

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: HB 317
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB317-LAW-CRIM-03-25-16
Title: FORFEITURE:NO CIVIL IN REM; ONLY
CRIMINAL
Sponsor: WILSON
Requester: House Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

| | FY2017 Appropriation Requested | Included in Governor's FY2017 Request | Out-Year Cost Estimates | | | | | |
|-------------------------------|--------------------------------------|--|-------------------------|----------------|----------------|----------------|----------------|----------------|
| | | | FY 2017 | FY 2018 | FY 2019 | FY 2020 | FY 2021 | FY 2022 |
| OPERATING EXPENDITURES | | | | | | | | |
| Personal Services | 1,715.8 | | 1,715.8 | 1,715.8 | 1,715.8 | 1,715.8 | 1,715.8 | 1,715.8 |
| Travel | 39.8 | | 39.8 | 39.8 | 39.8 | 39.8 | 39.8 | 39.8 |
| Services | 267.4 | | 267.4 | 267.4 | 267.4 | 267.4 | 267.4 | 267.4 |
| Commodities | 23.4 | | 23.4 | 23.4 | 23.4 | 23.4 | 23.4 | 23.4 |
| Capital Outlay | 1.0 | | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Grants & Benefits | | | | | | | | |
| Miscellaneous | | | | | | | | |
| Total Operating | 2,047.4 | 0.0 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 |

Fund Source (Operating Only)

| | | | | | | | |
|---------------|----------------|------------|----------------|----------------|----------------|----------------|----------------|
| 1004 Gen Fund | 2,047.4 | | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 |
| Total | 2,047.4 | 0.0 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 | 2,047.4 |

Positions

| | | | | | | | |
|-----------|------|--|------|------|------|------|------|
| Full-time | 16.0 | | 16.0 | 16.0 | 16.0 | 16.0 | 16.0 |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

| | | | | | | | |
|---------------------------|--|--|--|--|--|--|--|
| Change in Revenues | | | | | | | |
|---------------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial note, not applicable.

| | |
|--|---------------------------|
| Prepared By: Valerie Rose, Budget Analyst | Phone: (907)465-3674 |
| Division: Administrative Services Division | Date: 03/25/2016 10:09 AM |
| Approved By: Craig W. Richards, Attorney General | Date: 03/28/16 |
| Agency: Department of Law | |

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. HB 317

Analysis

This legislation makes significant changes to the forfeiture process in Alaska.

HB 317 provides for a preliminary hearing when items which may be forfeited are seized. Items are seized in a large portion of criminal cases including, but not limited to, drug, child-sexual exploitation, sex trafficking, fish and wildlife, and alcohol interdiction cases. At this preliminary hearing the State would be required to show that there is a substantial probability that the property was subject to forfeiture, it will prevail in the forfeiture, the property is reasonably required to be held for investigatory reasons and the defendant can pay for legal representation without the property being returned. Additionally, the state will be required to file a motion that shows probable cause for the seizure ten days prior to this preliminary hearing. This additional work could occupy a large portion of a full-time attorney's time in all cases, including fish and wildlife cases.

The legislation also mandates a subsequent quasi-civil trial in any case where forfeiture is sought. Numerous items, including most pieces of physical evidence are forfeited in criminal cases. This additional hearing would increase the number, length, and complexity of criminal trials.

HB 317 would increase the number of hearings in which the Department of Law is required to attend and the amount of litigation and trial work conducted. It is estimated that the department would need an additional eight attorneys to cover this work regionally across the state as well as an accounting tech I to track the items seized and sought for forfeiture and handle the corresponding financial transactions. Additionally, the department would need 7 support staff to support the additional work of the 8 attorneys. Staff would be responsible for communicating with the victims, gathering information, explaining the process, preparing court documents, arranging travel and completing data entry. Further, given the significant time limitations imposed by HB 317, these additional staff members will ensure that the property is disposed consistent with the bill.

Seven attorneys would handle the cases in specific regions of the state. The regions would be Southeast, Southwest, Anchorage, Kenai, Palmer and Fairbanks. Additionally, one attorney would be needed in the Office of Special Prosecutions and one attorney would be needed in the Office of Criminal Appeals to handle the appeals that result from decisions made by the court. The regional attorneys will be required to travel significantly to cover hearings in all court locations.