

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520 465.5400 Fax  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Sherrie Daigle, AAC Contact  
Department of Corrections

**FROM:** Scott Meriwether  
Special Assistant  
907.465.4081 

**DATE:** July 30, 2015

**RE:** Filed Permanent Regulations: Board of Parole

Regulations re: parole board hearings (22 AAC 20.095(b); 22 AAC 20.100(c), (d); 22 AAC 20.105; 22 AAC 20.107; 22 AAC 20.142; 22 AAC 20.150(r), (s); 22 AAC 20.155(f), (g); 22 AAC 20.160; 22 AAC 20.180(b); 22 AAC 20.255(b); 22 AAC 20.280(b); 22 AAC 20.300; 22 AAC 20.365; 22 AAC 20.370; 22 AAC 20.380; 22 AAC 20.465(b); 22 AAC 20.505(d); 22 AAC 20.510; 22 AAC 20.613; 22 AAC 20.615(b); 22 AAC 20.645(b); 22 AAC 20.910)

---

Attorney General File: JU2014200746

Regulation Filed: July 29, 2015

Effective Date: August 28, 2015

Print: 215, October 2015

cc with enclosures: Linda Miller, Department of Law  
Genevieve Wojtusik, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE BOARD OF PAROLE

The attached 15 pages of regulations, dealing with attendance and appearance at Board of Parole hearings and access to board records, are certified to be a correct copy of the regulation changes that the Board of Parole adopted at its July 15, 2015 meeting, under the authority of AS 33.16.060, 33.16.070, 33.16.085, 33.16.087, 33.16.100, 33.16.110, 33.16.120, 33.16.130, 33.16.150, 33.16.160, 33.16.170, 33.16.180, 33.16.200, 33.16.210, 33.16.220, 33.16.230, 33.16.240, and 33.16.260 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Board of Parole paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

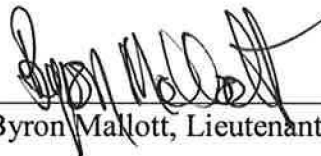
DATE: July 15, 2015  
Anchorage, Ak



Jeff Edwards, Executive Director  
Alaska Board of Parole

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on July 29, 2015 at 11:20 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: August 28, 2015

Register: 2015, October 2015

The article heading for 22 AAC 20, Article 2 is changed to read:

**Article 2. Attendance and Appearance at Parole Board [ADJUDICATORY] Hearings.**

22 AAC 20.095(b) is amended to read:

(b) The members and staff of the board, the prisoner or parolee [PRISONER/PAROLEE], attorneys for the prisoner or parolee [PRISONER/PAROLEE] and for the state, department employees responsible for the case, the victim of a crime, and security staff considered [DEEMED] necessary by the board may attend board hearings.

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.120 AS 33.16.170

22 AAC 20.100(c) is amended to read:

(c) The board will permit the appearance of witnesses with relevant testimony called by the parolee or by the state at a parole revocation hearing. The board may also call witnesses on its own motion.

22 AAC 20.100(d) is amended to read:

(d) Before a witness testifies at a parole hearing, the board may require the party requesting the witness [REQUEST A PAROLEE OR THE PAROLEE'S ATTORNEY] to make an offer of proof summarizing the content of the proposed testimony [OF THE STATEMENTS TO BE MADE BY THE WITNESS IF THE WITNESS TESTIFIES BEFORE THE BOARD]. The board will consider the offer of proof and permit the witness to appear

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

**and testify at the hearing if the board finds that the proposed testimony is relevant and material to the issues at the hearing** [MAY

(1) ACCEPT THE OFFER OF PROOF WITHOUT HAVING THE WITNESS PHYSICALLY APPEAR AND TESTIFY AT THE HEARING; OR

(2) REQUIRE THE TESTIMONY TO BE PRESENTED]. (Eff. 1/30/91,

Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.130

22 AAC 20.105 is repealed and readopted to read:

**22 AAC 20.105. Appearance by victim and submission of oral and written material by victim at parole hearings.** (a) The victim of a crime will be notified of a discretionary parole, special medical parole, parole rescission, parole revocation, or parole reconsideration hearing if the victim maintains a current, valid mailing address on file with the department.

(b) If the victim requests to provide comments in a hearing described in (a) of this section, the board will allow the victims to comment

(1) in person, including by telephone or by videoconference if available; or

(2) in writing, including by electronic mail.

(c) The victim may provide written material or oral comments to the board regarding the impact of the crime on the victim or the victim's family, the applicant's suitability for parole, and the conditions of parole. A victim may present verbal testimony within time constraints established by the board. A victim shall direct all statements to the chair, and may not direct a statement or question to an applicant, parolee, or attorney. An applicant, parolee, or attorney

shall direct all statements to the chair, and may not direct a statement or question to the victim present at the hearing.

(d) A victim testifying at a parole hearing is not required to make statements under oath unless appearing as a fact witness to a parole violation charge. An applicant, parolee, or attorney may not question a victim who provides unsworn testimony before the board. If a victim chooses to or is required to provide sworn testimony, the applicant, parolee, or attorney shall direct any questions to the victim through the chair.

(e) Not later than five working days before the scheduled date of a parole hearing, a victim who wishes to attend the hearing must notify the applicant's or parolee's assigned parole officer of the victim's intent to attend the hearing. If the victim fails to provide timely notification of the intent to attend the hearing, the board will attempt to accommodate the request if resources and the board's calendar permit.

(f) A victim is subject to the requirements of 22 AAC 20.095.

(g) If the victim attends the hearing, the board may question the victim about written material submitted or oral comments made under (c) and (d) of this section, or about other information relevant to the parole decision.

(h) The board will provide the applicant or parolee a copy of any materials that the victim presented to the board. From any copy provided to the applicant or parolee, the board will redact the victim's residence address, mailing address, electronic mail address, and telephone number, and any other information that could disclose the location of the victim of a crime. Before the board hearing the parole officer shall advise the victim that the applicant or parolee will be physically present in the hearing room.



(i) Upon written request to the board not later than five working days before the hearing, an attending victim may request that one personal victim support advocate be present with the victim at the hearing. The request must state the name of the proposed victim support advocate and the advocate's relationship to the victim. The chair will make a preliminary decision whether to allow the requested personal victim support advocate to be present at the hearing. The victim will be notified of the chair's preliminary decision before the hearing. Before starting the hearing, the board will determine whether to accept the chair's preliminary decision. If permitted to attend a hearing, a victim support advocate may not present any testimony. (Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.150 AS 33.16.180  
AS 33.16.120

22 AAC 20 is amended by adding a new section to Article 2 to read:

**22 AAC 20.107. Subpoenas.** (a) In preparation for a parole hearing, a party may apply to the board for a subpoena. The application must be in writing, state the name and address of the witness, and state the substance of the testimony. The board will review the application and make a determination of relevance. The requesting party is responsible for making the request in sufficient time to allow for the issuance and service of the subpoena.

(b) The requesting party is responsible for the service of a subpoena, costs of transportation for a witness or for obtaining records, and any other expenses associated with the issuance or service of a subpoena.

(c) A subpoena may be served by

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

- (1) a member of the department staff; or
- (2) any person authorized under Alaska Rule of Civil Procedure 45(c). (Eff.

8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.070

**Editor's note:** The subject matter of 22 AAC 20.107 was formerly located at 22 AAC 20.380. The history note of 22 AAC 20.107 does not reflect the history of the earlier section.

22 AAC 20.142 is repealed:

**22 AAC 20.142. Numerical guidelines.** Repealed. (Eff. 1/30/91, Register 117; repealed

8/28/2015, Register 215)

22 AAC 20.150(r) is repealed:

(r) Repealed 8/28/2015

22 AAC 20.150(s) is amended to read:

(s) The applicant may not question a victim who testifies before the board **except as described in** [UNDER] 22 AAC 20.105(c) [AND 22 AAC 20.155(c)]. (Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.130 AS 33.16.170  
AS 33.16.100 AS 33.16.150 AS 33.16.230

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

22 AAC 20.155(f) is repealed:

(f) Repealed 8/28/2015.

22 AAC 20.155(g) is repealed:

(g) Repealed 8/28/2015. (Eff. 1/30/91, Register 117; am 8/28/2015, Register 215)

<b>Authority:</b>	[AS 12.55.185]	AS 33.16.100	AS 33.16.130
	AS 33.16.060	AS 33.16.120	AS 33.16.260

22 AAC 20.160(b) is amended to read:

(b) The department shall solicit comments **regarding** [ON] the prisoner's application for discretionary parole from the prosecuting attorney, the defense attorney, the sentencing court, and the victim of the crime who has requested notification under **22 AAC 20.105 and** 22 AAC 20.155. The department shall provide these comments to the board and to the prisoner.

22 AAC 20.160(l)(1) is amended to read:

(1) notify the victim of the crime who has requested notification of the prisoner's application for parole under **22 AAC 20.105 and** 22 AAC 20.155;

22 AAC 20.160(m) is repealed:

(m) Repealed 8/25/2015.



Register 215, October 2015 DEPARTMENT OF CORRECTIONS

20 AAC 22.160(o) is repealed:

(o) Repealed 8/28/2015.

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

<b>Authority:</b>	AS 33.16.060	AS 33.16.120	AS 33.16.170
	AS 33.16.110	AS 33.16.130	AS 33.16.180

22 AAC 20.180(b) is amended to read:

(b) If the board grants a request for reconsideration, the board will **make a decision based on the material contained in the case file or** conduct a new hearing [BEFORE THE BOARD] at the next regularly scheduled board hearing at the facility where the prisoner is incarcerated, unless the board specifies another date.

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

<b>Authority:</b>	AS 33.16.060	AS 33.16.100	AS 33.16.130
-------------------	--------------	--------------	--------------

22 AAC 20.255(b) is amended to read:

(b) A parole expiration date is suspended upon the issuance of an arrest warrant **or summons to appear** by the board or, in the case of an interstate parolee, by the board's designee.

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

<b>Authority:</b>	AS 33.16.060	AS 33.16.200
-------------------	--------------	--------------

22 AAC 20.280(b) is amended to read:

(b) If the board receives a request for discharge from parole, or at the request of the

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

board, the parole officer must submit a comprehensive report containing a chronological description of the parolee's behavior and adjustment since released on parole. **The report must include the position of the parolee's victim regarding the request, if the victim maintains a current, valid mailing address on file with the department.**

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.210

22 AAC 20.300 is amended to read:

**22 AAC 20.300. Notification to prisoner, [AND] board, and victim.** The department shall notify **in writing** the prisoner, [AND] the board, **and a victim who participated in the prisoner's parole hearing** [IN WRITING] that parole might be rescinded and of the basis for the possible rescission. When the board has established a date and time for the rescission hearing, notification shall be given to the prisoner **and victim** at least 72 hours before the rescission hearing. (Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.100

The editor's note following 22 AAC 20.340 is changed to read:

**Editor's note:** The address for requesting a tape or electronic recording referenced in 22 AAC 20.340 is Executive Director, Alaska Board of Parole, **550 West 7th Avenue, Suite 1800, Anchorage, Alaska 99501** [P.O. BOX 112000, JUNEAU, ALASKA 99811-2000].

22 AAC 20.365 is amended to read:

**22 AAC 20.365. Timeframe for issuance of parole violation warrant or summons to appear.** (a) **On or before the date parole is due to expire, and except** [EXCEPT] as provided in (b) of this section, the board will issue a parole violation warrant **or a summons for a parolee to appear** [ON OR BEFORE THE DATE PAROLE IS DUE TO EXPIRE].

(b) **Notwithstanding** [DESPITE] (a) of this section, the board **may** [WILL, IN ITS DISCRETION,] issue a warrant **or summons** after the expiration date if the parolee

**(1)** was arrested on or before the expiration date; or

**(2)** [IF THE PAROLEE] is alleged to have committed a violation under **22 AAC 20.350(a) or (b)** [22 AAC 20.350(a)-(b)] during the parole period and the board learns of the violation after the date parole expired. (Eff. 1/30/91, Register 117; am 8/28/2015, Register 215)

Authority: AS 33.16.060 AS 33.16.240

22 AAC 20.370 is amended to read:

**22 AAC 20.370. Effect of issuance of warrant or summons to appear.** (a) The issuance of a parole violation warrant, [OR] the arrest of the parolee, **or the issuance of a summons for a parolee to appear** suspends the supervision time of the parolee. The parolee's sentence is stopped until a final revocation decision by the board. Time spent in custody pending revocation proceedings will be credited toward the unexpired term of imprisonment of the parolee.

(b) A parole violation committed by a parolee after the issuance of a parole violation

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

warrant **or summons to appear** may be considered as an additional ground in support of a proposed revocation of parole. (Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.220 AS 33.16.240

22 AAC 20.380 is repealed:

**22 AAC 20.380. Subpoenas. Repealed.** (Eff. 1/30/91, Register 117; repealed 8/28/2015, Register 215)

**Editor's note: The subject matter of 22 AAC 20.380 has been relocated to 22 AAC 20.107.**

22 AAC 20.465(b) is amended to read:

(b) The parolee has the right to call witnesses who might have relevant information concerning the alleged violations. These persons may not be merely character witnesses. The parolee assumes the responsibility for the appearance of any witness at the parolee's request. The state may also call witnesses, **and the board may call witnesses on its own motion. Prior notice not later than 45 days after a parolee is arrested or summonsed must be provided to all parties and the board of the intention to call a witness at a final revocation hearing. When a late request is received, the board will make every effort to provide adequate time for the witness to testify at the hearing. If the request to call a witness is not timely, and there is insufficient time allotted to allow the witness to testify at the hearing, the board will**



allow the parolee to proceed with the hearing as scheduled without the witness, to begin the hearing on the scheduled date and at the conclusion of the allowable time, to continue the remainder of the hearing to a later date, or to continue the entire hearing. Subject to

22 AAC 20.100(d), all [ALL] witnesses will be sworn, will testify under oath, and are subject to questioning by the board or hearing officer regarding anything that might be relevant to the parolee's case. Only one witness will be allowed in the hearing at a time. Subject to 22 AAC 20.102, a minor may be called as a witness.

(Eff. 1/30/91, Register 117; am 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.220

22 AAC 20.505 is amended by adding a new subsection to read:

(d) If a parolee in custody receives notice of the parolee's final revocation hearing, and after receiving notice refuses to attend the hearing when requested,

(1) the parolee waives the right to be present at the hearing; and

(2) the board will conduct the hearing in the parolee's absence. (Eff. 1/30/91,

Register 117; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.220

22 AAC 20.510 is amended to read:

**22 AAC 20.510. Decisions available to the board.** The board may [WILL, IN ITS DISCRETION,] make any of the following decisions at a final revocation hearing:

(1) find no violation of parole conditions, and return the parolee [IS



RETURNED] to an approved parole plan;

(2) find that the parolee has violated conditions of parole, and **return** the parolee [MAY BE RETURNED] to supervision with a warning;

(3) find that the parolee has violated conditions of parole, [AND THE BOARD WILL, IN ITS DISCRETION,] revoke parole, and continue the parolee's case for review at any future board meeting;

(4) find that the parolee has violated conditions of parole, [AND THE BOARD WILL, IN ITS DISCRETION,] revoke any portion of the parole, and deny the parolee further parole consideration during the remainder of the sentence;

(5) find that the parolee has violated conditions of parole, [AND THE BOARD WILL, IN ITS DISCRETION,] revoke the parole, and **subject to any preconditions established by the board,** reparole the parolee; or

(6) continue the revocation hearing to a future hearing for additional information, to await the resolution of pending criminal charges, or for other good and sufficient cause.

(b) The board **may** [WILL, IN ITS DISCRETION,] change or impose any condition of parole under AS 33.16.150 and AS 33.16.160. (Eff. 1/30/91, Register 117; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.160 [AS 42.62.310]  
AS 33.16.150 AS 33.16.220

22 AAC 20.613 is amended to read:

**22 AAC 20.613. Attendance at special medical parole hearings.** Attendance of persons

Register 215, October 2015 DEPARTMENT OF CORRECTIONS

at special medical parole hearings and the appearance of witnesses are subject to 22 AAC 20.095 and 22 AAC 20.100 - 22 AAC 20.102. **Victims are also subject to 22 AAC 20.105.** (Eff.

3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.085

22 AAC 20.615(b) is amended to read:

(b) The victim will be advised of provisions under **22 AAC 20.105 and** 22 AAC 20.613 for attendance at a special medical parole hearing, and of the victim's rights under AS 33.16.087. (Eff. 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.085 AS 33.16.087

22 AAC 20.645(b) is amended to read:

(b) A special medical parole expiration date is suspended upon the issuance of an arrest warrant **or summons for a parolee to appear** by the board or, in the case of an interstate parolee, by the board's designee.

(Eff. 3/29/2003, Register 165; am 8/28/2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.085 AS 33.16.200

22 AAC 20 is amended by adding a new section to Article 16 to read:

**22 AAC 20.910. Access to parole board records.** (a) Except as otherwise provided in this section, access to board records is limited to

(1) the board, the executive director, and the board staff; and

(2) personnel and agents of the department.

(b) Parole conditions are not confidential. The board will release them upon written request.

(c) A parolee, the parolee's attorney, or any other requestor must make in writing a request for access to records and must include with that request a release of information, a copy of the court order, or a copy of the search warrant.

(d) The board will not release

(1) the voting records of individual board members;

(2) the identity of an informant or information given in confidence;

(3) Alaska Public Safety Information Network (APSIN) records or documents;

(4) reports, memoranda, or other documents prepared specifically for transmittal to the Department of Law or an attorney retained by the state in anticipation of or during the course of litigation, or otherwise treated as confidential under the attorney-client privilege;

(5) except as provided in (f) of this section, any statement in the case record of the victim's residence address, mailing address, electronic mail address, or telephone number, or any other information that could disclose the location of the victim of a crime;

(6) a record that is confidential under applicable law; or

(7) a record that the board or executive director determines to contain confidential information.

(e) The board will not release to a prisoner

(1) presentence reports, if the court has specifically found that access by the prisoner would be detrimental to the rehabilitation of the prisoner or safety of the public; or

(2) a document or report containing medical, psychiatric, or psychological records concerning the parolee, including treatment records, if the clinical provider determines in writing that the release of the report to the prisoner will be detrimental to the rehabilitation of the prisoner or safety of the public.

(f) The board will not disclose the victim's residence address, mailing address, electronic mail address, or telephone number, or any other information that could disclose the location of the victim of a crime to a prisoner, a parolee, the prisoner or parolee's attorney, or any person outside of the board or the department, except for those officials of the justice system with a specific need to know in connection with an active investigation or litigation, such as agents of the Department of Public Safety or the Department of Law.

(g) The board will not disclose a parole progress report except as provided in 22 AAC 20.125. (Eff. 8 / 28 / 2015, Register 215)

**Authority:** AS 33.16.060 AS 33.16.170