



HB 58

Appointment of the Public Advocate

Representative Zack Fields

House Community & Regional Affairs Committee

March 11th, 2025

Background

The Office of Public Advocacy (OPA) was established in 1984 by SB 312 to provide legal advocacy and guardianship services to vulnerable Alaskans.

Before OPA, criminal cases handled by the Public Defender Agency sometimes needed to be managed by the Alaska Court System due to conflicts of interests.

The creation of OPA transferred several functions previously handled by private attorneys contracted by the Alaska Court System to a public office with staff attorneys and guardians.



LAWS OF ALASKA

1984

Source

CSSB 312 (Jud)

Chapter No.

55

AN ACT

Creating the office of public advocacy; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 18, 1984
Actual Effective Date: July 1, 1984



Office of Public Advocacy (OPA)

OPA was created to provide legal advocacy and guardianship services to vulnerable Alaskans.

OPA represents clients in a variety of civil and criminal matters, including:

- Advocacy for abused and neglected children in protective proceedings.
- Public guardianship for incapacitated adults.
- Guardian Ad Litem for child in need of aide (CINA) and Civil Custody cases.
- Advocacy for victims of elder fraud.
- Legal representation for parents involved with CINA and Civil Custody cases.
- Criminal defense for persons accused of a crime when the Public Defender Agency has a conflict of interest.

Public Defender Agency (PDA)

Established in 1969 by the Alaska Legislature

PDA Provides constitutionally mandated legal representation to vulnerable clients appointed by the court.



PDA's primary focus is criminal defense, including:

- Providing legal representation in criminal cases, from misdemeanors to felonies.
- Representing clients in all stages of the criminal justice process, from arrest to sentencing.
- Working to protect the rights of the accused and ensure that they receive a fair trial.
- Ensuring that all Alaskans have access to justice, regardless of their ability to pay.



Overlap and Differences

OPA and PDA Both:

- Are government agencies that provide legal services.
- Operate under the purview of the Department of Administration (DOA).
- Serve vulnerable Alaskans, though in different legal contexts.
 - In some cases, OPA and PDA work on cases involving overlapping issues.

E.g. A client with a mental disability who is facing criminal charges.
 - OPA steps in to provide criminal defense when PDA has a conflict of interest.

E.g. PDA represents a parent in a child abuse case, while OPA represents the child in the same case.

Though OPA and PDA share many parallels, their leadership selection process differ significantly.

Selection of the Director of PDA

- Appointed by the Governor from among two or more candidates nominated by the Alaska Judicial Council
 - Subject to confirmation by a majority of the members of the Legislature in a joint session
 - Serves a term of four years and may be reappointed for subsequent terms by the Governor
 - The Public Defender is subject to removal by the Governor, with good cause
 - Must have strong legal credentials and admitted to practice law in Alaska for no less than 10 months
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Selection of the Director of OPA

- Appointed by the Governor
- Not subject to confirmation by the Legislature
- No term limits
- Serves at the pleasure of the Governor; subject to removal at any time
- Must have strong legal credentials