

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 244(JUD)
 (H) Publish Date: 5/12/2003

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to the Code of Criminal Procedure;..." BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Rules Committee
 Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	106.4	106.4	106.4	106.4	106.4	106.4
Travel	4.2	4.2	4.2	4.2	4.2	4.2
Contractual	13.0	13.0	13.0	13.0	13.0	13.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	13.4	1.3	1.3	1.3	1.3	1.3
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	139.0	126.9	126.9	126.9	126.9	126.9

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	139.0	126.9	126.9	126.9	126.9	126.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	139.0	126.9	126.9	126.9	126.9	126.9

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill proposes numerous changes in criminal law and procedure. These changes will result in a financial impact on the Public Defender Agency. The impact will be felt in increased preparation for trials in felony and misdemeanor cases as described below. The Agency will need two additional Investigators, one in Anchorage and one in Fairbanks, the offices with the highest caseloads, to meet this need. Currently the Agency only has 13.5 investigators handling over 20,000 cases a year.

See attached page for continuing analysis.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division: Public Defender Agency Date/Time 5/8/03 7:17 AM
 Approved by: Mike Miller, Commissioner Date 5/8/2003
 Agency: Department of Administration

ANALYSIS CONTINUATION

Sections 1-5 change long-standing Alaska laws on self-defense, defense of others, and heat of passion and require the defense to carry the entire burden of proving to the jury that the defendant acted in self-defense, defense of others, or in the heat of passion. Under current law the defendant must produce some credible evidence of self-defense, defense of others or heat of passion before a judge will allow a jury to consider the defense, but once sufficiently produced, the state then has the burden of proving that the defendant's actions were not justified. The Agency will have increased investigative costs as a result of this change.

Shifting the burden to the defense to prove self-defense, defense of others, and heat of passion by a preponderance of the evidence in many instances will require more defense investigative efforts to find, arrange and then have the attorney present the relevant evidence. Relevant evidence to the defense is not always in the exclusive possession of the individual defendant.

Sections 7 and 15 of the bill propose to change the burden of proof, currently belonging to the prosecution, to make it the defense's burden of proof to challenge the validity of a prior conviction in both a prosecution where the prior conviction is an element of the crime being prosecuted and at sentencing where a prior conviction may result in a longer sentence. The defense must prove by a preponderance of the evidence that a prior conviction, sometimes from another state, that is either an element of the crime being prosecuted or is being used to seek a longer sentence, is invalid because of the denial of the right to counsel or jury trial. Shifting this burden of proof onto the defense will require more investigation efforts from the defense to find out the underlying facts in the old case, perhaps from out of state, and then retrieve evidence from that old case to be presented in the current case to meet the burden of proof. This is not an easy task to accomplish by an agency that is outside of law enforcement, and does not have the numerous resources to draw on to assist them across the country.

Sections 21 - 23 concern notice of defenses and experts and require the defense to give notice sooner than required under current law. It also adopts serious sanctions for failures to timely notify the prosecution. These changes in the rules will require the defense to put forth additional investigative efforts related to experts and defenses to meet these earlier deadlines in order to avoid the significant sanctions proposed.

Sections 13, 14, and 20 seek to amend the sentencing statutes to expand the situations in which consecutive sentencing is mandated and to eliminate the court's ability to determine the amount of consecutive time to be imposed for certain crimes. It will likely result in the inability to resolve cases short of trial because of the exposure to mandatory consecutive sentences. This fiscal impact is not easily determined, but inevitable.