

SB

140



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 1987

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that allows a criminal defendant and prosecuting attorney to waive the requirement that the court appoint two qualified psychiatrists or forensic psychologists to examine certain criminal defendants. If that requirement is waived, the court would only have to appoint one such psychiatrist or psychologist.

Under the current language of AS 12.47.070(a), if a defendant has filed notice of intent to rely on the defense of insanity or notice of intent to rely on evidence tending to negate a culpable mental state, or if there is reason to doubt the defendant's fitness to proceed, or if there is reason to believe that a mental disease or defect of the defendant will otherwise become an issue in the case, the court is required to appoint at least two psychiatrists or psychologists to examine the defendant. The waiver authorized by this bill would avoid unnecessary duplication in cases in which the prosecution is satisfied with the appointment of a single psychiatrist, and the defendant does not wish to undergo more than one court-ordered examination. This waiver will be especially helpful in cases in which two state psychiatrists from the Alaska Psychiatric Institute would be appointed to perform the examinations.

Experience has shown that the requirement to appoint two psychiatrists or psychologists is not always necessary, either to assist the court or to protect the public or the defendant. Experience has also shown that simply reducing this requirement to only one psychiatrist or psychologist would tend to weaken protection of the public since appointment of a prosecution expert would not be assured. This bill, based on that experience, seeks to achieve the most equitable result.

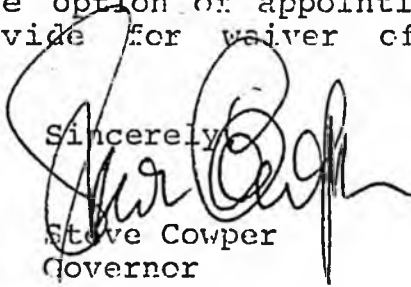
The bill also eliminates an apparent contradiction in current law. While AS 12.47.070(a) applies when "there is reason to doubt the defendant's fitness to proceed" (e.g.,

Hon. Jan Faiks

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the defendant's competency), this issue is also addressed in AS 12.47.100(b). The latter subsection, however, provides for the appointment of only one psychiatrist to examine the defendant, not two. Additionally, it does not provide the option of appointing forensic psychologists rather than psychiatrists. To eliminate any conflict between the two provisions, AS 12.47.100(b) is amended in sec. 2 of the attached bill to provide the option of appointing forensic psychologists, and to provide for waiver of the "two appointments" requirement.

Sincerely,



Steve Cowper
Governor

**ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 140
 Title: An Act relating to the number of psychiatrists appointed
 Sponsor: Rules Committee
 Requestor: Governor
 Date of Request: January 28, 1985

FISCAL DETAIL

Department of Health
 Agency Affected: and Social Services
 Program Category Affected: DIVISION OF Mental Health and Developmental Disabilities & API
 BRU, Program or Subprogram(s) Affected: Mental Health Institutions and Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING		0				
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)


	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

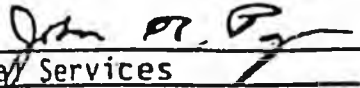
POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: James L. Scoles  Phone: 465-3370
 Division: Mental Health & Developmental Disabilities Date: 1-28-85

Approved by Commissioner:  Date: 1/30/85 *JCC*
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 140
Publish Date: 2/19/87

Revision Date: _____

Agency Affected: Administration
BRII: Office of Public Advocacy

Title: "An Act relating to the number of psychiatrists..."

Requestor: Senate Judiciary

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: 3/12/87

Approved by Commissioner: Garrey Peska
Agency: Department of Administration

Date: 3/18/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

POSITION PAPER

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The Alaska Public Defender Agency and Office of Public Advocacy are totally reactive agencies which provide representation to indigent persons when appointed by the court. These agencies do not make policy nor do they initiate litigation. Only proposed legislation with fiscal or program ramifications for these agencies can be said to have a direct agency impact. Thus the Public Defender Agency and Office of Public Advocacy will submit position papers for legislation which will affect these agencies fiscally or programatically or will require these agencies to litigate constitutional issues raised by the legislation.

Fiscal impact: None.
Program impact: See Analysis Below.
Constitutional Impact: None.

This bill would allow a court to appoint but one qualified psychiatrist or psychologist if a defendant and a prosecuting attorney waived the requirement of examination by two such professionals in criminal cases where sanity is an issue.

Passage of this bill will allow cost savings in criminal cases where both parties agree that examination by a single qualified psychiatrist or psychologist is sufficient for a fair determination of the issue of sanity.

The Alaska Public Defender Agency and the Office of Public Advocacy support the bill because it offers the parties the flexibility to achieve a cost savings in appropriate cases.

Brant McGee
Brant McGee
Public Advocate

3/13/87
Date

Dana Fabe
Dana Fabe
Public Defender

3/13/87
Date

Garrey Peska
Commissioner Garrey Peska
Department of Administration

3/18/87
Date