

FISCAL NOTE No. 4

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSSB 2 (Jud)
 (S) Publish Date: 1-28-99

Revision Date: _____
 Title: Commitment of Sexually Violent Predators
 Sponsor: Halford, Donley, Green, Lemen, Taylor
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 BRU: Institutions and Administration
 Component: Alaska Psychiatric Institute
 COMPONENT SERIAL NO. 311
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY00	FY01	FY02	FY03	FY04	FY05
PERSONAL SERVICES	48.0	49.4	233.7	240.7	248.0	255.4
TRAVEL	4.5	4.6	8.8	9.0	9.3	9.6
CONTRACTUAL	619.0	1,239.1	1,845.6	2,442.1	3,043.7	3,645.2
SUPPLIES	5.0	5.2	10.3	10.6	10.9	11.3
EQUIPMENT	10.0		5.0	5.0		
LAND & STRUCTURES						
GRANTS, CLAIMS	40.0	140.2	243.4	349.7	459.2	572.0
MISCELLANEOUS						
TOTAL OPERATING	726.5	1,438.5	2,346.8	3,057.1	3,771.1	4,493.5

CAPITAL EXPENDITURES			Placeholder			
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	726.5	1,438.5	2,346.8	3,057.1	3,771.1	4,493.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	726.5	1,438.5	2,346.8	3,057.1	3,771.1	4,493.5

POSITIONS:

FULL-TIME	1	1	2 X	2 X	2 X	2 X
PART-TIME						
TEMPORARY						

Estimate of any current year (FY99) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Fiscal Assumptions:

1. This fiscal note assumes DHSS/API staff will provide 20 evaluations yearly under AS 47.30.818, resulting in only 4 commitments yearly; under these assumptions, then, the number of persons committed to DHSS custody as a sexually violent predator will increase by a total of 4 each year, so that the number of predators in DHSS custody by the end of the first year (FY99) is 4; 8 by the end of FY00 and 12 by FY01, etc. This increment in the number of predators in DHSS custody significantly increases DHSS costs in a very short time, because the same new 20 evaluations must be performed each year, but the required annual review evaluations of predators already committed to DHSS custody increases the workload until, effectively it is clear that the annual reviews of persons previously committed as sexually violent predators, combined with evaluations of prisoners soon to be released for a determination as to whether they meet the commitment criteria as a predator, will require full-time professional staff to maintain the program of initial screening referrals, evaluations, and annual reviews required by this bill.

Prepared by: Leonard Abel, Ph.D.
 Division: Mental Health and DB
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 907-269-7103
 Date: 01/22/99
 Date: 1/22/99

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ANALYSIS (cont.):

2. This fiscal note assumes that a person determined after trial to be a sexually violent predator will not be treated and cared for at Alaska Psychiatric Institute; therefore, the treatment and twenty-four hour care required by this bill for all persons committed to DHSS custody as sexually violent predators will be contracted out. Preliminary research indicates that such a contract would cost \$400.00 per day. $\$400 \times 365 \text{ days} \times 4 \text{ persons}$ totals \$579,200. While first year start up delays may not see this total cost achieved in FY99, this will be the annual cost once the program is up and running; an annual adjustment factor of 3% has been added beginning in FY00. It should be further noted that these costs multiply by a factor of four each year, as persons newly determined to meet commitment criteria are identified and sent for treatment. The State will, through a competitive RFP process, attempt to get the lowest per day cost available to treat and care for this difficult, risk-intensive population of individuals. If a contract cannot be successfully negotiated, the cost of this program will be significantly effected.

It should be noted, that even if DHSS contracts out of the treatment and care of committed predators, that the screening referrals, evaluations, and annual reviews will have to be done by the State and in-state, as will any hearings related to any petitions for release filed by committed predators. All the screenings, evaluations, trials, reviews, and hearings anticipated by this legislation will take significant time and may well require at some point in the not-too-distant future that the State invest in the purchase and renovation or construction of a facility, in order to house and care for those inmates and predators attending to the various evaluations and legal processes required by this bill, even if the State always contracts out the treatment portion of this business.

However, despite the inappropriateness of housing at API those persons found to be sexually violent predators, this bill will require, prior to an actual commitment determination, that when a court determines that there is probably cause to believe that an inmate is a sexually violent predator, that the inmate be transferred to API's forensic unit for the purpose of an evaluation by API staff. The person will be housed on API's forensic unit during the approximately four weeks required for the evaluation and then up until the person has gone to trial and a determination has been made as to whether the inmate is to be committed to DHSS as a sexually violent predator (a process that, at minimum, will take at least three months). Once a formal determination as to commitment status is made at trial the person found to be a sexually violent predator will be transferred to the facility with whom DHSS has contracted to treat and care for these persons.

It is our view that API will be able to provide space for this service for a maximum of two fiscal years. At that point, both because of long-standing API 2000 Project plans and the significant number of inmates and predators involved in either evaluations or annual reviews and the attendant legal proceedings, API will no longer have sufficient beds to house the inmates and predators impacted by this bill.

3. At least initially, during the first two fiscal years, this fiscal notes assumes the use existing API psychiatrists and psychologists for the performance of the screening referrals, formal evaluations, and commitment reviews; we have, from the outset, added one administrative assistant to handle the significant paper work, scheduling complexities, and tracking required by this bill. However, beginning in FY01 or FY02, we believe that the screening, evaluation, and review activities in this bill will require the employment of a full-time forensic psychologist. The staffing cost assumption are based on current State of Alaska salaries; costs are adjusted 3% each year.

4. The fiscal note assumes that travel associated with inmate or predator screening referrals, evaluations, and annual reviews should be contained in the Grants line of the budget. Travel costs in the Grants line includes in-state costs for API staff to travel from API to various DOC facilities for the first referral screening of identified inmates by API staff (\$20.0), as well as for the cost of escorted travel when transferring a committed predator to the treatment facility (round-trip costs of \$2.0 per person). The cost of travel to API by inmates, where the court has found that probably cause exists to believe that an inmate may be a sexually violent predator and must be transferred to API for evaluation would be borne by DOC. Following commitment as a predator, and upon time for that predator's annual review, the cost of transporting the predator, with escorts, from their place of treatment back to Anchorage must also be factored in (round trip costs of \$2.0 per person).

ANALYSIS (cont.):

5. This fiscal note assumes, in accordance with Sec. 47.30.822 of SB 2, that DHSS must pay costs relating to the evaluation of persons previously committed to its custody as a sexually violent predator. Therefore, this fiscal note includes funds to pay for costs of evaluations, and testimony for experts hired by the defense in annual reviews and petition for release cases. Cost estimates are based on 4 annual evaluations per year, beginning in FY00, at \$200 per hour for 30 hours, and 5 hours for hearing preparation and testimony at \$300 per hour. Additionally, estimates include 4 petition for release hearings that would involve a similar number of hours for evaluation, preparation and testimony for such a hearing. The costs of these review evaluations will increase by an increment of four each year, as the predator population increases.

6. This fiscal note assumes that API will have access to forensic experts for consultative purposes, assuming \$250 per hour for up to 10 hours per month (\$250 per hour X 10 hours X 12 months, equals \$30.0).

7. In addition, separate from travel costs, there exists inmate and predator transportation costs, to pay for the cost of hiring security transport for the inmates and predators who must appear in court for probable cause hearings, commitment trials, review hearings, etc. API does not presently provide security escorts, as all transportation for its forensic patients are arranged DOC, the State Troopers, or Anchorage Police Department. Although civilly committed, predators will require significant safeguards to ensure public safety and to avoid the possibility of escapes. Therefore, a transport service will have to be developed and budgeted for DOC or Public Safety to defray the costs of transport.

8. This fiscal note assumes, beginning FY01, that the DHSS will approach the Legislature with capital request to provide the housing necessary to hold those inmates and predators being evaluated. Within four years of passage of this legislation the State will be confronted with the annual 20 evaluations of inmates who may meet commitment criteria as a sexually violent predator, plus the 16 annual reviews and at least 10 petition for release hearings and reviews, each of which will require housing in Anchorage for a minimum of 90 days, but more likely 120 or more days, meaning that the State must have access to at least a 30 to 40 bed facility to hold these persons.

Whether the State should opt to construct a facility, or attempt to contract for the beds, is a policy question for future consideration, but there is little doubt such a facility or the beds will be required within only a few years of passage of this legislation. DHSS has placed the word "Placeholder" in the capital expenditure line, to direct the present Legislature to the fact that a decision point lies ahead, and that a large capital expense is one option at that time. If the cost of housing inmates and predators is handled by contracting out this service, only the cost of housing the inmates held for evaluation would constitute an additional cost, since the \$400 a day treatment cost anticipated above for an entire year could be split between the treatment facility and the facility providing housing while the predator is receiving his or her annual review or release hearing.

Position Title Administrative Assistant	Staff Months 12.0	AMOUNT	
Time Status FTE			
No. of Position 1		Range/Step 13B/C	Bargaining Unit GGU
Location AWA		Election District	
TYPE of EXPENDITURE		AMOUNT	Justification Position would be responsible for tracking all referrals from DOC, assemblage of all criminal and juvenile records, and all other documents relevant to the referral exams, attorney general reviews, and formal evaluations. In addition, position would be responsible for tracking all persons referred for reviews and evaluations, as well as, following commitment as a sexual predator.
Salary		33.9	
Benefits		14.1	
Premium Pay			
Other			
Total Personal Services (100)		48.0	
100 Travel		2.5	
200 Contractual		5.0	
300 Supplies		5.0	
500 Equipment		5.0	
Other			
Total Cost		65.5	
FUNDING SOURCE for TOTAL COST			
1002 Federal Receipts			
1003 GF Match			
1004 General Fund			
1005 GF/Program Receipts			
1037 GF/Mental Health		65.5	
1007 I/A Receipts			
1061 CIP Receipts			
Other ()			

FY00

**REQUEST for
NEW POSITION**

AGENCY: **Health and Social Services**

BRU: **Institutions and Administration**

COMPONENT: **Mental Health & Dev. Dis. Admin.**

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Revision Date:

Position Title MH Clinician IV-Forensic Psychologist		No. of Position 1	Range/Step 23-C	Bargaining Unit GGU	Bill No. SB2
Time Status FTE	Staff Months 12.0	Location EBA	Election District 50		
TYPE of EXPENDITURE		AMOUNT			
Salary		65.1			
Benefits		20.8			
Premium Pay					
Other					
Total Personal Services (100)		85.9			
100 Travel		4.0			
200 Contractual		5.0			
300 Supplies		5.0			
500 Equipment		5.0			
Other					
Total Cost		104.9			
FUNDING SOURCE for TOTAL COST					
1002 Federal Receipts					
1003 GF Match					
1004 General Fund		104.9			
1005 GF/Program Receipts					
1006 GF/Mental Health Trust					
1007 I/A Receipts					
1061 CIP Receipts					
Other ()					

Justification

This fiscal note assumes DHSS/API stall will provide 20 evaluations yearly, resulting in only 4 commitments yearly; under these assumptions, then, the number of persons committed to DHSS' custody as a sexually violent predator will increase by a total of 4 each year, so that the number of predators in DHSS custody by the end of the first year (FY99) is 4, 8 by the end of FY00, 12 in FY01, etc. This increment in the number of predators in DHSS' custody significantly increases DHSS costs in a very short time, because the same new 20 evaluations must be performed each year, but the required annual review evaluations of predators already committed to DH&SS custody increases the workload until, effectively it is clear that the annual reviews of persons previously committed as sexually violent predators, combined with evaluations of prisoners soon to be released for a determination as to whether they meet the commitment criteria as a predator, will require full-time professional staff to maintain the program of initial screening referrals, evaluations, and annual reviews required by this bill.

FY00

AGENCY: Health and Social Services
 BRU: Institutions and Administration
 COMPONENT: Alaska Psychiatric Institute

**REQUEST for
NEW POSITION**

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