

# FISCAL NOTE

No. 1  
 Bill Version: CSSB 2 (JUD)  
 (S) Publish Date: 1-28-99

STATE OF ALASKA  
 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Administration \_\_\_\_\_  
 Title "An Act providing for the civil commitment of BRU Legal and Advocacy Services  
 sexually violent predators." Component Office of Public Advocacy  
 Sponsor Senator Halford  
 Requester (S) JUD Component Serial No. 43

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel	8.0	8.0	8.0	8.0	8.0	8.0
Contractual	102.0	109.5	124.5	146.0	176.0	213.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>110.0</b>	<b>117.5</b>	<b>132.5</b>	<b>154.0</b>	<b>184.0</b>	<b>221.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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## FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF	110.0	117.5	132.5	154.0	184.0	221.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>110.0</b>	<b>117.5</b>	<b>132.5</b>	<b>154.0</b>	<b>184.0</b>	<b>221.5</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Please see attached.

Prepared by Brant McGee, Public Advocate Phone 269-3500  
 Division Office of Public Advocacy Date/Time 1/25/99  
 Approved by Commissioner Robert G. Poe *David W. for* Date 1/27/99  
 Agency Administration

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## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 2

### ANALYSIS: (continued)

This fiscal note is predicated on the assumption that the Public Defender will provide representation in 80% of cases and the Office of Public Advocacy, because of inevitable conflicts of interest, will provide representation in 20% of such cases. Based on the Department of Law's projection of five cases per year this means that OPA would provide representation in but one case each year. Because OPA will have represented the child victims in many of these cases, this fiscal note further assumes that such cases will be handled by OPA contract attorneys.

All agencies involved in these cases, as well as the courts, will perceive them as the equivalent of murder cases because of the high stakes involved. Litigation of these petitions will be seen as the second step on the road to a life sentence for many offenders.

The litigation will include not only the underlying offense but will require an in-depth investigation of the defendant's personal and educational background, contacts with the justice system, and prior treatment. Of course, the primary issue will revolve around the efforts of experts to predict future behavior – a highly debatable proposition.

Based on OPA's prior experience with murder cases we would estimate a minimum average lawyer representation cost of \$40.0. Like the Department of Law, we estimate that the initial cost for experts in the first few cases considered under this will be at least \$50.0. Witness travel and investigation will also be a significant cost.

Experience in Washington State indicates that these cases are regarded as second in importance only to capital cases by both parties. In fact, two lawyers are commonly assigned to each side in Washington. One 1997 case cost the defense \$68.5 for one year.

In every case in which the state prevails, OPA will be responsible for paying for appellate counsel. In the first years of the statute's operation this representation will include numerous constitutional and statutory challenges. Once the Alaska Supreme Court – and perhaps federal courts as well – have settled the fundamental issues, the average cost of appeals would probably drop from \$12.0 to \$7.0 per case.

Annual reviews, of course, pose a separate and distinct fiscal issue. The fact that the court may, under the statute, find a particular application ultimately frivolous does not mean that OPA would not be obliged to pay the cost of counsel to litigate the action. Assuming legal costs of \$5.0 and expert costs of \$2.5 per annual review, these costs will accumulate year after year.