

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSSB 170(JUD)  
 (S) Publish Date: 4/16/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act relating to murder in the BRU: Legal and Advocacy Service  
second degree,... Component: Public Defender Agency  
 Sponsor: Rules Committee  
 Requester: Senate Finance Component No.: 1631

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	74.5	74.5	74.5	74.5	74.5	74.5
Travel	2.1	2.1	2.1	2.1	2.1	2.1
Contractual	6.5	6.5	6.5	6.5	6.5	6.5
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>90.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	90.8	84.8	84.8	84.8	84.8	84.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>90.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>	<b>84.8</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

The Public Defender's operations will be fiscally affected by the first aspect of this proposed legislation, Sections 1-11, should it become law. If established villages and municipalities adopt lower amounts of alcohol for local option purposes than established in Title 4 that would increase the number of prosecutions per year, depending upon the number of local option areas that adopt lower amounts. The Agency cannot predict how many local option areas will lower the amounts, so the fiscal impact cannot be quantified. Clarifying the applicable local option law in overlapping areas may have a fiscal impact, but it is not possible to predict the impact with any accuracy. It is unknown how many cases involve importation or possession from overlapping areas. Expanding the circumstances under which the offense of furnishing alcohol to a minor is a class C felony instead of a class A misdemeanor, to include violations that occur See attached page.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)-334-4416  
 Division: Public Defender Agency Date/Time: 4/8/04 9:55 AM  
 Approved by: Kevin Jardell, Assistant Commissioner Date: 4/8/2004  
 Agency: Department of Administration

**ANALYSIS CONTINUATION**

within the boundaries of a local option area will have a fiscal impact on the operations of the Agency. Increasing what was a misdemeanor to a felony increases the workload of the Agency. Felonies are more difficult cases and often require more work, investigation, and resources to defend, especially in rural areas, that would be most impacted by this change. Allowing the forfeiture of money and other items used in financial transactions derived from prohibited activity violative of local option laws, will have a fiscal impact on the operations of the Agency, but more importantly Section 11 requiring forfeiture of aircraft, and vehicles or watercraft in certain circumstances, will surely have a fiscal impact, because there will be more hearings on the issue of forfeiture involving potential claims by lienholders, owners, and others with an interest in the property subject to forfeiture.

Section 14 expands the crime of assault in the third degree, a class C felony, to include when a person with criminal negligence causes serious physical injury by means of a dangerous instrument. This conduct is currently an A misdemeanor. Expanding the crime of third degree assault, a C felony, to include causing serious physical injury with criminal negligence, by means of a dangerous instrument, most likely a vehicle, will certainly have a fiscal impact on Agency operations. Increasing what is now a misdemeanor to a felony level offense increases the workload of the Agency. Felonies are more difficult cases that require more resources to defend. It cannot be accurately predicted however what the increased number of cases from misdemeanor to felony will be, that are the target of this section.

Section 17 (with conforming Sections 12 and 33(a)) seeks to increase the penalties for and create a new criminal offense for violations of a court-ordered third party custodian's duty. Changing what is now a contempt violation to a charge for a class A or B misdemeanor with significantly stiffer penalties will result in less clients getting out of jail on bail, which will increase the need to more quickly prepare a case for trial and then go to trial more quickly for these clients to ensure their right to a speedy trial. It will also increase the Public Defender Agency's caseloads because it may be appointed to represent many of these custodians charged with these misdemeanors for failing to immediately report a violation.

Section 18 will have a fiscal affect on the Agency operations because more cases will be prosecuted where self-defense used to be legitimately raised, but now will be disallowed, however, it is impossible to accurately predict how many of these new prosecutions will result.

The Agency will have increased investigative costs as a result of these changes, primarily in the Anchorage office that handles the most cases.

Sections 22, 23, 30-31, and 33(b) seek to amend the sentencing statutes to expand the situations in which consecutive sentencing is mandated and to eliminate or restrict the court's ability to determine the appropriate amount of consecutive time to be imposed for certain crimes. This change in the sentencing statutes will likely result in the inability to resolve cases short of trial, when the case is one in which conviction of more than one count would otherwise have been an appropriate resolution, now would be forced to go to trial because of the exposure to mandatory consecutive sentences. This fiscal impact is not easily determined, but inevitable.

Sections 25-29 concern drunk driving and refusal laws under Title 28. It broadens felony DUI and refusal to include a person driving under the influence who has any prior conviction for felony DUI or refusal. Making any subsequent DUI or refusal a felony if there is a prior conviction for felony DUI or refusal will impact the operations of the agency, probably not immediately, but in the future. It is unknown how many people convicted of felony DUI or refusal will allegedly reoffend after 10 years has elapsed. Since the enactment of felony DUI and refusal in 1996, the number of these cases handled by the Agency has increased every year, In FY 99 the Agency handled approximately 125 felony DUI and refusals, but in FY02 it handled over 300. Felony prosecutions are more difficult cases and require more work, investigation, and resources to defend, especially in rural areas.

For all of the above reasons, one full time investigator is required in the Anchorage office to meet the fiscal challenges this bill will have on the operations of the Agency.