

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB9-ACS-02-20-09
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: _____
Title: _____ Death Penalty RDU: _____ Alaska Court System
Sponsor: _____ Representative Chenault Component: _____ Trial Courts
Requester: _____ Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	128.8	128.8	618.9	1,163.2	1,163.2	1,163.2	1,163.2
Travel			28.8	52.5	47.5	47.5	47.5
Contractual	62.0	62.0	638.0	1,828.1	1,828.1	1,828.1	1,828.1
Supplies	6.5	6.5	126.5	57.0	19.5	19.5	19.5
Equipment							
Land & Structures	1,843.1	1,843.1					
Grants & Claims							
Miscellaneous							
TOTAL OPERATING AND CAPITAL	2,040.4	2,040.4	1,412.2	3,100.8	3,058.3	3,058.3	3,058.3
CAPITAL EXPENDITURES	1,843.1	1,843.1					
CHANGE IN REVENUES ()							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	2,040.4	2,040.4	1,412.2	3,100.8	3,058.3	3,058.3	3,058.3
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	2,040.4	2,040.4	1,412.2	3,100.8	3,058.3	3,058.3	3,058.3

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	1.0	1.0	7.0	13.0	13.0	13.0	13.0
Part-time							
Temporary	1.0	1.0					

ANALYSIS: (Attach a separate page if necessary)

See attached.

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Division: Alaska Court System
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director
Alaska Court System

Phone 463-4750
Date/Time 2-20-09 @ 11:00 am
Date 2/20/2009

Alaska Court System
Fiscal Note Calculations for HB 9
2/20/2009

Personal Services

	FY10	FY11	FY12	FY13	FY14	FY15
Superior Court Pro Tem Judge - Anchorage	23,100					
Superior Court Judge - Anchorage		238,077	238,077	238,077	238,077	238,077
Staff Attorney (22A), Anchorage, PFT	105,693	105,693	105,693	105,693	105,693	105,693
Law Clerk (13D), Anchorage, PFT		58,440	58,440	58,440	58,440	58,440
Administrative Assistant (12A), Anchorage, PFT		59,376	59,376	59,376	59,376	59,376
In-Court Clerk (12A), Anchorage, PFT		59,376	59,376	59,376	59,376	59,376
Deputy Clerk II (10A), Anchorage, PFT		53,895	53,895	53,895	53,895	53,895
Bailiff (6A), Anchorage, PFT		44,000	44,000	44,000	44,000	44,000
Superior Court Judge - Fairbanks			239,520	239,520	239,520	239,520
Law Clerk (13D), Fairbanks, PFT			65,637	65,637	65,637	65,637
Administrative Assistant (12A), Fairbanks, PFT			65,917	65,917	65,917	65,917
In-Court Clerk (12A), Fairbanks, PFT			65,917	65,917	65,917	65,917
Deputy Clerk II (10A), Fairbanks, PFT			59,376	59,376	59,376	59,376
Bailiff (6A), Fairbanks, PFT			48,000	48,000	48,000	48,000
Subtotal Personal Services	128,793	618,857	1,163,224	1,163,224	1,163,224	1,163,224

Travel

New Judges' Training		5,000	5,000			
Jury Sequestration, Travel, Meals, Lodging		23,750	47,500	47,500	47,500	47,500
Subtotal Travel	0	28,750	52,500	47,500	47,500	47,500

Contractual

Jury Costs

500 Jurors 15 Days for Selection		187,500	187,500	187,500	187,500	187,500
18 Jurors for 66 Days of Trial		29,700	29,700	29,700	29,700	29,700
18 Jurors for 5 Days of Deliberation		2,250	2,250	2,250	2,250	2,250
Deliberation Meals \$16/18 jurors + bailiff		1,520	1,520	1,520	1,520	1,520
Total per Superior Court Trial		220,970	220,970	220,970	220,970	220,970
Proposed # Superior Court Trials		2	6	6	6	6
Est. Cost of Jury Fees for Capital Punishment Trials		441,900	1,325,800	1,325,800	1,325,800	1,325,800
Offset Jury Costs for Standard Felony Trials		(15,916)	(47,748)	(47,748)	(47,748)	(47,748)
		425,984	1,278,052	1,278,052	1,278,052	1,278,052
Training (Certification to Hear Capital Cases)	60,000	20,000	20,000	20,000	20,000	20,000
Transcription Costs (24,000 pages per trial)		168,000	504,000	504,000	504,000	504,000
Software	2,000	24,000	26,000	26,000	26,000	26,000
Subtotal Contractual	62,000	637,984	1,828,052	1,828,052	1,828,052	1,828,052

Supplies

Workstations, Furniture, Computers, Printers, Recording Equipment, Office Equip/Supplies	6,500	126,500	57,000	19,500	19,500	19,500
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Capital Expenses

Remodel Boney & Nesbitt Courtrooms	1,696,100					
Complete Fairbanks 5th Floor Superior Court	147,000					
Subtotal Capital	1,843,100	0	0	0	0	0

Total all Costs

2,040,393	1,412,091	3,100,776	3,058,276	3,058,276	3,058,276
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Breakdown by Expense Category:

Personal Services Total	128,800	618,900	1,163,200	1,163,200	1,163,200	1,163,200
Travel Total	0	28,800	52,500	47,500	47,500	47,500
Contractual Total	62,000	638,000	1,828,100	1,828,100	1,828,100	1,828,100
Supplies Total	6,500	126,500	57,000	19,500	19,500	19,500
Capital Total	1,843,100	0	0	0	0	0
Total	2,040,400	1,412,200	3,100,800	3,058,300	3,058,300	3,058,300

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB 9

ANALYSIS CONTINUATION

House Bill 9 adopts a death penalty system for Alaska. The bill establishes a bifurcated jury trial, with a guilt phase and, if the person is convicted of a capital offense, a penalty phase. All death sentences are automatically appealed to the supreme court. The extent to which the court system will be impacted by this bill is largely determined by the number of capital cases charged, the number that go to trial and the number that result in a death sentence. This note is based on the Department of Law's estimate of six death penalty trials a year, with four of those resulting in a sentence of death.

Pretrial

As thoroughly explained in the department's fiscal note analysis, a death penalty case is time consuming and resource intensive through every phase and for every part of the criminal justice system. The court system will begin to feel the impact soon after the department first gives its notice of election to seek the death penalty in a particular case. It is at that point that pretrial motion practice begins. Experience from other states shows that the number of pretrial motions filed in a death penalty case far exceed those filed in a non-capital case.

Pretrial motions are not only much more plentiful in capital cases, but they address constitutional issues that are not generally relevant in non-capital cases. Defense attorneys must raise these challenges in the trial court if they are going to preserve them for future federal court review. The prosecution must respond to and the court must rule on these motions.

In order to help with all motions filed both before and during trial, this note adds one superior court staff attorney. Although based in Anchorage, where the majority of cases will likely be filed, the position will work on motions filed in all locations.

Trial

Once the pretrial work is completed (and data from other states suggests that it takes an average of one and a half to three years to bring a death penalty case to trial), the trial work begins and it starts with jury selection.

Jury selection in a capital trial is different from jury selection in a non-capital trial. One difference is that capital trials last an average of three months, which is roughly four times the length of a non-capital trial for the same offense. Because few people can afford to sit on a jury for three months, many potential jurors are excused. Additionally, jurors in capital cases must be "death qualified," that is they must be willing to impose the death penalty. This further limits the number of people eligible for jury service.

These two limiting factors result in a much longer jury selection process and a need to call far more people as potential jurors. Evidence from other states suggests that it takes many hundreds of potential jurors and from two to four weeks to seat a jury in a death penalty case. This note assumes 500 potential jurors and a selection process that lasts an average of three weeks.

In addition to jury challenges, long trials require tremendous judicial resources. With three weeks to seat each jury and three months for trial, the department's estimate of six capital trials a year means a total of 22.5 months of trial work each year. That is the equivalent of two superior court judges. The court system will need two new judges to handle this increase in workload. However, because this increase in workload is likely to build over the next three years, this note calls for a pro tem (part-time) judge in year one (FY 10) and the services of a staff attorney to help with the initial pretrial motions. In year two (FY 11), this note calls for a superior court judge in Anchorage to begin with the first trials that we anticipate, and in year 3 (FY 12), when the system is up to its six trial a year level, this note calls for the second judge, who will be seated in Fairbanks.

ANALYSIS CONTINUATION

Appeals

At the conclusion of the trial process, all death sentences go directly to the supreme court for review. The record on appeal consists of the record before the trial court and the trial court transcript, which is estimated to average 24,000 pages. The court has estimated a \$3.50 per page expense for transcription services and this note reflects those costs.

As with the other phases of the process, death penalty appeals are different from other appeals. The court conducts a "proportionality review" to ensure that the penalty is being applied in a uniform and non-discriminatory fashion. This process is long and difficult and involves a detailed look at every stage of the process from charging decision through sentencing. It then compares the case against other cases where the death penalty was not charged.

Additionally, and also unlike most other cases, each death penalty case will come before the court multiple times. The state of Arizona reports that each death penalty defendant brings six or seven cases before the Arizona Supreme Court. Similarly, the Florida Supreme Court states that, although they see an average of 15 new death sentence cases each year, because of the multiple appeals and the back and forth with the state trial courts and the federal courts, they currently have before them 75 different appeals in one form or another.

Judicial Training

Finally, this note includes funding for judicial training. Many states require judges to have special death penalty training prior to presiding over a death penalty case. This training helps reduce the number of cases overturned on appeal due to judicial errors that result from a lack of familiarity with the unique complexities of death penalty law.