants.

The gizmo transmits a signal to a receiver that looks like a cable box. The box is wired to a telephone in Jenkins' spare bedroom. It forwards the signal to Adkerson's office on Fireweed Lane, where a computer monitors the signal 24 hours a day, keeping relentless track of Charlie Jenkins.

The computer knows what time Jenkins leaves for work in the morning, accompanied by a court appointed guardian. It knows when he is due home in the evening,



ERIK HILL / Anchorage Daily News

After a fifth DWI charge, Charlie Jenkins is under house arrest. The monitor on his ankle records his movements.

when he goes to counseling sessions, when he is due to check in with his human monitor once a week.

When Jenkins gets more than 150 feet from the phone box, the computer printer back in Adkerson's office begins to chatter. If Jenkins' approved schedule doesn't include an absence at that time, the computer registers a violation and a computer voice pages John Hastie, a former police officer who runs the program for Adkerson.

"You're restricted virtually as much as in jail," Hastie said.

Please see Page E-2, HOUSE ARREST

HOUSE ARREST: Ankle strap makes him toe line

Continued from Page E-1

A judge lowered Jenkins' bail to \$1,500 with the electronic monitoring, an amount Jenkins could afford. As long as he obeys his bail restrictions and pays Adkerson's \$15-per-day fee, he can live at home and keep earning a salary. He can't leave his house alone for any reason. He is better monitored than most people out on bail and isn't costing the state any money or using up a jail bed.

"Being able to work is most important," Jenkins said. "They're going to hit you with the fines and all that. How are you going to pay for it?"

Jenkins speaks hesitantly, an ordinary working man with a personal problem that becomes a public safety

"Being able to work is most important. They're going to hit you with the fines and all that. How are you going to pay for it?"

— Charlie Jenkins

issue when he gets behind the wheel of a car. Adkerson says he checked out Jenkins before signing him up to make sure he had no history of violence.

"This program is not designed for a person with a long criminal history," Adkerson said. "Non-violent, low risk, no threat to the community." Shoplifters, thieves, people like that. He thinks there are hundreds, maybe a thousand, prisoners in Alaska jails who could be freed on this system.

A spokeswoman for the Department of Corrections says that is most unlikely.

As of 1989, 37 states used such systems, with widely varying regulations and widely varying results. The Texas electronic monitoring program for early parolees has been successful to the extent that no serious crimes had been committed by the 322 people on the program as of 1988. Florida uses electronic monitoring as a solution to prison overcrowding, putting 10,000 convicts a

year on the system. Four murders and a series of rapes in Broward County alone have been attributed to electronically monitored prisoners, according to the Fort Lauderdale Sun-Sentinel.

Jenkins did four months in jail on his last conviction and faces a longer sentence this time. If convicted, he hopes to do his time on house arrest also, which is most unlikely. Right now, the system is used in Alaska only for pretrial defendants, whose restrictions are determined by judges.

Once convicted, a defendant moves under the control of the Department of Corrections, which has just begun to examine a variety of electronic monitoring systems and their possible uses here.

Home Monitoring of Criminals Is Poised To Break Loose, Industry Analysts Say

Special to THE WALL STREET JOURNAL

NEW YORK — As budget constraints mean less money to build and maintain prisons, states and cities are turning to companies that provide products for home monitoring of criminals and those awaiting trial.

"The absence of new prison facilities in the face of an ever-rising criminal population means alternative means of detention are becoming necessary," says David Leibowitz, an analyst at American Securities. Electronic monitoring of some criminals in their homes "is one approach to meeting that need."

Companies in this industry generally are still small. Market leader BI Inc. has annual revenue of about \$11 million. And only those convicted for non-violent crimes tend to be considered for electronic monitoring. But many analysts say the industry is poised for big gains.

Jyoti Aggarwala, analyst at Ladenburg Thalmann & Co., says electronic monitoring of offenders has about tripled each year since the first quarter of 1987. Installed monitoring units stood at more than 12,000 by the first quarter of this year, she says. "Since this market still is in its initial growth phase, we expect the number of offenders on [electronic monitoring home arrest] to double each year through 1995," she adds.

A spokesman for the National Institute of Justice estimates it costs taxpayers on average \$75,000 per bed to build a prison and \$60 per inmate per day to operate it. Home-arrest equipment, Ms. Aggarwala says, costs about \$4,500 per inmate and less than \$10 per inmate per day to provide monitoring. She adds that some offenders pay for the privilege of electronic monitoring, rather than do jail time, and that those under such house arrest can continue to work, adding to the tax base of their communities.

Baton Rouge, La., is one community using electronic monitoring of criminals on a limited basis. Milton R. Skyring, court clerk-judicial administrator, says he is pleased with the program, which has been in effect there for just under two years.

Three different surveillance methods are used in Baton Rouge: television monitoring, a digital telephone monitor that alerts police when someone leaves home, and a wrist device that tracks offenders.

Mr. Skyring says electronic monitoring is typically used when unusual hardships would befall a family if an offender was sentenced to jail. He says the program has only had one failure—an offender who took all the television surveillance equipment "and kept on walking." A bench warrant for that person is outstanding.

Ms. Aggarwala says there are about 10 companies, private and public, that either make products or provide services in the electronically monitored home arrest industry.

She rates BI a "buy," calling it the "largest and best-seasoned player in the field." In the first quarter ended Sept. 30,

net income rose to \$497,000 on revenue of \$3.7 million from \$251,000 on revenue of \$2.2 million a year earlier.

In October, the company sold one million common shares to the public at \$9.75 each.

Ms. Aggarwala also recommends Digital Products Corp., which she calls "an emerging participant with major turnaround potential."

Prisons: \$100 million problem

The Alaska prison system is overflowing with prisoners. All prisons and jails are over capacity levels. Why? It seems to me the Department of Corrections is very reluctant to release any prisoners; and once free, why do so many violate their parole? I'm not talking about a few, but 85 percent of paroled prisoners end up back in jail. This is because DOC gets 100 million dollars a year, and wants even more. DOC is stealing your taxes and oil money. They have purposefully kept prisoners months past their due release date, by taking their good time for the slightest infraction, and leaving them behind bars to add to the congestion and ever crowding at chaotic levels.

Releasing prisoners on non-violent crimes, with six months or less to their release date, and putting a stop to the prisons taking a prisoner's good time would drop prison levels 20 percent and save the taxpayer and state millions of dollars in costly additions due to overcrowding.

Also, put a stop to parole officers who violate a parolee's rights about such things as missing AA meetings because of work, or buying a car without telling the parole officer. Violations like these small infractions are sick and unjust, when a person has a job and a place to live and a family to support. Why punish a man when he has solid goals and a new positive chance in life and has learned from his mistakes? Let prisoners out with less than six months, for a non-violent crime. Keeping them in jail and taking their good time just adds to this \$100 million problem.

— Robert Britton

CRIME: Despite popular theories, the answer is not bigger jails

Continued from Page E-1

tion derived from his role in co-authoring a 1975 survey of 231 studies on offender rehabilitation spanning the previous 30 years. Titled "The Effectiveness of Correctional Treatment," it became the most politically influential criminological study of the past half century.

The time was ripe: From 1963 to 1973, murder, assault and burglary rates doubled while robberies tripled. Martinson's views were enthusiastically embraced by the national media, often under the headline, "Nothing Works." Yet curiously, all the Sturm und Drang was over something that scarcely existed. Even at the height of the so-called "rehabilitative era," a corrections department spending more than 2 percent of its budget on treatment was unusual. But the attack was taken up by liberals and conservatives alike — many of whom felt that belief in rehabilitation, as Harvard's James Wilson put it, "requires not merely optimistic but heroic assumptions about the nature of man."

But as Berkeley criminologist Elliott Currie would later explain, "programs cited by Martinson and other critics as evidence that rehabilitation did not work were often not only underfunded and understaffed, but typically staffed by poorly trained and often unmotivated people. These early critics of rehabilitation made little effort to separate reasonably serious and intensive programs from those — vastly more common — that at best offered minimal counseling or tutoring to people who were otherwise allowed to languish in the enforced bleakness of institutions or in the shattered, dead-end communities from which they had come."

The classic 30-year "Cambridge-Somerville Youth Study" is a premier example. In the Harvard-sponsored program begun in 1937, researchers followed 320 boys for 30 years. The boys were assigned to 10 "counselors" who had no training in mental health or psychotherapy and were told to do "whatever they thought best." Each youth was seen only five times annually during the early years of the project. Not surprisingly, the program had little effect on subsequent criminal behavior.

Part of the problem in evaluating rehabilitation is deciding what constitutes success. For example, in studying the effectiveness of family therapy with hard-core delinquents (each having 20 or more previous convictions), one survey found that after 15 months, 80 percent of those in therapy had re-offended. However, 93 percent of the matched "non-therapy" control group re-offended. A medical procedure that suppressed symptoms in 40 percent of a group of chronically ill patients, 93 percent of whom deteriorate without treatment, would be seen as a virtual triumph. In corrections, however, such results are usually regarded as failure.

Moreover, simply residing in some com-

Thus contemporary corrections theory offers a choice between equally unattractive extremes: ineffective probation-parole or debilitating prisons.

of the boys in some areas will appear in juvenile court during their teen years. Among young black men in certain parts of the country, seven out of 10 can anticipate being arrested, at least once. Though this may suggest failure, it may not measure individual criminal behavior. Indeed, among chronic delinquents the simple fact of re-arrest may be less important than whether the young offender is winding down his criminal activity.

But the biggest problem in getting a fair hearing for rehabilitation is that so many efforts have failed spectacularly. A team of researchers from the Academy for Contemporary Problems found that the "velocity of recidivism" among youthful offenders actually increased with each trip to a state reform school for rehabilitation. Rand Corp. researchers reported similar patterns among adults.

Nonetheless, some theorists maintain that the very fact that a prison is dangerous and violent makes it rehabilitative. It's a variation on the "Scared Straight" theory. Unfortunately, repeated studies have shown that it doesn't work.

So, runs the presently popular notion, if we can't get a complete "cure," why not simply lock up all offenders? Simon Dinitz from the Academy for Contemporary Problems' "Dangerous Offenders Project" considered this Draconian option. He estimates that incarcerating every first-time felony offender for five years would likely yield no more than a modest 7.3 percent decrease in crime rates. But U.S. prisons (already overcrowded) would have to increase their populations 300 to 500 percent, entailing construction costs of \$130 billion and increasing annual operating budgets from \$12 billion to between \$36 billion and \$60 billion. And even that would not guarantee that crime rates would stay down for long. Those in prison are often replaced by others waiting in the wings (particularly among drug offenders). More ominously, such a policy would yield 3 to 5 million slightly more hardened ex-convicts dumped into the streets every five years.

The most unusual case for incapacitation was made late last year by Richard Abell, an assistant attorney general in the Justice Department. Writing in Policy Review, and using figures compiled by a Justice economist, Abell concluded that we save \$40 million annually in crime costs for every 100 offenders we incarcerate — based on the extraordinary assumption that a typical offender commits 187 crimes per year at an average \$2,300 per crime, or \$430,100 annually.

of California researchers Franklin Zimring and Gordon Hawkins noted that at a rate of 187 crimes per offender per year, putting a half-million more persons in prison would lower the number of crimes nationally by almost 50 million — thus making the nation crime-free, since there are about 45 million crimes reported annually. By Abell's calculations, in fact, crime must have disappeared sometime in late 1965 as a result of the doubling of prison and jail populations from approximately 300,000 in 1976 to about 800,000 in 1986. Nonetheless, President Bush — who pledged during the campaign to double the federal prison-building budget over four years — has used the same argument.

All this suggests that we are willing to invest large sums in variations on themes of retribution and deterrence. Yet Canadian psychologist Paul Gendreau and University of Ottawa sociologist Robert Ross, citing sophisticated new mathematical analyses of the data on rehabilitation, concluded that "the substantiated claims for effective rehabilitation of offenders far outdistanced those of the major competing ideology: applied deterrence or punishment."

As early as 1976, a Rand Corp. report had suggested that the "nothing works" conclusion was probably premature. Three years later, a National Academy of Sciences panel concluded that "when it is asserted that 'nothing works,' the panel is uncertain as to just what has been given a fair trial." And now, in their latest survey of the rehabilitative literature, from 1980 to 1987, Gendreau and Ross found "reductions in recidivism, sometimes as substantial as 80 percent had been achieved in a considerable number of well-controlled studies. Effective programs were conducted in a variety of community and (to a lesser degree) institutional settings, involving pre-delinquents, hard-core adolescent offenders and recidivistic adult offenders, including criminal heroin addicts."

The literature of the '80s demonstrates that a number of techniques can reduce recidivism among both property and violent offenders. These include substance-abuse treatment (combining intensive counseling with drug screening), family therapy, individual therapy stressing support rather than pathology and punishment, and — particularly with young offenders — assigning "advocates" to work with individuals on a daily basis, including crisis intervention at odd hours. In Massachusetts, Harvard researchers found that reconvictions fell among older former reform-school youth when a range of such alternatives was available. In 1986 regions of the state

remained the same or increased.

Educational programs for hard-core adult offenders have also shown promising results. Inmates of a Canadian federal prison, many with long and serious criminal histories, were assigned randomly either to normal prison routine, or to a special humanities program stressing individual tutoring using Socratic dialogue. In a report prepared for the Canadian government, psychologist D.J. Ayers and his colleagues found that after 20 months of post-prison follow-up, the recidivism rate of those in the program was 16 percent as compared to a 52-percent rate for those randomly assigned to prison routines.

Discovering what works is less a matter of deciding on a specific treatment technique than of creating programs that are intensive, taken seriously, last a reasonable period of time and focus on high-risk offenders. (In fact, programs directed at low-risk offenders can sometimes be counterproductive if they are allowed to pick up antisocial skills and attitudes from higher-risk persons.) Canadian psychologists D.A. Andrews and J. Keisling found that effective therapy promoted prosocial attitudes, rewarded non-criminal pursuits, made use of a wide range of community resources, taught skills for handling relapse and treated the offender with respect and empathy — many of the very qualities that characterize effective psychotherapy with non-offenders.

Ironicly, even Martinson himself changed his mind on the efficacy of rehabilitation. In a 1979 article in the *Hofstra Law Review*, he wrote that "startling results are found again and again... for treatment programs as diverse as individual psychotherapy, group counseling, intensive supervision and what we have called individual help." The man who started it all had come full circle. But by then, no one was listening. And apparently they still aren't. On Jan. 18, the U.S. Supreme Court confirmed the abandonment of rehabilitation. In *Mistretta vs. U.S.*, the Court upheld federal sentencing guidelines which all but remove rehabilitation from serious consideration. The dissonant reverberation from a decade earlier has become the national anthem. As a result, federal prison populations are expected to double.

Thus contemporary corrections theory offers a choice between equally unattractive extremes: ineffective probation-parole or debilitating prisons. Finding help is akin to asking a doctor for headache relief and being told there are only two treatments — an aspirin or a lobotomy. Harsher sentences, warehouse prisons and an ideology which militantly rejects the idea of salvaging offenders are the rule of the land. Meanwhile, violent crime surges. We must now wait for the swing of the pendulum. It may be a long wait.

Jerome Miller, director of National Center on Institutions and Alternatives, also headed Massachusetts and Pennsylvania youth corrections systems.

HB

189

Table of Contents

HB 189 **An Act establishing the Alaska heritage endowment fund and amending the responsibilities of the Alaska State Museum and of the Museum Collections Advisory Committee; and providing for an effective date.**

1. HB 189
2. Fiscal Note - Department of Revenue
 Fiscal Note - Department of Education
3. Sectional analysis and Sponsor back-up materials

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 189

Revision Date: _____ Department Affected: Education
 Title: Establishing the Alaska BRU: Alaska State Museums
Heritage Endowment Fund Component: Museum Operations
 Sponsor: Boyer
 Requestor: Boyer COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

HB 189 will not have an immediate fiscal impact on the operating budget of the State Museum. However, as the endowment grows, the cost of administering the program will increase. At such a time, funds from the net income account would be requested to meet these costs.

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/14/91
 Approved by Commissioner: *Steve Hote* Acting Commissioner
 Agency: Education Date: 3/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 8, 1991

SUBJECT: House Bill 189, establishing the Alaska heritage endowment fund for the support of museum and related activities -- sectional analysis

TO: Representative Mark Boyer

FROM: Jack Chenoweth
Legislative Counsel

The measure establishes a permanent fund, designated the Alaska Heritage Endowment Fund, as a separate state endowment, and charges that the use of the income from the fund shall be used for purposes associated with the museums in the state and other state activities associated with culturally or historically significant materials. The measure sets out a statement of findings and purpose, and makes several related changes to the duties of the state's Museums Collections Advisory Committee.

Bill section 5 establishes the Alaska Heritage Endowment Fund and directs the manner of its ongoing management. Specifically --

Proposed AS 37.14.300 establishes the fund, the endowed principal of which is to include money derived

-- from legislative appropriations; and

-- from gifts, bequests, and contributions made to the fund that specify their placement in the fund principal;

Proposed AS 37.14.310 establishes a related net income account. The net income account includes

-- money and other assets given by a person that do not specify or require inclusion in the fund principal (i.e. gifts, bequests, and contributions that are not intended to be a permanent source of support but may be freely used for acquisitions and other authorized purposes); and

-- the income earned on the gifts, bequests, and contributions that specify their placement in the fund principal; and

-- the income earned on money appropriated to the fund principal, if so directed by legislative appropriation; these income appropriations are non-lapsing.

Proposed AS 37.14.320 directs the commissioner of revenue, as the treasurer of the fund, to have responsibility for the fund's management, and enumerates the commissioner's management powers and duties.

Proposed AS 37.14.330 sets out the authorized uses of the fund principal and the balance on the fund's net income account. The authorized uses of the fund's net income account include

-- reimbursement due the Department of Revenue for establishing and managing the fund;

-- administrative expenses of the state's Museum Collection Advisory Committee relating to securing acquisitions with money from the fund, as the legislature allows; and

-- acquisitions.

Acquisition policy involving use of the net income of the heritage endowment fund is described in the material set out in bill section 4:

Proposed AS 14.57.100 authorizes use of the fund balance to acquire the "culturally or historically significant" items enumerated at p. 3, lines 14 - 16 for any of the following --

-- the Alaska State Museum;

-- the Alaska State Library, state historical library, and state archives;

-- the University of Alaska Museum; and

Representative Mark Boyer
March 8, 1991
Page 3

-- cooperatively, subject to the assurance that items secured will receive adequate protection and care, municipal and non-profit museums and libraries.

Proposed AS 14.57.110 establishes a presumption that acquisitions from the fund will remain the property of the Alaska State Museum.

Proposed AS 14.57.120 sets out criteria applicable to acquisitions. The material includes the opportunity to set standards for protection, care, and exhibition if custody of the acquisition is assigned outside the Alaska State Museum, and authorizes, subject to approval by the Museum Collections Advisory Committee, transfer of ownership or assignment of long-term custody of acquired items to another institution.

Proposed AS 14.57.130 authorizes disposals of items obtained from the money in the fund's net income account.

Bill section 2 redefines and expands the state's Museum Collections Advisory Committee's role in acquisitions policy for artifacts of interest to the Alaska State Museum.

Bill section 1 sets out applicable findings and a statement of purpose intended to justify the need for the measure.

Bill section 3 makes a technical drafting addition.

Since a legislative appropriation to initiate the endowment is contemplated, bill section 6 gives the proposed Alaska Heritage Endowment Fund and the related material in the bill a July 1, 1991, effective date to coincide with the start of the next state fiscal year.

JC:gc
91-131.glc

MEMORANDUM

State of Alaska
Department of Education

TO: Nanci Jones, Legislative Aide
Office of Rep. Mark Boyer

THRU: Steve Hole, Acting Comm.
Department of Education

FROM: George V. Smith, Deputy Director
State Libraries, Archives & Museums
Department of Education

DATE: March 14, 1991

FILE NO: WPLIB 600

TELEPHONE NO: 465-2910

SUBJECT: Fiscal Note for
HB 189

HB 189 will not have any immediate fiscal impact on the operating budget of the State Museum. Currently, the Museum Acquisitions Advisory Committee (MAAC) meets face-to-face once a year and via teleconferencing once a year. Associated costs for these meetings are included in the Museum's operating budget. As the endowment grows and the need for more frequent MAAC meetings occurs, the associated costs will be proposed to be taken from the net income account rather than from the Museum's operating budget.

If the endowment eventually generates a large net income, it may be necessary to hire a clerk to process the extensive paperwork required for acquiring and lending objects to local museums as well as packing and unpacking the objects. This would not likely occur for a number of years.

HB 189 does need one minor revision. In Sec. 14.57.199 (1) DEFINITIONS (page 4 line 18), the definition for "director" should be changed to read as follows:

(1) "director" means the director of the Division of State Libraries, Archives and Museums (museum);.

Rep. Mark Boyer
Capitol, Rm. 411
P.O. Box V
Juneau, Alaska 99811

March 18, 1991

Dear Rep. Boyer:

On behalf of the Museum Collections Advisory Committee (MCAC), I am writing in support of House Bill 189, The Alaska Heritage Endowment Fund. The MCAC is extremely pleased that this bill has been introduced, and we wish to express our appreciation to all those who are sponsoring it. An endowment fund will do much to safeguard Alaska's heritage: to keep valuable artistic, historical and ethnographic material in our state, accessible to residents and visitors. By providing a stable source of funding for acquisitions, the fund will also enable our museums to build coherent and planned collections, which are necessary to developing first-rate facilities for public education and research.

I would like to take this opportunity, as well, to comment on some of the specific provisions of the bill, as currently drafted. First, some confusion about the administration and purpose of the fund needs to be clarified. In a cover letter accompanying the draft to Rep. Boyer (Feb. 26, 1991), Jack Chenoweth states that "The appropriation of the net income of the invested principal is presumptively established as a non-lapsing appropriation, leaving it available to the state museum director to draw from on a continuing basis" (emphasis added; see also Sec 14.57.199). Yet, the bill now includes provisions for donations and appropriations to a much greater variety of institutions than the originally specified state museums. Included here are: 1) the state museum and any of its branches; 2) the state library, state historical library, and state archives; 3) the museum of the University of Alaska; and 4) museums and libraries established and operated by municipalities and by nonprofit corporations (Sec. 14.57.100).

As a result,

- 1) the problem of competition for funds arises;
- 2) the "state museum director" is not an appropriate administrator of funds and procedures relating to the other institutions mentioned;

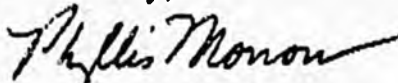
3) likewise, the MCAC is constituted to approve of items for the state museum's collections, but has no particular expertise in, or statutory authority over libraries, archives and other museums;

4) several of the other institutions regularly receive appropriations for their collections and/or have their own endowment fund (as e.g. the University of Alaska's museum); the fund was originally proposed to alleviate the funding shortfalls of the state museums, a purpose which might be subsumed by the expanded intent of the bill, unless language is added.

In sum, these points should be addressed and clarified to ensure the smooth operation of the fund, and the equitable distribution of derived income.

Thank you again for your sponsorship of this important bill. We look forward to its ultimate passage.

Sincerely,



Phyllis Morrow, Chair
Museum Collections
Advisory Committee



March 19, 1991

Representative Mark Boyer
P.O. Box V
Juneau, Alaska 99811

Ref: **House Bill No. 189**

Dear Mark:

Tom Moyer sent me a copy of House Bill No. 189 in draft form on March 4th. I called Nanci Jones to discuss timing of responses, advising her that Executive Committee of the Friends of the University of Alaska Museum would be meeting the evening of the 18th. She felt this would be timely. We did meet last night, we reviewed the draft bill and we offer herein our comments.

The Friends of the University of Alaska Museum do support the idea of the "Alaska Heritage Endowment Fund". While it appears that the concept may have evolved originally to accommodate the State Museum in Juneau, the wording of the currently proposed bill addresses statewide application of the concept. This being the case, we offer two basic suggestions:

1. The bill should specify the structure of the Museum Collections Advisory Committee, assuring that the MCAC represents all areas of the state.
2. The bill should give the MCAC the responsibility for managing the program. (It currently places these responsibilities with the "director of the state museum". To the best of our knowledge, this position has not existed or has not existed continuously over the past several years. Furthermore, the role of the "director" could better be served by the MCAC than by the director of one benefiting institution.)

The Friends of the University of Alaska Museum encourage a funding bill to provide an initial appropriation for the endowment fund.

Thanks for your consideration of our comments.

Thank you for your consideration and assistance.

~~Leslie I. Rogers, President~~

cc: Moyer, Koponen, Sharp

Post-It™ brand fax transmittal memo 7671 # of pages > 1

To	NANCI JONES	From	Les Rogers
Co.	REP. MARK BOYER	Co.	Friends of U of A Museum
Dept.		Phone #	907-452-1241
Fax #	907-465-3841	FAX #	907-452-6883

907 Yukon Drive Fairbanks, Alaska 99775-1200



UNIVERSITY OF ALASKA MUSEUM

March 22, 1991

Representative Mark Boyer
Alaska State Legislature
P. O. Box V
State Capital
Juneau, Alaska 99811

Dear Mark:

I support, in principle, House Bill No. 189 establishing the Alaska heritage endowment fund. Significant collections representing Alaska's unique cultural and natural heritage continue to leave the state. There is a need to increase and maintain these collections within the state and make them available for Alaska's present and future generations.

There are some inconsistencies in the Act as written which, if there is still time for modifications, could be improved. Actually, in my view, the whole bill should be rewritten. I recommend the following general changes:

Section 1 (10), lines 24-28. " (b) To secure to Alaskans in this and future generations the pride, identity, and importance that attaches to the state's heritage of its cultural and natural heritage, the legislature is establishing the Alaska heritage endowment fund, the income from which will provide a stable source of money for the state's acquisition of outstanding objects and collections representing Alaska's cultural and natural heritage."

Section 2, (b) page 2, lines 29-33 & page 3, line 1-6: The section and additions relate only to the state museum, although the intent of the Act is to provide acquisitions funds for other museums in the state. Possible wording could be changed from "state museums" to "qualifying museums in the state." Also, according to this section, acquisition and disposal of materials and properties by the state museum (does not mention other museums) is subject to the approval of the "committee" (the state Museum Collections Advisory Committee). Generally museums have their own policies relating to acquisitions and deaccessioning. These should be reviewed by the body which oversees the distribution of funds. If the "committee" is this body, does this committee have the charge and broad representation to adequately represent museums throughout the state? The composition and charge of this committee would need to be modified. One

UNIVERSITY OF ALASKA FAIRBANKS

907 Yukon Drive Fairbanks, Alaska 99775-1200 (907)474-7505 FAX(907)474-5469

possible option would be to enlarge membership of this committee to include representatives from Museums Alaska, the state museum association and from selected museums throughout the state.

Section 4. AS 14.57, lines 12-24. The director (of the state museum) is charged with the responsibility of distributing these funds to museums within the state. As I understand it, the position of the director of the Alaska State Museum has been eliminated. Who would then administer these funds? I feel distribution of funds should be the responsibility of the committee formed to administer this fund.

I also suggest that distribution of funds be handled like those distributed to museums through the State Museum's Grants-in-Aid program. Museums could then apply for an "acquisition" grant to be used in accordance with established guidelines. Unique acquisitions exceeding a certain monetary limit could be handled on a case by case basis.

I suggest that the distribution of the fund be limited to qualifying museums throughout the state. Library acquisitions fall under an entirely different category.

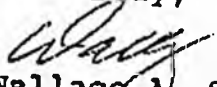
Ownership of acquired objects should be transferred to the qualifying museums. Long term loans of objects generally are not recommended by the museum profession. Funds for acquisition should also be available for collecting from archaeological, paleontological, and biological sites.

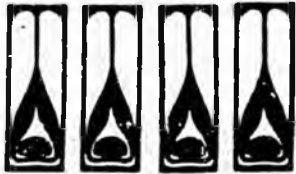
The primary benefits of this Act will be to provide funds for acquisition of materials relating to Alaska's cultural and natural heritage. Unfortunately, the state supported museums, the State Museum and the University of Alaska Museum do not have the resources to adequately conserve and interpret the collections they currently have. As mentioned above, the position of the Director of the State Museum has been eliminated and the museum is currently placed under the state library system. This action has weakened the state museum and would have a negative impact upon its ability to administer the endowment fund.

I do support this bill since it will provide needed funds for acquisition of materials representing Alaska's unique cultural and natural heritage. The concerns I expressed above reflect my concern for administration of the fund and provision of adequate support of museums in the state. The bill should be rather general in nature. More specific guidelines and regulations should be developed by a committee of selected museum representatives from throughout the state.

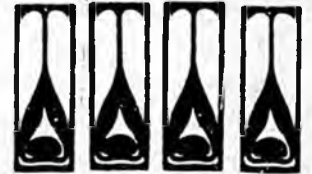
I appreciate your continued support of museum programs in Alaska.

Sincerely,


Wallace A. Steffan, Director



The Friends of the Alaska State Museum



395 Whittier St., Juneau, Alaska 99801

Phone (907) 465-2901

March 27, 1991

Representative Mark Boyer
Capital, Room 411
P.O. Box V
Juneau, Alaska 99811

RE: House Bill No. 189
The Alaska Heritage Endowment

Dear Representative Boyer:

The Friends of the Alaska State Museum is an Alaska non-profit corporation with approved federal tax exempt status under section 501(c)(3) of the Internal Revenue Code. It was founded in Juneau, Alaska, in 1968, when the Alaska State Museum moved to its current location in Alaska's Capital City. The primary purpose of the organization is to enhance the effectiveness of the State Museum in its task of collecting, preserving, and interpreting Alaska's rich and diverse cultural heritage for present and future generations.

The Friends are pleased with the introduction of House Bill No. 189 "The Alaska Heritage Endowment Fund." The acquisition of important Alaskan cultural and historic objects has proceeded slowly, due to the lack of funding. In FY88 the Museum received \$80.0, in FY 90 \$50.0, and the most recent allocation in FY91 was \$0.0. In addition, recent changes to the federal tax laws have resulted in fewer donations of artifacts, making future funding for acquisitions a critical matter. The Endowment Legislation is seen as an ideal way to ensure adequate funding for one of the State's long-range commitments to stemming the outflow of valued heritage objects. As a result of inadequate funding, significant objects to Alaska (including major cultural pieces, significant paintings, and historic aircraft) continue to be lost through public auction and private sale from which the State Museums are absent.

Recent examples of lost opportunities include the following:

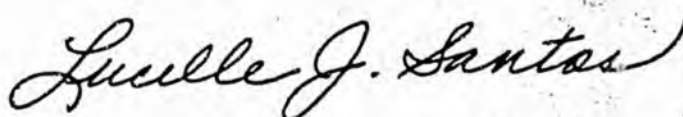
--two large oil paintings by Sydney Laurence:	\$200,000
--a collection of Tlingit ceremonial clothing:	\$ 7,000
--Tlingit crest hat:	\$ 80,000
--a collection of Alaskan Eskimo drawings:	\$ 20,000
--historical mining equipment from Southeast Alaska:	\$ 10,000
--sketch of Loring Bay by Albert Bierstadt:	\$ 12,000
--surveyor's compass used in fixing Alaska/Canada boundary:	\$ 2,000
--a Chilkat blanket:	\$ 7,000

Artifacts that symbolize Alaska's rich heritage have been leaving with visitors and collectors for many decades. The Endowment Fund will provide the mechanism to fulfill the State's obligation to collect significant objects of Alaska's history, natural history, fine arts, and cultures, and to take advantage of one-time opportunities to maintain important objects in Alaska or return lost items to Alaska.

The provision to allow private donations into the fund is attractive, stressing the partnership between the State and private sector. The language to extend the current responsibilities of the existing Museum Collections Advisory Committee to oversee acquisitions made from the fund, is also a good idea, since this will eliminate the establishment of a separate committee or Board of Trustees.

The only point of concern with the bill is the inclusion of museums and libraries established and operated by municipalities and nonprofit corporations. Although it is stated that attempts will be made to eliminate or reduce competition among institutions for the funds, the reality is that competition for the funds may be intense, since there are more than 60 potentially eligible museums statewide. To ensure the smooth operation of the program and remove any competition for the funds, the Endowment would be best established as a fund for the State Museums only. The Alaska State Museum has, throughout its existence, placed objects on loan to other institutions. The determination of loans is made on the borrowing institution's long-term stability, ability to protect and preserve the object, and plans for display and interpretation. If the borrowing institution became incapable of providing reasonable care and protection of the object at some future date, the Alaska State Museum would intervene to ensure that the necessary care would be provided.

Sincerely,



Lucille Santos, President
Friends of the Alaska State Museum

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1991

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: _____

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 189

HOUSE BILL NO. 189

ALASKA HERITAGE ENDOWMENT FUND

"An Act establishing the Alaska heritage endowment fund and amending the responsibilities of the Alaska State Museum and of the Museum Collections Advisory Committee; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 189 (NES)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Dept. of Revenue 3/1/91

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Mark Bentley</i>	<input checked="" type="checkbox"/>				
<i>Mary Miller</i>	<input checked="" type="checkbox"/>	<i>Cheri Davis</i>		<input checked="" type="checkbox"/>	
<i>Betty Davis</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>John C. Gonzalez</i>		<input checked="" type="checkbox"/>	

[Signature]
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 189

Revision Date: March 11, 1991
Title: An act establishing the Alaska Heritage Endowment Fund

Department Affected: Revenue
BRU: Treasury
Component: _____

Sponsor: Boyer
Requestor: HESS

Component Serial No.

	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	5.0	5.0	5.0	5.0	5.0	5.0
TRAVEL						
CONTRACTUAL	15.0	15.0	15.0	15.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	20.0	20.0	20.0	20.0	20.0	20.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

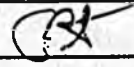
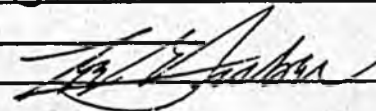
GENERAL FUND						
FEDERAL FUNDS						
OTHER	20.0	20.0	20.0	20.0	20.0	20.0
TOTAL	20.0	20.0	20.0	20.0	20.0	20.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: See attached Bill Analysis.

Prepared by: Brian C. Andrews 
Division: Treasury
Approved by Commissioner: 
Agency: Revenue

Phone: 465-2350
Date: March 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB 189

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

April 25, 1991

The Honorable Representative Boyer
Rm 411 Capitol
P. O. Box V
Juneau, Alaska 99811

Dear Representative Boyer:

At the request of your Special Assistant Nancy Jones, I have enclosed information concerning the Alaska State Museum's loan policy and procedures, as well as a catalog and packet on the Museum's traveling exhibits and Learning Kit programs. This should address questions raised during the recent HESS Committee meeting on HB-189 about the accessibility and use of Museum collections.

The following is a brief summary:

OUTGOING LOANS

The Alaska State Museum will loan artifacts to museums and other selected public institutions that meet conditions as stated on the Outgoing Loan Form. Security, environmental safeguards, the ability to meet the conditions for handling artifacts, and public visibility are the most important criteria in evaluating requests for loans.

The Alaska State Museum and the Sheldon Jackson Museum currently have on loan over 600 artifacts to 50 museums and cultural institutions and have made loans to special exhibits within the last two years. These include "Russian America: the Forgotten Frontier", "Bending Traditions" on bentwood artifacts of Alaskan Natives, a Sydney Laurence retrospective, and a United States Coast Guard Exhibit. Objects on loan are currently in: Kodiak, Anchorage, Petersburg, Haines, Ketchikan, Wrangell, Fairbanks, Palmer, Juneau, and Sitka.

TRAVELING EXHIBITS

Works from the Alaska State Museum collection are made available for exhibition in ways other than loans and permanent and temporary exhibits. Sizeable groups of work are organized into compact traveling exhibits for circulation to small museums throughout Alaska. Traveling exhibitions of this kind have significantly increased the number of people who have been able to view works from the Collection.

Traveling exhibitions currently in circulation are: Dolly Spencer Dolls, Dale DeArmond wood block prints, "Images from the Inside Passage" by Winter and Pond, "The Gentle Craft" on Alaskan watercolors, and "Alaska Positive". Development continues on an exhibit of Alaskan kayaks, "Saving Alaska's Archeological Heritage", and a "Mini-Crossroads" exhibition that will travel to rural Alaska and Siberia. Traveling exhibits are currently being used by the following Museums: Yugtarvik Regional Museum, Bethel; Clausen Memorial Museum, Petersburg; Sheldon Museum and Cultural Center, Haines; Heritage Library and Museum, Anchorage; Valdez Museum; Kenai Community Library; Samuel K. Fox Museum, Dillingham; Carrie M. McLain Memorial Museum, Nome; University of Alaska Museum, Fairbanks; Kenai Peninsula College, Soldotna; Cordova Arts and Pagents; and Anchorage Museum of History and Art.

LEARNING KITS

The Alaska State Museum is presently circulating 38 learning kits, consisting of 20 different titles, to 35 of the State's school districts. It was started because of the inability of much of the State's population to visit the State Museum in Juneau and share in the many treasures which are on exhibit. Currently, kits contain sufficient materials and resources to make each a self-contained unit. The subjects cover the unique aspect of the state: its Native people, its history and its wildlife.

Early kits consisted primarily of objects from the Museum's collections which were deemed suitable to be shipped to teachers around the State for use in their classrooms. With the passage of time, teachers' manuals with suggestions of presentations and student activities were added to kits to make the objects more relevant and to make the task easier for the teacher. Supplementary materials such as films, slides, videos, and reference books are also included in the kits. Today's kits provide basically everything that the teacher may need to teach the subject. However, the core of the kits, the artifacts and objects, has remained as the most valuable portion of the kit materials.

PERMANENT EXHIBITS

The Alaska State Museum has approximately 100 exhibits showcasing the natural and human history of Alaska, including exhibits from major Alaskan cultures. The Alaska State Museum is able to exhibit only a small percent of its collection in the permanent exhibit galleries. The Museum is faced with the task of encapsulating all that pertains to Alaska in an exhibit area of less than 6,500 square feet. The restricted exhibit space allows the Museum to show only a limited view of such important areas as Native cultures, early industry, and maritime and Natural History.

Since there is no means to remodel this building to create more space, the Museum has ventured to find appropriate public space elsewhere. The Museum is slowly expanding into the community by placing exhibits in highly visible public buildings. Natural History exhibits and an orientation to the State of Alaska have been installed in the Juneau International Airport and Sitka Community Airport. The Museum has also exhibited historic woodworking tools in the University of Alaska's new technology building and mounted large-scale displays in the State Court Building and the State Office Building. These exhibits allow us to reach a larger audience.

COMPUTERIZATION OF COLLECTIONS

In an effort to effectively increase access to important subject materials and objects within the collection, the Alaska State Museum is proceeding with the procurement of computer software and hardware that will provide access to collections information.

Currently, collections data is recorded on catalog cards that have limited staff, researcher, and public accessibility. Increased accessibility will be accomplished through the use of computer terminals available to the general public and staff within the Museum. Cultural institutions and museums would be able to gain access to the Museum's collections through the use of remote terminals and modems. This will be an important research and teaching tool that will have an enormous impact on scholars, students, and the general public.

Visual access to collections material will be provided by computer imaging or through the use of video disk technology. With 18,500 objects currently in the Alaska State Museum collection and an additional 4,500 objects currently in the Sheldon Jackson Museum collection, it is estimated that data entry and image recording will take at least four years to accomplish.

If you have further questions, please do not hesitate to call.

Sincerely,



Steve Hole
Acting Commissioner
by Bruce Kato
Acting Museum Administrator

Enclosures

DIVISION OF ALASKA STATE MUSEUMS
DEACCESSIONING POLICY

In the absence of legal prohibitions, the Division of State Museums will routinely analyze its collections and will dispose of items from its collections at the recommendation and discretion of the curator, with the concurrence of the Director of the Division of Alaska State Museums, and the approval of the staff Acquisitions Committee and the Museum Collection Advisory Committee. Clear and complete records must be maintained on all deaccessioned objects. This will include photographs, date of removal, catalogue number, reason for removal, method of disposal and price (if sold).

CRITERIA FOR DEACCESSIONING

An object from the permanent collection may be deaccessioned subject to the approval of the staff Acquisitions Committee, the Director of the Division of Alaska State Museums, and the Museum Collections Advisory Committee only if it meets one or more of the following criteria:

1. Poses a hazard to human life or health, or to other objects in the collection.
2. Does not fulfill the collection criteria of the individual museum.
3. Has been determined to rightfully belong to a group or individual other than the Division of Alaska State Museums.

PROCEDURE FOR DEACCESSIONING

1. The deaccessioning procedure originates with the Curator of Collections within the museum affected. The curator will prepare a written recommendation which establishes the reason for deaccessioning. This statement will include information pertaining to the history, significance, and ownership of the object, as well as applicable laws and proposed method of disposal.
2. Deaccessioning must be approved by the staff Acquisitions Committee.
3. Deaccessioning must be approved by the Museum Collections Advisory Committee and by the Director of the Division of Alaska State Museums.
4. All records pertaining to the deaccessioning of an object must be permanently retained. This would include all signed approval forms, photographs, and any other pertinent information.

5. Disposal of the the deaccessioned piece will be in the following prioritized order, with the concurrence of the Director of Alaska State Museums:

A. Place with another educational institution within Alaska through exchange, sale, or donation.

B. Place with another educational institution outside Alaska through exchange, sale, or donation.

C. Place in the educational programs of the Division of Alaska State Museums as consumable items, or sale/exchange with a dealer, or destroy, or return to former owner.

NOTE: Any financial remuneration gained in the transaction will be returned to the museum disposing of the piece for future acquisitions or for conservation of the existing collection, consistent with state policy regarding disposal of state property.

CONDITIONS OF LOAN:

1. Insurance

Insurance is required, and insurance coverage for the total value of objects shall be provided by the Borrower at Borrower's expense and shall remain in effect from the time the object leaves the Alaska State Museum until it is returned to the Museum. Value of objects will be set by the Alaska State Museum. A certification of insurance shall be provided by Borrower upon request by the Alaska State Museum.

2. Photography and Credits

Objects may be photographed or filmed for educational purposes such as publicity and publication of exhibition catalogs on condition that the Alaska State Museum is provided one copy of the catalog. Photographs taken for purposes other than those specified above shall be prohibited without prior **written** permission of ASM. Captions on photographs will credit ASM with ownership of the objects, e.g., "From the collection of the Alaska State Museum."

When ASM objects are filmed, televised or otherwise photographed, the Borrower shall agree that

- (a) lamps are not placed closer than 6 feet from the object;
- (b) the lamps used do not raise the surface temperature of the object more than 3°C above room temperature;
- (c) the loan object is not touched or moved except by the qualified employees of the Borrower who shall at all times wear proper gloves when handling the object.

3. Transportation and Packing

Borrower shall pay all costs of transport and packing of objects borrowed from the

Alaska State Museum. Objects shall be returned packed with the same or similar quality materials and workmanship as received. Borrower and ASM shall mutually agree on the method of transport.

4. Care and Preservation

Borrower agrees to assume liability for any loss or damage to borrowed items from the time they leave the Alaska State Museum until they are returned and found to be in the same condition in which they left. Evidence of damage to objects at the time of receipt by the Borrower or while in the Borrower's custody shall be reported immediately in writing to ASM.

No alteration, restoration or repair to objects will be undertaken without written authority of ASM.

Borrower agrees to comply with conservation specifications provided by ASM. Specifications may include maximum light levels and the use of appropriate filters, temperature and relative humidity levels, restrictions against use of sticky substances to hold artifacts, assurance of appropriate handling procedures, etc.

5. Security

Security provisions will safeguard objects against damage, vandalism or theft and will follow standards established by the American Association of Museums for proper museum security procedures.

6. Termination of Loan

The Alaska State Museum reserves the right to terminate the loan at any time for non-compliance of the loan terms by the Borrower as set forth in this agreement.

Dear Colleagues,

An important aspect of the Alaska State Museums is our Traveling Exhibits Program, and we are pleased to offer for loan exhibits that include a variety of media and may fit both small and large sites. All of our traveling exhibits, however, have some common requirements, as follows:

Scheduling

Bookings should be made as far in advance as possible. Exhibits will usually be available at one location from four to six weeks. To book an exhibit, contact: Traveling Exhibits Coordinator, Alaska State Museum, 395 Whittier St., Juneau, AK 99801, Telephone (907) 465-2901.

Cost

Exhibitors are asked to buy insurance while the exhibit is in their possession. Insurance will cover the value of objects as set by the Alaska State Museums. Certification of insurance may be required of all exhibitors. Exhibitors will also pay the cost of one-way travel for each exhibit.

Space Requirements

The estimates given in this booklet for each exhibit (in linear feet) is twice the total horizontal measurement of all works, frame to frame, and represents the average wall space required to hang the exhibit. In the case of exhibits that are three-dimensional, space requirements will depend on the size of the cases containing the pieces. An exhibition information may be printed far in advance of a show traveling, actual requirements may vary. Updated specifications are available from the Traveling Exhibits Coordinator.

Security

Security provisions should safeguard objects against damage, vandalism, and theft, and should follow the standards established by the American Association of Museums for proper museum security procedures. More information is available from the Traveling Exhibits Coordinator.

Registration/Preparation

All exhibits are fully captioned, framed, crated and ready to install. Installation, handling instructions and condition report forms (with instructions on how to prepare them) accompany all traveling exhibits. Completed condition reports, both incoming and outgoing, are required of all exhibitors.

Publicity

The Traveling Exhibits Program will provide a publicity packet with each exhibit well in advance of the opening date. The packet will include a sample press release, photographs, and posters. Exhibitors are required to credit the Alaska State Museums in any publicity sent out on the exhibit, including press releases and posters, and at the entrance to the exhibit. Photographs of the exhibit may be taken only under the conditions outlined under the Borrower's Agreement.

Our office is open from 8:00 a.m. to 4:30 p.m. We look forward to hearing from you.

Mark Daughhete
Traveling Exhibits Coordinator

**ALASKA STATE MUSEUMS
TRAVELING EXHIBITS PROGRAM**



395 WHITTIER ST., JUNEAU, AK 99801
PHONE (907) 465-2901 FAX (907) 465-2976

HB

1911



ACTION FOR ALASKA'S CHILDREN

(formerly CHILD AND FAMILY ADVOCACY PROJECT of ALASKA CHILDREN'S SERVICES, INC.)

APRIL 2, 1991

MEMO

TO: HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

FROM: ACTION FOR ALASKA'S CHILDREN - T. Langdon, Pres./CEO

RE: HB 191- An Act relating to early intervention services for certain young children and their families; and providing for an effective date.

Action for Alaska's Children is in strong support of HB 191. The early intervention aspect and the services provided for in the bill will make a great difference in the quality of life for many children and their families and reduce the cost of caring for these individuals in the future.

By the use of creative financing, using a sliding fee scale, insurance, Medicaid waivers and use of some Mental Health Trust Funds for beneficiary population, the cost of these services will not be as great as is presently projected.

The findings and purpose sections of the bill outline quite well the need for the services. The provision for training programs for persons who provide services to this population as called for in the bill are critical. The continuation of the Interagency Coordinating Council should provide the vital continued coordination and cooperation of various Departments in serving these young children and their families.

We urge your support of this bill.

House Bill No. 191

For An Act entitled: " An Act relating to early intervention services for certain young children and their families; and providing for an effective date ."

Summary

This bill amends AS 47.20, Exceptional Children and AS 78.80 Persons with Handicaps. Section 1, Findings, is added and includes the urgent and substantial need to: support the development of children under the age of three with disabilities; reduce the stress on families of children with disabilities; recognize the strengths, diversity and importance of parents and families in young children's lives; encourage parent-to-parent support; reduce the likelihood of institutionalization; and reduce the long term educational costs by minimizing the need for special education.

Section 2, Subsection 060, Purpose, is added and includes: family support; bringing together and making optimal use of federal, state, local and private resources; and expanding the availability of services. Subsection 070, Establishment of Program, is added and includes the establishment and coordination of a statewide system of interagency programs which will: provide appropriate services to the eligible population; educate the public; organize and encourage training programs for service providers; and facilitate transitions between programs in the interagency system. Subsection 080, Program Eligibility, is added and includes children under the age of three who experience a developmental delay or disability, and their families. If the needs of children with delays or disabilities are met, children who are at risk for disabilities or delays will be served with available funds. Subsection 090, Finding and Evaluating Eligible Participants, is added and includes: a comprehensive system for finding children and families in need of services and providing evaluations to determine the extent and nature of those needs. Subsection 100, Individual Family Service Plan, is added to include the development of individualized family service plans and for case management services to assist families in obtaining services from the interagency system. Subsection 110, Other Duties of the Department, is added to include the adoption of regulations regarding: personnel development; resolution of interagency and intra-agency disputes; provisions for due process with respect to the rights of children and parents; the compiling of data. Subsection 290, Definitions, is added and includes definitions for: department; developmentally delayed; disability; and early intervention services.

Section 3. AS 47.80.900 (6) Persons with Handicaps, is amended to remove the reference to AS 47.20.050, which is repealed.

AS 47.20.005, Purpose, is repealed and replaced by Section 2 subsection 060.