

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSHB 299(JUD)
 Fiscal Note Number 2
 (H) Publish Date 2/13/12

Identifier (file name) HB299-DOA-OPA-02-07-2012 Dept. Affected Administration
 Title Civil Legal Services Fund Appropriation Legal and Advocacy Services
 Allocation Office of Public Advocacy
 Sponsor Representative Thompson
 Requester House Judiciary OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	***	***	***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

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Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, Initial version

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Analysis

The Office of Public Advocacy's enabling statute includes a provision that requires OPA to provide legal representation "to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency." AS 44.21.410(a)(4). This portion of OPA's enabling statute was the result of a 1979 Alaska Supreme Court decision, *Flores v. Flores*, 589 P.2d 893 (Alaska 1979).

In *Flores*, the Alaska Supreme Court determined that a parent has a constitutional right to counsel in a child custody action where the indigent parent's opponent is represented by a "public agency." Mr. Flores, the indigent parent's opponent, was represented by Alaska Legal Services Corporation (ALSC) in the underlying child custody matter. The majority opinion in *Flores* identified ALSC as a public agency for purposes of triggering the state's obligation to provide counsel to the other parent.

The Flores court did not define "public agency" or set forth criteria for determining whether an organization is a public agency for these purposes. Likewise, OPA's enabling statute fails to define the term "public agency."

If the Alaska Legal Services Corporation or similar organizations receive additional public funding to represent parties in child custody matters, this will trigger additional obligations by the Office of Public Advocacy to provide representation to indigent parties in those matters. Since the agency cannot determine in how many additional cases it may be appointed, it cannot accurately predict the fiscal impact on the agency. Therefore, the Agency submits an indeterminate fiscal note.