

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 324(JUD)
 (H) Publish Date: 3/29/10

Identifier (file name): _____ Dept. Affected: _____
 Title Failure to appear; release procedures RDU Alaska Court System
 Sponsor House Ruies Component Trial Courts
 Requester Governor Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required		Information				
	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Personal Services	628.1	628.1	628.1	628.1	628.1	628.1	628.1
Travel	23.9	23.9	23.9	23.9	23.9	23.9	23.9
Contractual	18.8	18.8	18.8	18.8	18.8	18.8	18.8
Supplies	39.8	39.8	6.0	6.0	6.0	6.0	6.0
Equipment							
Land & Structures	94.0	94.0					
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	804.6	804.6	676.8	676.8	676.8	676.8	676.8

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	804.6	804.6	676.8	676.8	676.8	676.8	678.8
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	804.6	804.6	676.8	676.8	676.8	676.8	678.8

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 324 makes several changes to the bail statutes. At least two of the changes will have a direct fiscal impact on the court system. The first requires court clerks to produce a criminal history report on each defendant who is seeking a second or subsequent bail review hearing. The second change impacting the court system is a provision that subjects certain defendants to a rebuttable presumption that no bail conditions will be sufficient to reasonably assure the presence of the defendant or the safety of the victim. A similar provision requires a showing by the defendant that he or she may be released on bail following a petition to revoke probation.

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 Date/Time 3/22/10 @ 12:00 pm
 Date 3/22/2010

ANALYSIS CONTINUATION

Criminal History Reports

Section 3 of the bill includes a provision that requires a judge to have received from a court clerk a report from court records that describes any previous criminal charges against the person and the person's history of compliance with conditions of release. Because there are many thousands of such hearings and because this is work not currently required of court clerks, this provision will have a fiscal impact on the court system. This note reflects the costs associated with the clerk time necessary to complete this task.

This note further assumes that the criminal history report contemplated by the bill is one that can be run on records the court has in its computer system, though the current version of the bill is not limited to computer records. Should the bill not be amended to clarify this point, this fiscal note will be substantially higher as many defendants have many hundreds or even thousands of pages of criminal history records that would have to be searched by hand.

Rebuttable Presumption

Section 4 establishes a rebuttable presumption that no condition or combination of bail conditions will reasonably assure the presence of the defendant or the safety of the victim for those defendants charged with certain specified offenses and those with specified criminal histories. A similar provision in section 12 of the bill states that a person appearing in court on a petition to revoke probation also has no right to be released unless the person can establish by a preponderance of the evidence that the proposed release conditions will reasonably assure the appearance of the person and the safety of the victim, other persons and the community.

It is difficult to determine how many cases this rebuttable presumption will impact. There is significant overlap between the various categories of those subject to the presumptions. For example, a person subject to the presumption because the person was charged with a felony within five years of being unconditionally released from another felony conviction, would also be subjected to the presumption if he or she was subject to a petition to revoke probation. Because many offenders subject to this presumption are likely to also be subject to a petition to revoke probation, and in order to avoid double counting, this note only counts those who are subject to a petition to revoke probation. That means that it will apply to roughly 18,000 cases a year.

The next difficult estimate to make is the number of bail hearings that will actually be impacted by the change in the law. Not all bail hearings are currently contested and, presumably, not all will be contested under the new provisions.

This note conservatively estimates that 85% of those 18,000 cases subject to the presumption will continue to be resolved in the same amount of time as under current practice. These will be the cases where there is up-front agreement between the prosecution and the defense as to the appropriate bail conditions. This note estimates that in about 10% of the cases (1,800) the hearings will last an additional 15 minutes. This is similar to the extra time currently needed when a bail provision is contested. Finally, this note assumes that 5% of the cases (900) subject to the presumption will result in evidentiary hearings where the defendant must put on evidence and witnesses in an attempt to overcome the presumption. These hearings are each estimated to last three hours.

This fiscal note reflects the judicial and clerical resources necessary for the additional time spent on bail issues.

CSHB 324(JUD) - Fiscal Note No. 6
 Alaska Court System
 Fiscal Note Calculations for HB 324

Personal Services

Superior Court Judge - Anchorage	257,300
In-Court Clerk - Anchorage, Range 12A	61,400
Law Clerk - Anchorage, Range 13D	60,400
Administrative Assistant - Anchorage Range 12A	61,400
Pro Tems Superior Court Judge (167days) - Various Court Locations	136,454
Clerical Staffing In-Court for pro tems (1,255 hours - Various Court Locations)	34,844
Clerical Staffing Criminal History (590 hours - Various Court Locations)	<u>16,322</u>

Subtotal Personal Services 628,100

Travel for Pro Tem Judges

Airfare - 19 trips @\$400/trip	7,600
Per Diem - 90 Days X \$60/day	5,400
Lodging - 90 nights X \$110/night	9,900
Airport Parking/Ground Transportation (\$50/trip)	<u>950</u>

Subtotal Travel for Pro Tem Judges 23,900

Supplies (desk, computer, courtroom electronics, and chair)

39,800

WAN Fees, Software & Licensing

18,800

Remodeling Costs within Nesbett Courthouse for New Judge

94,000

Fiscal Note Total 804,600

Breakdown by Expense Category:

Personal Services Total	628,100
Travel Total	23,900
Contractual Total	18,800
Supplies Total	39,800
Land & Structures Total	<u>94,000</u>

Total 804,600