

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 325(FIN)
 (H) Publish Date: 4/20/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to post-conviction DNA testing; and amending Rule 35.1, Alaska Rules of Criminal Procedure." RDU CRIMINAL
 Sponsor Representative LeDoux Component Criminal Justice Litigation
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	75.7	75.7	75.7	75.7	75.7	75.7
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	7.4	7.4	7.4	7.4	7.4	7.4
Supplies	1.3	1.3	1.3	1.3	1.3	1.3
Equipment	6.9	0.4	0.4	0.4	0.4	0.4
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	91.5	85.0	85.0	85.0	85.0	85.0

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	91.5	85.0	85.0	85.0	85.0	85.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	91.5	85.0	85.0	85.0	85.0	85.0

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill adds a new article to AS 12.72 allowing an incarcerated person to apply to the court for post-conviction DNA testing. This committee substitute of the original bill makes some changes that will cost the State money. Proposed AS 12.72.210 (1) allows DNA testing if the results "could" establish a reasonable doubt as to the applicant's guilt. This language is very broad in that just about anything "could" do that. The bill does not require than an applicant show due diligence in pursuing requests for DNA testing. The Department of Law is currently litigating a case in court that is 15 years out from the original trial date, and is very difficult to handle as a result, and makes a due diligence standard important. An additional provision is needed that would allow an appointed attorney to file a certificate saying that the applicant's claim has no merit - as a deterrent to frivolous claims. Also, the original bill allowed the court to deny a successive application under this section. This committee substitute

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 Approved by: Kathryn Daughhetee for David Márquez, Attorney General Date 4/12/2006
 Agency Department of Law

FISCAL NOTE #6

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ANALYSIS CONTINUATION

does not include that language, allowing inmates to bring these lawsuits time and time again. Related to that, the CS also added language that requires police agencies to preserve any biological material collected, for the entire time that the person is in prison. Again, the broadness of this language would require that investigators save anything that is animal, vegetable or liquid, because it all could be "biological." Litigious inmates will inundate the courts with requests to test, and re-test, and re-re-test all that stored biological material every time science indicates a new testing method.

All of these considerations taken together will increase the workload of Law's Special Prosecution and Appeals section if this committee substitute is passed as written. It is anticipated that an additional 1/2 full time attorney will be needed to handle these cases. The cost of the position is in keeping with the Department of Law's FY 2007 timekeeping and billing rate. One time costs of \$6,500 are added for the first year of the funding, and removed thereafter.

A full-time position is requested to allow for a full-time attorney if the workload and funds should be available. The criminal division does not employ part-time attorneys as a rule.