

**S B**

**3 2 1**

**HOUSE CS FOR SENATE BILL NO. 321(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to incompetency to stand trial."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **\* Section 1. AS 12.47.100 is repealed and reenacted to read:**

4           Sec. 12.47.100. INCOMPETENCY TO PROCEED. (a) A defendant who, as  
5           a result of mental disease or defect, is incompetent because the defendant is unable to  
6           understand the proceedings against the defendant or to assist in the defendant's own  
7           defense may not be tried, convicted, or sentenced for the commission of a crime so  
8           long as the incompetency exists.

9           (b) If, before imposition of sentence, the prosecuting attorney or the attorney  
10          for the defendant has reasonable cause to believe that the defendant is presently  
11          suffering from a mental disease or defect that causes the defendant to be unable to  
12          understand the proceedings or to assist in the person's own defense, the attorney may  
13          file a motion for a judicial determination of the competency of the defendant. Upon  
14          that motion, or upon its own motion, the court shall have the defendant examined by  
15          at least one qualified psychiatrist or psychologist, who shall report to the court

1 concerning the competency of the defendant. For the purpose of the examination, the  
2 court may order the defendant committed for a reasonable period to a suitable hospital  
3 or other facility designated by the court. If the report of the psychiatrist or  
4 psychologist indicates that the defendant is incompetent, the court shall hold a hearing,  
5 upon due notice, at which evidence as to the competency of the defendant may be  
6 submitted, including that of the reporting psychiatrist or psychologist, and make  
7 appropriate findings. Before the hearing, the court shall, upon request of the  
8 prosecuting attorney, order the defendant to submit to an additional evaluation by a  
9 psychiatrist or psychologist designated by the prosecuting attorney.

10 (c) A defendant is presumed to be competent. The party raising the issue of  
11 competency bears the burden of proving the defendant is incompetent by a  
12 preponderance of evidence. When the court raises the issue of competency, the burden  
13 of proving the defendant is incompetent shall be on the party who elects to advocate  
14 for a finding of incompetency. The court shall then apply the preponderance of the  
15 evidence standard to determine whether the defendant is competent.

16 (d) A statement made by the defendant in the course of an examination into  
17 the person's competency under this section, whether the examination is with or without  
18 the consent of the defendant, may not be admitted in evidence against the defendant  
19 on the issue of guilt in a criminal proceeding unless the defendant later relies on a  
20 defense under AS 12.47.010 or 12.47.020. A finding by the judge that the defendant  
21 is competent to stand trial in no way prejudices the defendant in a defense based on  
22 insanity; the finding may not be introduced in evidence on that issue or otherwise be  
23 brought to the notice of the jury.

24 (e) In determining whether a person has sufficient intellectual functioning to  
25 adapt or cope with the ordinary demands of life, the court shall consider whether the  
26 person has obtained a driver's license, is able to maintain employment, or is competent  
27 to testify as a witness under the Alaska Rules of Evidence.

28 (f) In determining if the defendant is unable to understand the proceedings  
29 against the defendant, the court shall consider, among other factors considered relevant  
30 by the court, whether the defendant understands that the defendant has been charged  
31 with a criminal offense and that penalties can be imposed; whether the defendant

1 understands what criminal conduct is being alleged; whether the defendant understands  
2 the roles of the judge, jury, prosecutor, and defense counsel; whether the defendant  
3 understands that the defendant will be expected to tell defense counsel the  
4 circumstances, to the best of the defendant's ability, surrounding the defendant's  
5 activities at the time of the alleged criminal conduct; and whether the defendant can  
6 distinguish between a guilty and not guilty plea.

7 (g) In determining if the defendant is unable to assist in the defendant's own  
8 defense, the court shall consider, among other factors considered relevant by the court,  
9 whether the defendant's mental disease or defect affects the defendant's ability to  
10 recall and relate facts pertaining to the defendant's actions at times relevant to the  
11 charges and whether the defendant can respond coherently to counsel's questions. A  
12 defendant is able to assist in the defense even though the defendant's memory may be  
13 impaired, the defendant refuses to accept a course of action that counsel or the court  
14 believes is the defendant's best interest, or the defendant is unable to suggest a  
15 particular strategy or to choose among alternative defenses.

16 \* Sec. 2. AS 12.47.110(a) is amended to read:

17 (a) When the trial court determines by a preponderance of the evidence, in  
18 accordance with AS 12.47.100, that a defendant is so [MENTALLY] incompetent that  
19 the defendant is unable to understand the proceedings against the defendant or  
20 [PROPERLY] to assist in the defendant's own defense, the court shall order the  
21 proceedings stayed, except as provided in (d) of this section, and may commit the  
22 defendant to the custody of the commissioner of health and social services or the  
23 commissioner's authorized representative for further evaluation and treatment until the  
24 defendant is mentally competent to stand trial, or until the pending charges against the  
25 defendant are disposed of according to law, but in no event longer than 90 days.

26 \* Sec. 3. AS 12.47.130 is amended by adding new paragraphs to read:

27 (4) "assist in the defendant's own defense" means to consult with a  
28 lawyer while exercising a reasonable degree of rational functioning;

29 (5) "incompetent" means a defendant is unable to understand the  
30 proceedings against the defendant or to assist in the defendant's own defense;

31 (6) "understand the proceedings against the defendant" means that the

1  
2

defendant's elementary mental process is such that the defendant has a reasonably rational comprehension of the proceedings.

(7)  
Date Referred to Committee: April 17, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/22/96

The JUDICIARY Committee considered:

SB 321 am

SENATE BILL NO. 321 am

COMMIT MENTALLY INCOMPETENT DEFENDANT

"An Act relating to incompetency to stand trial."

recommends it be replaced with the following committee substitute CSHB SB (JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) Courts  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) HSS  zero fiscal note(s) Law (4-11-96) CPA 4-11-96

| SIGNING WITH RECOMMENDATIONS | DP                                  | DNP                                 | NR                                  | AM |
|------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|----|
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |                                     |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |                                     |    |
| <i>[Signature]</i>           |                                     |                                     | <input checked="" type="checkbox"/> |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |                                     |                                     |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |                                     |                                     |    |
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|                              |                                     |                                     |                                     |    |
|                              |                                     |                                     |                                     |    |
|                              |                                     |                                     |                                     |    |
|                              |                                     |                                     |                                     |    |

CHAIR'S SIGNATURE Brian D. Porter

# LEGAL SERVICES

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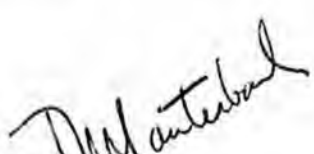
## MEMORANDUM

April 23, 1996

**SUBJECT:** Incompetency to Stand Trial (HCS SB 321(JUD))

**TO:** Representative Brian Porter  
Attn: Tom Meyer

**FROM:** Terri Lauterbach  
Legislative Counsel



Enclosed is the HCS you requested for this bill.

The committee's amendment does not belong in the definition of "mental disease or defect" because it is a substantive provision relating to the court's determination. Substantive provisions, according to the legislative drafting manual, are inappropriate in definitions. Therefore, I have added the committee's language as a new subsection (e) on page 2 of the HCS, and I have deleted sec. 3 of SB 321 am. As you will notice, subsections (f) and (g) on pages 2 - 3 also relate to determinations involved in applying other definitions (see terms defined in sec. 3 of the HCS). The new subsection (e) is the same type of substantive provision.

Please let me know if you have questions about this matter.

TML:pl:klb  
96-132.plm

Enclosure

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SB 321 (am)

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Incompetency to Stand Trial

Dept. Affected: Health and Social Services  
BRU: MH/DD Services

Sponsor: Senate Judiciary  
Requestor: \_\_\_\_\_

Component: Alaska Psychiatric Institute  
COMPONENT SERIAL NO. 311  
See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

| OPERATING              | FY97       | FY98       | FY99       | FY00       | FY01       | FY02       |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES      |            |            |            |            |            |            |
| TRAVEL                 |            |            |            |            |            |            |
| CONTRACTUAL            |            |            |            |            |            |            |
| SUPPLIES               |            |            |            |            |            |            |
| EQUIPMENT              |            |            |            |            |            |            |
| LAND & STRUCTURES      |            |            |            |            |            |            |
| GRANTS, CLAIMS         |            |            |            |            |            |            |
| MISCELLANEOUS          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                         |  |  |  |  |  |  |
|-------------------------|--|--|--|--|--|--|
| CHANGES IN REVENUES ( ) |  |  |  |  |  |  |
|-------------------------|--|--|--|--|--|--|

**FUND SOURCE**

(Thousands of Dollars)

| FUND SOURCE              | FY97       | FY98       | FY99       | FY00       | FY01       | FY02       |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |
| Other (please specify)   |            |            |            |            |            |            |
| <b>TOTAL</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**POSITIONS:**

| POSITIONS | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|-----------|------|------|------|------|------|------|
| FULL-TIME |      |      |      |      |      |      |
| PART-TIME |      |      |      |      |      |      |
| TEMPORARY |      |      |      |      |      |      |

Estimate of any current year (FY96) cost: \$0.0

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

The revision to SB 321 will change the fiscal impact to the Department as it will no longer have to increase the size of API through the creation of a special unit to serve developmentally disabled consumers who are found to be "incompetent to stand trial." This will remain the case unless changes are made that would remand to the Commissioner individuals who are developmentally disabled and found to be "incompetent to stand trial." These individuals are not appropriate for API and will need to be served through a comprehensive community based "wrap around" program.

(continued on next page)

Prepared by: Derrill Johnson *DR*  
Division: DMH&DD

Phone: 465-3370  
Date: 04/18/96

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: 4/18/96

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**ANALYSIS (cont.):**

**Comments:**

If such a change were to be made, then a fiscal impact would be felt and the Department would need additional resources. This is based on the experience of the Division of Mental Health and Developmental Disabilities and their service provider network. The DD system has had considerable experience and success in providing services to behaviorally challenged individuals with comprehensive community based "wrap around" services and find that the cost of such services will average around \$100,000.00 annually per individual remanded to the Department. This breaks out to a daily per diem rate of \$274/day vs. the daily rate at API of \$507.82/day for Medicaid eligible consumers and \$682.00/day for those not Medicaid eligible. Furthermore, the Department anticipates that if such a change is implemented there is a potential population of 10 to 15 individuals who would enter the system within the first two years. The financial resources needed to serve this group of developmentally disabled individuals would have to come from a new appropriation of funds as the Department does not have any funds available. Without new funding the Department would have to remove existing consumers from services to provide the needed comprehensive "wrap around" services for those found to be "incompetent to stand trial."

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. SB 321 AM**

Revision Date: 04/19/96 Dept. Affected: Alaska Court System  
 Title: Civil Commitments BRU: Trial Courts  
 Sponsor: Senate Judiciary Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES        | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES             |       |       |       |       |       |       |
| TRAVEL                        |       |       |       |       |       |       |
| CONTRACTUAL                   |       |       |       |       |       |       |
| SUPPLIES                      |       |       |       |       |       |       |
| EQUIPMENT                     |       |       |       |       |       |       |
| LAND & STRUCTURES             |       |       |       |       |       |       |
| GRANTS & CLAIMS               |       |       |       |       |       |       |
| MISCELLANEOUS                 |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b>        |       |       |       |       |       |       |
| <b>CAPITAL EXPENDITURES</b>   |       |       |       |       |       |       |
| <b>CHANGE IN REVENUES ( )</b> |       |       |       |       |       |       |

Fund Source (Thousands of Dollars)

|                          |  |  |  |  |  |  |
|--------------------------|--|--|--|--|--|--|
| 1002 Federal Receipts    |  |  |  |  |  |  |
| 1003 GF Match            |  |  |  |  |  |  |
| 1004 GF                  |  |  |  |  |  |  |
| 1005 GF/Program Receipts |  |  |  |  |  |  |
| 1037 GF/Mental Health    |  |  |  |  |  |  |
| Other                    |  |  |  |  |  |  |
| <b>TOTAL</b>             |  |  |  |  |  |  |

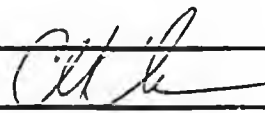
Estimate of any current year (FY 96) cost: None

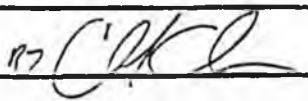
Positions

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-Time |  |  |  |  |  |  |
| Part-Time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

Fiscal Impact is not determinable with current information. See attached narrative.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228  
 Agency: Alaska Court System Date: 04/19/96

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/19/96  
 Agency: Alaska Court System

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**Alaska Court System**  
**Fiscal Analysis**  
**SB 321 AM**

SB 321 AM rewrites AS 12.47.100, relating to the competency of criminal defendants to stand trial. These revisions will have the effect of making it easier for the state to prove competency of individuals who might have been found incompetent under existing law (such as certain mentally retarded persons).

Experience indicates that this legislation will change the competency status of an average of one person per year. A majority of the time, that person will be found competent and will stand trial. Sometimes, the person will be found incompetent and committed to the custody of the commissioner of the Department of Health and Human Services for a period of time. The underlying offense will be different for each defendant, and thus length and complexity of the additional trial cannot be predicted. Therefore, this note does not reflect costs for an additional jury trial per year.

# Alaska State Legislature

Chairman,  
Judiciary Committee

Vice Chairman,  
Transportation Committee

Member,  
Resources Committee  
Western Legislative Forestry Task Force



*Senator Robin L. Taylor*

State Capitol  
Juneau, Alaska 99801-1182  
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Fax 907-465-3922

352 Front Street  
Ketchikan, Alaska 99901  
907-225-8088  
Fax 907-225-0713

## SPONSOR STATEMENT

### Senate Bill 321

Senate Bill 321 was introduced to close a loop-hole in existing law that prevents the civil commitment of those ruled mentally incompetent to stand trial on a criminal charge, but who still pose a danger to others.

Under current law, the defendant in a criminal case can be committed for up to two 90-day periods if they have been found incompetent to stand trial. If, at that point, the defendant is still not competent and it appears they will not become competent, they must be released from the criminal justice system. Commitment at that point is governed by the civil courts.

SB 321 originally proposed to change the definition of mental illness to allow for the civil commitment of these individuals. The Department of Law suggested that the law governing a determination of incompetency is the problem and the bill was amended in the Senate.

As transmitted to the House, SB 321 addresses inappropriate applications of the mental incompetency standard. It seeks to assure that individuals who possess a sufficient degree of understanding of the criminal process will be held accountable for their criminal conduct.

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## MEMORANDUM

April 3, 1996

SUBJECT: Involuntary Commitments (Work Order No. 9-LS1836\A)

TO: Senator Robin Taylor  
Attn: Joe Ambrose

FROM: Terri Lauterbach   
Legislative Counsel

Enclosed is a work draft on the subject you requested.

Based on the additional details you provided, Jerry Luckhaupt and I took a look at the statutes relating to commitment of criminal defendants who are found to be incompetent to stand trial. Under AS 12.47.110, they can be committed for up to two 90-day periods. If they are still not competent for trial after that time and don't look like they'll become competent, AS 12.47.110(b) says they have to be released from the criminal system and commitment thereafter is "governed by" the civil commitment statutes in AS 47.30.700 - 47.30.915.

It looks to me like the problem with the cases you have mentioned is that the definitions applicable in the criminal system don't jibe exactly with the definitions in the civil system so that some incompetent defendants cannot be picked up by the civil commitment procedures because they may be mentally incompetent for criminal purposes, but are not mentally ill as that term is currently defined in AS 47.30. Mental incompetency is determined under AS 12.47.100(a) based on a mental disease or defect, which is a broader category than "mental illness" under AS 47.30, particularly with regard to the inclusion of mental retardation.

So, what this draft does is amend the definition of "mental illness" applicable to civil commitments so that incompetent criminal defendants can be civilly committed. The draft does this by providing that, for the limited purpose of committing these defendants, "mental illness" includes "mental disease or defect" as that term is used in the criminal system. As drafted, this change would not apply to any other mentally retarded or otherwise incompetent people, only to criminal defendants who have already had due process protections in the criminal system under AS 12.47.

Senator Robin Taylor

April 3, 1996

Page 2

While this draft appears to me to correct what could be called a misfit between AS 12.47.110(b) and AS 47.30, I encourage you to have this language reviewed by others who may be in a better position to know if it would solve the problems you have pointed out. If further information indicates that this draft would not fix the relevant situations, please let me know, and we can try again with advice from those more closely involved with the situations.

For your information, this memo includes copies of AS 12.47.100(a), 12.47.110(b), and the definition of "mental disease or defect" used in AS 12.47. The definition of "mental illness," of course, is in the draft itself.

AS 12.47.100(a). A defendant who as a result of mental disease or defect lacks capacity to understand the proceedings against the defendant or to assist in the defendant's own defense may not be tried, convicted, or sentenced for the commission of a crime so long as the incapacity exists.

AS 12.47.110(b). On or before the expiration of the initial 90-day period of commitment the court shall conduct a hearing to determine whether or not the defendant remains incompetent. If the court finds by a preponderance of the evidence that the defendant remains incompetent, the court may recommit the defendant for a second period of 90 days. The court shall determine at the expiration of the second 90-day period whether the defendant has become competent. If at the expiration of the second 90-day period the court determines that the defendant continues to be incompetent to stand trial, the charges against the defendant shall be dismissed without prejudice and continued commitment of the defendant shall be governed by the provisions relating to civil commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime involving force against a person and the court finds that the defendant presents a substantial danger of physical injury to other persons and that there is a substantial probability that the defendant will regain competency within a reasonable period of time, in which case the court may extend the period of commitment for an additional six months. If the defendant remains incompetent at the expiration of the additional six-month period, the charges shall be dismissed without prejudice and either civil commitment proceedings shall be instituted or the court shall order the release of the defendant. If the defendant remains incompetent for five years after the charges have been dismissed under this subsection, the defendant may not be charged again for an offense arising out of the facts alleged in the original charges, except if the original charge is a class A felony or unclassified felony.

Senator Robin Taylor

April 3, 1996

Page 3

AS 12.47.130(3). "mental disease or defect" means a disorder of thought or mood that substantially impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; "mental disease or defect" also includes mental retardation, which means a significantly below average general intellectual functioning that impairs a person's ability to adapt to or cope with the ordinary demands of life.

TML:pl:klb

96-107.plm

Enclosure

DEPARTMENT OF LAW

CRIMINAL DIVISION

April 14, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL  
OFFICE  
P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428  
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTION  
AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-3084  
PHONE: (907) 269-6250  
FAX: (907) 269-6270

The Honorable Robin Taylor  
Alaska State Senate  
State Capitol  
Room 30  
Juneau, Alaska 99801-1182

Re: SB 321

Dear Senator Taylor:

We very much appreciate your efforts to fix the problem in the current statutes with the application of the standard for finding persons incompetent to stand trial on criminal charges. As we have discussed, we very much would like to fix the problem, but believe that SB 321 in its current form will make the problem worse rather than better.

For the past week, I have had the head of the Office of Special Prosecutions and Appeals working with prosecutors around the state to determine if our problem is the inability to civilly commit incompetent defendants for long enough periods of time, or whether our problem is that the mentally incompetent standard is being used in inappropriate cases to excuse criminal conduct. We have also extensively researched the case law and statutes from around the country to see how Alaska's laws compare.

After completing this effort, we are convinced that the problem is inappropriate application of the mentally incompetent standard. For that reason, we respectfully request that you consider deleting the current language in SB 321 and inserting the attached language. The proposed amendment will ensure that individuals who possess a sufficient degree of understanding of the criminal process, such as the defendant described during the Senate Judiciary Committee hearing, will be held accountable for

The Hon. Robin Taylor  
Alaska State Senate

April 14, 1996  
Page 2

their criminal conduct. In addition, it would be of great assistance to us in applying the law if the legislature adopted the proposed Senate Letter of Intent.

I have discussed the proposed amendment with the Director of the Division of Mental Health and the Special Assistant to the Commissioner of Health and Social Services, and am advised that they support the amendment as drafted. We jointly urge you to take steps to amend SB 321 on the floor of the Senate as outlined in the attached amendment.

Thank you in advance for your consideration of this request.

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Laurie H. Otto  
Deputy Attorney General

LHO:jf

cc: Pat Pourchot, Legislative Director  
Office of the Governor

Karen Perdue, Commissioner  
Department of Health and Social Services

Department of Law's Proposed Amendment to SB 321:

Page 1, lines 1-13: Delete all material and insert:

**"An Act relating to incompetency to stand trial."**

**\*Section 1.** AS 12.47.100 is repealed and reenacted to read:

AS 12.47.100. INCOMPETENCY TO PROCEED. (a) A defendant who, as a result of mental disease or defect, is incompetent because the defendant is unable to understand the proceedings against the defendant or to assist in the defendant's own defense may not be tried, convicted, or sentenced for the commission of a crime so long as the incompetency exists.

(b) If, before imposition of sentence, the prosecuting attorney or the attorney for the defendant has reasonable cause to believe that the defendant is presently suffering from a mental disease or defect that causes the defendant to be unable to understand the proceedings or to assist in the person's own defense, the attorney may file a motion for a judicial determination of the competency of the defendant. Upon that motion, or upon its own motion, the court shall have the defendant examined by at least one qualified psychiatrist or psychologist, who shall report to the court concerning the competency of the defendant. For the purpose of the examination the court may order the defendant committed for a reasonable period to a suitable hospital or other facility designated by the court. If the report of the psychiatrist indicates that the defendant is incompetent, the court shall hold a hearing, upon due notice, at which evidence as to the competency of the defendant may be submitted, including that of the reporting psychiatrist, and make appropriate findings. Prior to the hearing, the court shall, upon request of the prosecuting attorney, order the

defendant to submit to an additional evaluation by a psychiatrist or psychologist designated by the prosecuting attorney.

(c) A defendant is presumed to be competent. The party raising the issue of competency bears the burden of proving the defendant is incompetent by clear and convincing evidence. When the court raises the issue of competency, the burden of proving the defendant is incompetent shall be on the party who elects to advocate for a finding of competency. The court shall then apply the clear and convincing evidence standard to determine whether the defendant is competent.

(d) A statement made by the defendant in the course of an examination into the person's competency under this section, whether the examination is with or without the consent of the defendant, may not be admitted in evidence against the defendant on the issue of guilt in a criminal proceeding unless the defendant later relies on a defense under AS 12.47.010 or 12.47.020. A finding by the judge that the defendant is competent to stand trial in no way prejudices the defendant in a defense based on insanity; the finding may not be introduced in evidence on that issue or otherwise be brought to the notice of the jury.

(e) In determining if the defendant is unable to understand the proceedings against the defendant, the court shall consider, among other factors deemed relevant by the court, whether the defendant understands that the defendant has been charged with a criminal offense and that penalties can be imposed; whether the defendant understands what criminal conduct is being alleged; whether the defendant understands the roles of the judge, jury, prosecutor and defense counsel; whether the defendant understands that the defendant will be expected to tell defense counsel the circumstances, to the best of the defendant's ability, surrounding the defendant's activities at the time of the alleged criminal conduct; and whether the defendant can distinguish between a guilty and not guilty plea.

(f) In determining if the defendant is unable to assist in the defendant's own defense, the court shall consider, among other factors deemed relevant by the court, whether the defendant's mental disease or defect affects the defendant's ability to recall and relate facts pertaining to the defendant's actions at times relevant to the charges and whether the defendant can respond coherently to counsel's questions. A defendant is able to assist in the defense even though the defendant's memory may be impaired, the defendant refuses to accept a course of action which counsel or the court believe is in the defendant's best interest, or the defendant is unable to suggest a particular strategy or to choose among alternative defenses.

Sec. 2. AS 12.47.110(a) is amended to read:

(a) When the trial court determines [BY A PREPONDERANCE OF THE EVIDENCE] in accordance with AS 12.47.100, that a defendant is so [MENTALLY] incompetent that the defendant is unable to understand the proceedings against the defendant or [PROPERLY] to assist in the defendant's own defense, the court shall order the proceedings stayed, except as provided in (d) of this section, and may commit the defendant to the custody of the commissioner of health and social services or the commissioner's authorized representative for further evaluation and treatment until the defendant is mentally competent to stand trial, or until the pending charges against the defendant are disposed of according to law, but in no event longer than 90 days.

Sec. 3. AS 12.47.130 is amended to read:

AS 12.47.130. DEFINITIONS. In this chapter

(1) "affirmative defense" has the meaning given in AS 11.81.900(b);

(2) "assist in the defendant's own defense" means to consult with a lawyer while exercising a reasonable degree of rational functioning;

(3) [(2)] "culpable mental state" has the meaning given in AS 11.81.900(b);

(4) "incompetent" means a defendant is unable to understand the proceedings against the defendant or to assist in the defendant's own defense;

(5)[(3)] "mental disease or defect" means a disorder of thought or mood that substantially impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; "mental disease or defect" also includes mental retardation, which means a significantly below average intellectual functioning that impairs a person's ability to adapt to or cope with the ordinary demands of life; a person who has obtained a driver's license, has voted in an election, is able to maintain employment, or is competent to testify as a witness under the Alaska Rules of Evidence is considered to have sufficient intellectual functioning to adapt or cope with the ordinary demands of life;

(6) "understand the proceedings against the defendant" means that the defendant's elementary mental processes are such that the defendant has a reasonably rational comprehension of the proceedings.

50.321



stern-looking people.  
"That ad got me in trouble with my wife,"  
said Bruce Scott, MFA spokesman who Anne  
Hays of the International Brotherhood of  
Electrical Workers (IBEW) calls her "coun-

acts of "terrorists."  
In a response to that statement, Brooks  
said Folsom "was labeling MFA employees  
as terrorists."  
(Please see MUD, Page 3)

# Child molester will not stand trial

By KRISTEN SEINE  
Alaska Star Reporter

Mary said.  
On Nov. 16, the family gathered at the  
church for a Bible study/potluck. Mary and  
her husband sat at one table with the other  
adults, while her daughter and two other chil-

Mary (not her real name) was a mother



who had done everything possible to protect  
her 5-year-old daughter from the world. She  
thought she had done everything right.

And yet, last November as her mother sat  
10 feet away in a room full of people ... in a  
church, no less — the girl was molested. By  
someone everyone thought they could trust.

Mary knew 37-year-old Zachary Stokes  
well — he was developmentally disabled and  
had the mind of a child, but as the son of her  
church's pastor, often worked as an aide at  
the Saturday Night Kids' Club, where Mary  
taught 3- to 5-year-olds in a Sunday School-  
like setting. "His job was to set up chairs and  
tables, help with finger painting and the like,

children sat 10 feet away at another table with  
Zachary.

At one point, just as the evening was fin-  
ishing up, the girl called her mother over.  
"She said, 'Zachary touched me in my pri-  
vate parts.'"

"I looked at Zachary and he said, 'I'm  
sorry. I only wanted to do it one time,'" Mary  
said.

Apparently, however, that wasn't entirely  
true. Mary was later to find that her daughter  
was Zachary's fourth victim.

"He has never denied it," Mary said.  
"And, you know ... what kills me is that ev-  
erybody, all of us, were in the same room.

side the Anchorage Westward

ACASEA STAR - PAGE 1  
4/7/96

COMPLIMENTS OF  
SENATOR ROBIN L. TAYLOR

## ... was not mentally incompetent

(Continued from Page 1)  
We never had any idea."

Mary said when she and her husband approached the pastor and his wife -- Zachary's parents -- they apologized, but then asked that they "keep quiet about this because it was a problem (Zachary) had." Instead, Mary and her husband called both the police and the Department of Youth and Family Services.

Zachary was arrested and charged with three counts of indecent exposure and one count of second-degree sexual abuse of a minor, said state prosecutor Susan Wibker. He was then released to the custody of his parents.

Zachary's father was contacted Monday, but did not wish to comment.

A few days later, Mary's house was vandalized in the early hours of the morning. A neighbor told her he actually chased Zachary down the street, she said. "We tried to get a restraining order put on him, but we were told you can only get one against a member of your own family," she added.

It was the first of several disappointments for Mary's family.

Two evaluations by separate psychologists found Zachary to be incompetent to stand trial. Therefore, the entire case against him was dismissed. Furthermore, Mary learned that there is not a mandatory lock-up facility for such violators.

"He's free right now," Mary said. "Even though they know he's molested four kids, exposed himself ... both the detective and the prosecutor told me, if he does this again he's going to get off again."

That was last Thursday. "I had remained quiet until then," she said.

"I really, really needed to believe the system was going to take care of this."

Wibker explained why her office had to drop the case.

"The guy has an IQ of 35," she said. "He's mentally retarded."

"The Constitution says you cannot try someone who's not mentally competent to stand trial. You can't put people like that in jail. We have to dismiss the charges."

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*"He's free right now, even ... though they know he's molested four kids, exposed himself ... both the detective and the prosecutor told me, if he does this again he's going to get off again."*

— "Mary"  
victims mother

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"By law, I cannot proceed," Wibker said. "Whatever can happen in this case, it won't happen in the district attorney's office."

Dr. David Sperbeck, forensic and clinical psychologist for the Department of Corrections, said, "In Alaska, competency to stand trial is easily defined by the ability to communicate -- to cooperate with counsel, to evaluate advice from counsel, to make decisions regarding the decision at hand, i.e. how to plea, whether to plea, whether to testify, that type of thing."

"There are a lot of people who are developmentally disabled who can stand trial. The main issue is, can they participate in their own defense?"

It was determined that Zachary could not, he said.

For people in Zachary's situation, Sperbeck said, "There are numerous safety nets funded by the Department of Health and Social Services to protect society from dangerous mentally disabled persons."

However, such institutions are strictly voluntary. It is up to the guardian of the person whether to send them to such an institution or not, unless the person is considered an "immediate danger."

And that, Sperbeck said, "is a judgment call by whatever mental health professional examines him."

In his personal opinion, Sperbeck said, "there seems to be a moral and legal obligation of the guardian to maintain a vigilance that will protect the developmentally disabled person -- as well as the public."

In Mary's view, Zachary's parents had that chance.

"It's very scary to realize that something like this can happen. And there isn't really even a lesson that can be learned -- if your child gets kidnapped because they were out playing unsupervised, you can learn not to do that."

"And that's what makes Zachary so dangerous," she said. "Because he did this in front of so many people. He is so brazen about it."

What Mary wants to know at this point is why there is no mandatory mental institution or facility for sex offenders who are not competent enough to stand trial such as Zachary. For now, she said, "He has a get-out-of-jail card and a license to molest other children."

95-910 CR (11-11-55)

Date of birth

original story  
written 7-14-95

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### Ridley charged with sex offense

<body text>Clifton Ridley, 39, of Ketchikan, was charged with second-degree sexual assault, fourth-degree assault and fourth-degree theft in a criminal complaint filed Friday. Ketchikan police said the charges were based on statements of Officer Brian Kertz. Ridley allegedly placed his hand between a girl's legs and grabbed her buttocks and vagina through her clothing. The alleged victim told Kertz that Ridley approached her after she pushed him away and again placed his hand between her legs and again grabbed her in the same places through her clothing. The girl said she didn't know Ridley and that he had no right to touch her.

The second charge was based on statements of a woman who said Ridley grabbed her shoulders and told her that he was going to cut her up, rape her, and enjoy her body, according to court records. Sanchez said Ridley put his head and shoulders in place to prevent her from shutting her car door and that Ridley placed her in fear for her safety.

The theft charge was based on a statement of a woman who said Ridley left Carrs through a back door and removed a bottle of orange juice from his coat pocket. He then removed another bottle from his coat when the woman confronted him outside the store.

Ridley remained in custody Friday in lieu of \$10,000 bail.

5B 321

page B-1

# ALASKA

## Knowles introduces domestic violence bill

page B-1

page A-3

# ly News

75 Cents

## Judge releases legally incompetent mental patient to Ketchikan

By TOM MILLER  
Daily News Staff Writer

A felony sex charge, and misdemeanor assault and theft charges against a 40-year-old Ketchikan man were dismissed Tuesday and he will be transported from the Alaska Psychiatric Institute and released in Ketchikan.

Ketchikan Superior Court Judge Thomas Jahnke made that decision after hearing evidence in a Dec. 21 hearing to determine whether Clifton L. Ridley was legally competent to stand trial.

Ketchikan District Attorney Ben Herrensaid Thursday that Ridley would be free when he reached Ketchikan.

Ketchikan police arrested Ridley on July 13 and charged him with second-degree sexual assault, fourth-degree assault and fourth-degree theft.

He allegedly grabbed the shoulders of a woman in the Carr's Quality Center parking lot and told her he was going to cut her up, rape her and enjoy her body, according to court records.

In the sexual assault charge, Ridley allegedly put his hand between a girl's

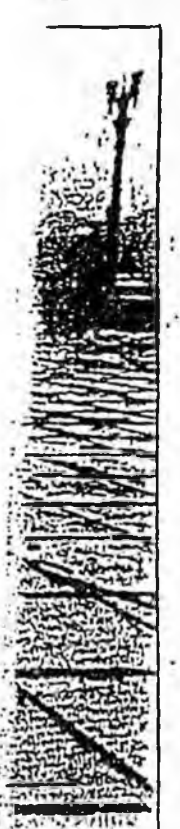
legs inside the Carr's store, according to police records. He then allegedly grabbed the girl's buttocks and vagina through her clothing. The alleged victim told a police officer that Ridley approached her again after she pushed him away and grabbed her in the same places through her clothing. The girl said she didn't know Ridley and said he had no right to touch her, according to the record.

The theft charge was based on an allegation that Ridley stole two bottles of orange juice from the store.

Ridley has undergone a lengthy period of commitment at the Alaska Psychiatric Institute since July, according to a Tuesday memorandum from Jahnke. Dr. Graydon Forrer of API had said Ridley was unable to understand the nature of the charges or to assist in his own defense, Jahnke wrote.

A second opinion came from Dr. Irvin Rothrock of the Fairbanks Psychiatric and Neurological Clinic. Rothrock examined Ridley and his medical record and said the defendant

See 'Ridley,' page A-2



of the work  
e Mill dock.

by Hall Anderson

## ly await new post office

The Klawock post office is located in a dead-end street, below the totem pole mark and next to

take that long. "We were hoping sooner," he said. He had no figures on the size of space being

ALASKA

Free tax preparation training will be offered by the American Association of Retired Persons in January at the U.S. Coast Guard base.

Classes will be held 9 a.m. to 5 p.m. Jan. 15, and from 6:30-9:30 p.m. Jan. 16-19. Sessions will be held in the second floor training room at the base.

For information and class signups can be obtained by calling Mary Milburn at home.

## Ridley

could understand and help defend himself with the aid of "directed questioning" by his lawyer, Jahnke wrote.

Jahnke listened to the doctors and Ridley's testimony and attorneys' arguments at the Dec. 21 hearing.

Public Defender Barbara Kissner asked Forrer if he could ask questions of Ridley and get answers.

"You can ask questions and you get answers but the problem is that the answers oftentimes are impossible to translate because of his speech style and his looseness of association," Forrer said. "That's where the difficulty lies."

Forrer told Herren that Ridley is "constantly and chronically" mentally ill. The doctor said he knew of people who had altered their personalities to avoid prosecution but didn't believe Ridley was doing that.

Kissner called Ridley to testify by telephone. She asked how long he had been at API. Ridley said he had been there for five months. Then Kissner asked how he was doing. Ridley answered in a rambling series of statements and partial statements about the care he was receiving at API.

Herren did not cross-examine Ridley.

Rothrock told Herren that he had

Continued from page A-1

Barbie and Legos.

Bob Nedzwecky, manager at Videll Video, said top-selling electronics items at his store were new CD game formats: Sony Playstation and Sega Saturn.

There's plenty of water in the lakes to provide power, but if a major breakdown occurs, such as a break in the Swan Lake hydroelectric plant power line to town, Ketchikan demand could exceed KPU's ability to supply it, he said. KPU's electrical division was strained in October when demand was high and capacity was impaired by a broken generator and broken Swan Lake power line.

Interviewed Ridley for an hour. During a discussion, Ridley would wander off the topic "if you let him," said Rothrock, but it was easy to bring him back to it. Ridley understood what lawyers and judges do and knew that several pleas were available in a criminal case — but he didn't seem to understand the no contest plea, said the doctor.

Rothrock said he felt that Ridley was dishonest in part of the interview and said he had a record of not taking medications at times when he was an outpatient served by Gateway Human Services.

If Ridley had been his patient, he would have treated him more aggressively than apparently had been the case, said Rothrock.

A person can be psychotic and legally competent at the same time, said Rothrock.

In her argument to the court, Kissner said Forrer had said that if Ridley had been committed to API in a civil action, he would have been discharged and sent back to Ketchikan by now.

Kissner said she had talked with Ridley by telephone while he was at API.

"Various conversations over the past few months have led nowhere," she said.

In an affidavit, she said, "As an officer of the court, I feel I am ethically obligated not to participate in a criminal proceeding with a client who is so mentally ill that I am unable to speak with him about the matter. I believe public policy supports the notion not to prosecute the mentally ill."

... heavy and don't float."

In Zagreb, the Croatian capital, U.S. Army Lt. Gen. William G. Carter, a NATO force chief of staff, said he did not expect the timetable for the bridge to be affected unless the weather changes. Sections of the bridge are at the site, but construction has yet to begin.

The deployment from Germany has already been hampered by a shortage

American command in northeastern briefing in Tuzla he was "very" reports and was had no further

The New York senior Clinton administration saying that the true, "representing a bad judgment

Jahnke wrote in finds by a preponderance that the able to assist the court is the miss the charge

Jahnke ordered remain at API transportation his return to K

Newb

A was Anth eral He

*Handwritten note:* "Jahnke wrote in his decision... the court finds by preponderance of the evidence that the defendant remaining unable to assist in his own defense and the court is therefore required to dismiss the charges against the defendant... Jahnke ordered Ridley would stay at API, then returned to Ketchikan."

**PETER D. HERAPER M.D.**  
 Ear, Nose & Throat  
 SPECIALIST  
 will be in Ketchikan  
 at 128 Washington Street  
 Jan. 21 - Feb. 1  
 For an appointment call:  
 1-800-EARS-544  
 until Friday, January 19  
 thereafter call 247-4346

## Death notice

APR-10-98 WED 12:49  
 KETCHIKAN DAILY NEWS  
 Friday, Dec. 29  
 Alaska Weather Forecast  
 RUSSIA  
 Non  
 SHOWS TALENTS FROM  
 The Associated Press Copyright

FAX NO. 9072251096  
 P. 01  
 Joe, the last col-reads-  
 Alaska Sur.  
 PRINTS:

Thompson is a sports fan. He has been a softball umpire for more than 20 years and referees city league and high school football and basketball.

He said he supports the proposed Muldoon recreation center. But he thinks Mystrom's sports center proposal is too grandiose, and is wrongheaded for a city that is cutting sports programs out of the junior high schools.

The city could get more bang for the buck by renovating existing school facilities, he said. This could be as simple, he said, as installing backboards in elementary school gyms that can be raised higher to accommodate adult basketball.

His experience on the field would stand him well in government, Thompson said. "The more effective umpires know people. Even though all the calls you make are not agreeable, as long as people know you are fair they will accept it."

#### ABUSE CHARGES DROPPED DEFENDANT FOUND TO BE INCOMPETENT

By LIZ RUSKIN  
Daily News reporter

Charges of child molestation and indecent exposure have been dismissed against a mentally retarded man who, according to lawyers and psychologists, is incompetent to stand trial.

Zachary Stokes, 37, lives with his parents in a Dimond Boulevard trailer park and until recently worked in the Anchorage School District's central kitchen. He was charged in January with sexually abusing a 5-year-old girl in November at a church function by putting his hand down her pants.

In the same charging document, Stokes also was accused of exposing himself to three girls, ages 5 to 7, in June in the trailer park.

Last week, however, prosecutor Susan Wibker dismissed all four charges.

Stokes "has been evaluated by mental health specialists and found to be incompetent," her office wrote in a March 28 letter to the mother of one of the girls. "As a result of this finding, the state's case against the defendant has been dismissed."

To be prosecuted, a defendant must be able to understand the court proceedings against him and be able to help in his own defense, according to state and federal law.

Once a defendant is deemed incompetent to stand trial, state law allows a judge to send him to Alaska Psychiatric Institute for up to six months, or up to a year if the crime involves force. There the defendant can be put through a "competency training" program that attempts, through education or mental health treatment or both, to bring the defendant to a level of understanding so that he can be tried. If a judge later determines he has become competent, the prosecution can proceed. If not, the charges are dropped and the defendant is released.

District Attorney Ken Goldman said Stokes is too mentally disabled to warrant going through that process.

"He's not competent, and there's no way in the world he's going to be made competent," Goldman said.

A psychologist who examined Stokes determined that he functions at the level of a 6 1/2-year-old, Goldman said, and Stokes' mother told authorities her son has an IQ of 35, according to the charging document.

"We couldn't look the judge straight in the eye" to ask that Stokes be put through competency training, Goldman said.

The prosecutors' assessment was based on an evaluation of Stokes by Joseph Federici, a psychologist hired by the public defender's office. Goldman said he forwarded the report to a second psychologist, David Sperbeck, who concurred that Federici's testing was valid.

The dismissal of the charges against Stokes, who had been free on bail, has frustrated the mother of the girl from the church incident. She has given television and radio interviews about the case to draw attention to what she sees as a hole in the system that gives people like Stokes a license to commit crimes. The mother declined to use her name in media accounts.

Sen. Robin Taylor responded by introducing a bill Thursday that attempts to make it easier to use civil laws to commit mentally incompetent defendants.

Stokes' lawyer, public defender Cathy Easter, said dismissing the charges against her client was the right thing to do.

"Unfortunately, you can't give Mr. Stokes ... a pill and make him understand any better," Easter said. She doesn't think the case illustrates a larger problem. In a decade at the public defender's office, she can't recall any other cases where charges were dropped against a defendant who was incompetent because of a developmental disability. And even if her client had been forced to stand trial, the state did not have a very strong case against

him, she said.

Sperbeck, who works for the Department of Corrections, also said a case like Stokes' is quite rare. Of the hundreds of child molestation cases charged in Alaska each year, about half a dozen are brought against developmentally disabled people. Of those, about one defendant per year is determined to be incompetent to stand trial, Sperbeck said.

Stokes worked at the school district's central kitchen, a job that did not put him in contact with children, from 1989 until he was dismissed March 25, district officials said.

At the church function, he sat opposite the 5-year-old girl at a table where other adults were seated. Stokes admitted to police that he reached under the table and put his hand down the girl's pants, the charging document said. He also admitted telling the girl not to report him or he'd get in trouble.

After the police started their investigation, the girl's parents called the police to tell them Stokes was throwing rocks at their house, the charges say.

His parents declined to be interviewed by the Daily News.

"There will be no comment," his father, Herman Stokes, said.

Stokes' mother told police her son has no sex drive and the November incident was the girl's fault, the charges say. While he admitted he exposed himself to three girls in June, he said the girls asked to see his genitals, and his mother blamed the girls, the charges say.

#### TIME TO SPRING AHEAD

#### 3RD-GENERATION WATCHMAKER KNOWS THE POWER OF AN HOUR

By **SONYA SENKOWSKY**

Daily News reporter

Most people lose an hour this weekend. Watchmaker Petr Rykir and his wife, Alena, will lose nearly a hundred.

For them, the annual routine always begins tonight. Before turning in for the evening, Alena Rykir turns forward time - from the loudly tocking kitchen Regulator, to the chiming mantelpiece clock of the dining room, to the silent anniversary clock in their bedroom - adjusting at least the most important of the 35 clocks that fill the couple's household.

First thing Monday morning, she'll do it again - this time at their 36th Avenue shop, the European Watchmaker, where the hour

# FISCAL NOTE

No. 4

Bill Version: SB 321

(S) Publish Date: 7/12/96

**STATE OF ALASKA  
1996 LEGISLATIVE SESSION**

Revision Date: 04/11/96  
Title: Civil Commitments

Dept. Affected: Alaska Court System  
BRU: Trial Courts  
Component: \_\_\_\_\_

Sponsor: Senate Judiciary  
Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 768

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

| OPERATING EXPENDITURES | FY 97       | FY 98       | FY 99       | FY 00       | FY 01       | FY 02       |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES      | 25.6        | 40.7        | 55.8        | 60.8        | 60.8        | 60.8        |
| TRAVEL                 |             |             |             |             |             |             |
| CONTRACTUAL            | 9.8         | 16.3        | 22.8        | 25.0        | 25.0        | 25.0        |
| SUPPLIES               | 2.0         | 2.0         | 2.0         | 2.0         | 2.0         | 2.0         |
| EQUIPMENT              |             |             |             |             |             |             |
| LAND & STRUCTURES      |             |             |             |             |             |             |
| GRANTS & CLAIMS        |             |             |             |             |             |             |
| MISCELLANEOUS          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>37.4</b> | <b>59.0</b> | <b>80.6</b> | <b>87.8</b> | <b>87.8</b> | <b>87.8</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**Fund Source (Thousands of Dollars)**

|                          |             |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |             |             |             |             |             |             |
| 1003 GF Match            |             |             |             |             |             |             |
| 1004 GF                  | 37.4        | 59.0        | 80.6        | 87.8        | 87.8        | 87.8        |
| 1005 GF/Program Receipts |             |             |             |             |             |             |
| 1037 GF/Mental Health    |             |             |             |             |             |             |
| Other                    |             |             |             |             |             |             |
| <b>TOTAL</b>             | <b>37.4</b> | <b>59.0</b> | <b>80.6</b> | <b>87.8</b> | <b>87.8</b> | <b>87.8</b> |

Estimate of any current year (FY 96) cost: None

**Positions**

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| Full-Time |     |     |     |     |     |     |
| Part-Time | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| Temporary |     |     |     |     |     |     |

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

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System

Phone: 264-8228  
Date: 04/11/96

Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 04/11/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System  
Fiscal Analysis  
SB 321

AS 47.30.700 - 47.30.915 allows a person to be civilly committed if the person is mentally ill, and is either a grave danger to self or others, or is gravely disabled. Mental retardation does not constitute mental illness under existing law.

SB 321 would allow a mentally retarded person to be civilly committed under AS 47.30.700 - 47.30.915, if the person is a mentally incompetent defendant under AS 12.47.110(b).

A person facing civil commitment for mental illness receives a series of hearings. First, there is an initial hearing before a judge at which commitment can be ordered for up to 30 days. At the end of thirty days, commitment for up to 90 days can be sought at a jury trial. At the end of ninety days, commitment for up to 180 days can be sought at a jury trial. The person is then entitled to a new jury trial every 180 days as long as they remain committed. As a practical matter, this means that each person subject to SB 321 may have three jury trials during the first year of commitment, and two jury trials per year thereafter. The length of these trials will vary depending on the severity of the underlying offense for which the person was originally declared mentally incompetent to stand trial. For example, if the person was declared incompetent to stand trial for murder, then many issues of fact that would have been raised at a murder trial will be raised at the commitment trials, as the state attempts to prove that there is a substantial risk of harm to others as manifested by recent behavior (the murder). These issues would need to be relitigated before each new jury.

The Department of Health and Human Services has estimated that three persons per year will be subject to the provisions of SB 321, and that after three years the number of committed persons will stabilize at ten, as some persons are released. This note assumes that the trials will average five days in length, and that committed persons will exercise their right to a jury trial two-thirds of the time that a jury trial is allowed; the remainder of the time, the trials will be before a judge sitting without a jury and will average 2 days.

**Alaska Court System**  
**Fiscal Analysis**  
**SB 321**

|   | <u>1st Year</u>                     | <u>2nd Year</u>                     | <u>3rd Year</u>                     | <u>4th Year</u>                     | <u>5th Year</u>                     | <u>6th Year</u>                     |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <b><u>Personal Services</u></b>                       |                                     |                                     |                                     |                                     |                                     |                                     |
| <b><u>Position</u></b>                                | <b><u>Salary &amp; Benefits</u></b> | <b><u>Salary &amp; Benefits</u></b> | <b><u>Salary &amp; Benefits</u></b> | <b><u>Salary &amp; Benefits</u></b> | <b><u>Salary &amp; Benefits</u></b> | <b><u>Salary &amp; Benefits</u></b> |
| Pro Tem Superior Court Judge, 50% vested, PPT         | \$18,100                            | \$28,700                            | \$39,400                            | \$42,900                            | \$42,900                            | \$42,900                            |
| In-court Clerk, range 12A, PPT                        | 7,500                               | 12,000                              | 16,400                              | 17,900                              | 17,900                              | 17,900                              |
| Total Personal Services                               | 25,600                              | 40,700                              | 55,800                              | 60,800                              | 60,800                              | 60,800                              |
| <b><u>Contractual</u></b>                             |                                     |                                     |                                     |                                     |                                     |                                     |
| Jury fees for 12 jurors and one alternate at \$25/day | 9,750                               | 16,250                              | 22,750                              | 25,025                              | 25,025                              | 25,025                              |
| <b><u>Supplies</u></b>                                |                                     |                                     |                                     |                                     |                                     |                                     |
| Office and courtroom supplies                         | 2,000                               | 2,000                               | 2,000                               | 2,000                               | 2,000                               | 2,000                               |
| Total Estimated Cost                                  | <u>\$37,350</u>                     | <u>\$58,950</u>                     | <u>\$80,550</u>                     | <u>\$87,825</u>                     | <u>\$87,825</u>                     | <u>\$87,825</u>                     |

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 3  
Bill Version: SB 321  
(S) Publish Date: 4-11-96

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: "An Act relating to civil commitment of a  
criminal defendant who is found mentally incompetent" BRU: MH/DD Services  
Sponsor: Senate Judiciary Committee Component: Alaska Psychiatric Institute  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 311  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING              | FY97         | FY98         | FY99           | FY00           | FY01           | FY02           |
|------------------------|--------------|--------------|----------------|----------------|----------------|----------------|
| PERSONAL SERVICES      | 577.6        | 712.5        | 1,218.5        | 1,255.1        | 1,292.7        | 1,331.5        |
| TRAVEL                 | 4.0          | 2.0          | 2.0            | 2.0            | 2.0            | 2.0            |
| CONTRACTUAL            | 27.4         | 45.6         | 91.3           | 109.5          | 109.5          | 109.5          |
| SUPPLIES               | 16.4         | 27.4         | 54.8           | 65.7           | 65.7           | 65.7           |
| EQUIPMENT              | 50.0         | 5.0          | 5.0            | 5.0            | 5.0            | 5.0            |
| LAND & STRUCTURES      |              |              |                |                |                |                |
| GRANTS, CLAIMS         |              |              |                |                |                |                |
| MISCELLANEOUS          |              |              |                |                |                |                |
| <b>TOTAL OPERATING</b> | <b>675.4</b> | <b>792.5</b> | <b>1,371.6</b> | <b>1,437.3</b> | <b>1,474.9</b> | <b>1,513.7</b> |

|                      |         |     |     |     |     |     |
|----------------------|---------|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 4,535.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|---------|-----|-----|-----|-----|-----|

|                     |     |  |  |  |  |  |
|---------------------|-----|--|--|--|--|--|
| CHANGES IN REVENUES | ( ) |  |  |  |  |  |
|---------------------|-----|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

|                          |                |              |                |                |                |                |
|--------------------------|----------------|--------------|----------------|----------------|----------------|----------------|
| 1002 Federal Receipts    |                |              |                |                |                |                |
| 1003 GF Match            |                |              |                |                |                |                |
| 1004 GF                  |                |              |                |                |                |                |
| 1005 GF/Program Receipts |                |              |                |                |                |                |
| 1037 GF/Mental Health    | 5,210.4        | 792.5        | 1,371.6        | 1,437.3        | 1,474.9        | 1,513.7        |
| Other (please specify)   |                |              |                |                |                |                |
| <b>TOTAL</b>             | <b>5,210.4</b> | <b>792.5</b> | <b>1,371.6</b> | <b>1,437.3</b> | <b>1,474.9</b> | <b>1,513.7</b> |

POSITIONS:

|           |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| FULL-TIME | 10 | 13 | 21 | 21 | 21 | 21 |
| PART-TIME | 2  | 2  | 6  | 6  | 6  | 6  |
| TEMPORARY |    |    |    |    |    |    |

Estimate of any current year (FY96) cost: \$0.0

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

The changes being proposed would impact the DH&SS Institutions and Administration BRU, Alaska Psychiatric Institute (API) Component. It should be noted at the outset that it is difficult to estimate the number of persons this bill will impact. However, regardless of the number of persons committed under the bill, programmatically SB 321 requires DH&SS to staff a new, sixth unit at API. Why this is so is described in more detail on the next page.

The new unit would serve a criminal defendant population found incompetent to stand trial (IST) because of an expansion of the definition of mental illness to include a previously excluded population: the developmentally disabled (DD), mentally retarded adults. It is estimated that there would be a minimum of three persons a year committed to API under this bill. It is estimated that within three years the unit would be housing up to 10 mentally retarded adults staying up to a year or longer, with shorter stays the exception rather than the rule.

Prepared by: Randall P. Burns Phone: 907-269-7105  
Division: Mental Health & Developmental Disabilities Date: 04/10/96

Approved by Commissioner: Karen Perdue Date: 4/11/96  
Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

Under this bill, this new ITS population could be civilly committed to API if they met the general commitment criteria that applies to all API admissions, i.e., that they are gravely disabled or a danger to themselves or others (no doubt it would be the latter criteria -- a danger to others -- that would be employed to commit the mentally retarded incompetent defendant to API). This bill requires API to diversify into the provision of care to DD clients versus services to API's historic clientele: patients experiencing acute psychotic breaks, depression, bi-polar disease, suicidal or homicidal ideation, and persons with chronic psychiatric disorders.

While API presently is required to provide a forensic unit, for the provision of services to persons found incompetent to stand trial because of a mental illness, it would be inappropriate to house this population together with the new IST population created by this bill. IST mentally ill patients are often very volatile, angry, abusive, and assaultive towards unit staff and each other. IST mentally retarded patients, while occasionally aggressive, are also often physically, medically, and emotionally fragile; these individuals would be especially vulnerable to abuse if housed with the IST mentally ill patients. There are two very good reasons why the State cannot house these two widely differing patient populations together.

First, there are significantly different treatment modalities. API clinical staff work to assist mentally ill IST patients to become competent to stand trial through utilization of individual and group therapies combined with psychotropic medication treatments. A good portion of these patients will eventually recover sufficiently to be found competent to stand trial. The mentally retarded patients, adjudged mentally incompetent to stand trial because of a permanent incapacity, not illness, might well be given appropriate sex offender treatment while committed to API, but otherwise the programming focus would be on day-to-day residential care.

The second concern, as mentioned above, would be for the safety of the mentally retarded ISTs. The mentally retarded defendants would be very vulnerable to physical and mental abuse from the more volatile, unpredictable, and assaultive mentally ill defendants. Even with adequate staffing, the risk to the mentally retarded would be extreme, no doubt eventually forcing one or both populations to be restricted to their rooms, an unacceptable reversal to maintenance of a therapeutic environment.

For the above reasons, an additional unit would have to be created for this population. Estimated eventual need (by FY 99) is for a 10 bed unit, with its own direct care staff, beginning with 10 PFT employees in FY 97 and building to a total of 21 PFT employees in FY 99 (18 nursing staff to cover three shifts, one Rehabilitation Services staff, one unit program manager, and a social worker), with an additional cost for supporting hospital functions (i.e., dietary, maintenance, housekeeping and laundry, medical/lab and pharmacy, patient records). Existing space at API is not now appropriately configured (in the present five-unit setting) to accommodate 10 extra beds for this new -- mentally incompetent not ill -- population, so remodeling of the present facility would be required prior to completion of the API 2000 project, the replacement facility.

Specific, one-time (FY 97) costs related to project start-up include the following: the provision of capital funds both for a module ("hospital unit") in the replacement facility (\$4.4M) and immediate remodeling and enhancement costs in the existing facility to accommodate a sixth unit (\$135.0) until the replacement facility is open and operating (approximately, May, 1998); training for staff who will work with the new DD patients; adaptive equipment and furniture (most of which can be utilized in the replacement facility, as well) to provide care for the patients with developmental disabilities.

|   |                      |               |  |                     |                        |                         |
|---|----------------------|---------------|--|---------------------|------------------------|-------------------------|
| Position Title<br>Psychiatric Nurse Assistant (PNA) III |                      |               | No. of Position<br>6   | Range/Step<br>10B/C | Bargaining Unit<br>GGU | Bill No.<br>SB 321      |
| Time Status<br>5 FTE; 1PTE                              | Staff Months<br>66.0 |               | Location<br>Anchorage  |                     |                        | Election District<br>19 |
| <b>TYPE of EXPENDITURE</b>                              |                      | <b>AMOUNT</b> | Justification<br><br>PNA's are required to provide the principal daily care, support, and supervision of unit clients. In the first year we are staffing one PNA per shift, seven days per week. |                     |                        |                         |
| Salary  |                      | 156.8         |  |                     |                        |                         |
| Benefits  |                      | 74.3          |  |                     |                        |                         |
| Premium Pay   |                      | 16.5          |  |                     |                        |                         |
| Other   |                      |               |  |                     |                        |                         |
| <b>Total Personal Services (100)</b>                    |                      | <b>247.6</b>  |  |                     |                        |                         |
| 100 Travel  |                      |               |  |                     |                        |                         |
| 200 Contractual   |                      |               |  |                     |                        |                         |
| 300 Supplies  |                      |               |  |                     |                        |                         |
| 500 Equipment   |                      |               |  |                     |                        |                         |
| Other   |                      |               |  |                     |                        |                         |
| <b>Total Cost</b>                                       |                      | <b>247.6</b>  |  |                     |                        |                         |
| <b>FUNDING SOURCE for TOTAL COST</b>                    |                      |               |  |                     |                        |                         |
| 1002 Federal Receipts                                   |                      |               |  |                     |                        |                         |
| 1003 GF Match   |                      |               |  |                     |                        |                         |
| 1004 General Fund                                       |                      |               |  |                     |                        |                         |
| 1005 GF/Program Receipts                                |                      |               |  |                     |                        |                         |
| 1037 GF/Mental Health                                   |                      | 247.6         |  |                     |                        |                         |
| 1007 I/A Receipts                                       |                      |               |  |                     |                        |                         |
| 1061 CIP Receipts                                       |                      |               |  |                     |                        |                         |
| Other ( )   |                      |               |  |                     |                        |                         |

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services

BRU: MH/DD Services

COMPONENT: Alaska Psychiatric Institute (311)

**FY97**

Page: 1 OF 9

Revision Date:

|                                      |                      |                       |                     |  |                    |
|--------------------------------------|----------------------|-----------------------|---------------------|--|--------------------|
| Position Title<br>Nurse II           |                      | No. of Positions<br>6 | Range/Step<br>15B/C | Bargaining Unit<br>GGU   | Bill No.<br>SB 321 |
| Time Status<br>5 FTE; 1 PTE          | Staff Months<br>66.0 | Location<br>Anchorage |                     | Election District<br>19  |                    |
| <b>TYPE of EXPENDITURE</b>           |                      | <b>AMOUNT</b>         |                     | <b>Justification</b><br><br>Nurses are required to provide clinical nursing care to unit clients as well as to shift supervision to other unit nursing staff - - assigning tasks, charting, etc. In the first year we are staffing one Nurse per shift, seven days per week. |                    |
| Salary                               |                      | 209.0                 |                     |  |                    |
| Benefits                             |                      | 93.5                  |                     |  |                    |
| Premium Pay                          |                      | 27.5                  |                     |  |                    |
| Other                                |                      |                       |                     |  |                    |
| <b>Total Personal Services (100)</b> |                      | <b>330.0</b>          |                     |  |                    |
| 100 Travel                           |                      |                       |                     |  |                    |
| 200 Contractual                      |                      |                       |                     |  |                    |
| 300 Supplies                         |                      |                       |                     |  |                    |
| 500 Equipment                        |                      |                       |                     |  |                    |
| Other                                |                      |                       |                     |  |                    |
| <b>Total Cost</b>                    |                      | <b>330.0</b>          |                     |  |                    |
| <b>FUNDING SOURCE for TOTAL COST</b> |                      |                       |                     |  |                    |
| 1002 Federal Receipts                |                      |                       |                     |  |                    |
| 1003 GF Match                        |                      |                       |                     |  |                    |
| 1004 General Fund                    |                      |                       |                     |  |                    |
| 1005 GF/Program Receipts             |                      |                       |                     |  |                    |
| 1037 GF/Mental Health                |                      | 330.0                 |                     |  |                    |
| 1007 I/A Receipts                    |                      |                       |                     |  |                    |
| 1061 CIP Receipts                    |                      |                       |                     |  |                    |
| Other ( )                            |                      |                       |                     |  |                    |

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
BRU: MH/DD Services  
COMPONENT: Alaska Psychiatric Institute (311)

**FY97**

Page:2 OF 9  
Revision Date:

*4/10*

**SB - 321      Civil commitment of a criminal defendant who is found to be mentally incompetent.**

- This bill is well intended but doesn't correct the flaw in the legal system and that being the problem of a developmentally disabled person being found "incompetent to stand trial".
- It is inappropriate to place any individual who is not gravely disabled or poses a threat to themselves or others to be committed to API, developmentally disabled or not.
- This bill has a far wider scope than just the "mentally retarded" sex offenders. It could be any individual judged "mentally retarded" that commits a crime and is determined "incompetent to stand trial". The numbers may be small today, but the impact on the service delivery system will be great.
- This premise is borne out by the statement of Dr. Sperbeck, Forensic Psychologist for Department of Corrections who was quoted in the Anchorage Daily News, April 6, 1996, as saying that a case like this is quite rare: "Of the hundreds of child molestation cases charged in Alaska each year, about half a dozen are brought against developmentally disabled people. Of those, about one defendant per year is determined to be incompetent to stand trial." API does not have a Sex Offender Treatment Program nor do they have the necessary staff trained to deal with developmentally disabled individuals. In order to provide these services, additional resources are required to address staffing, training, and space. This bill, therefore, would have an adverse fiscal impact on an already stretched budget at API and would require an additional capital appropriation.
- The Department believes that the Division of Mental Health and Developmental Disabilities can be responsive to the needs of the developmentally disabled sex offender, or potential sex offender population, through the DD service provider network.
- Community developmental disabilities services have demonstrated over the past five years that individualized "Wrap-around Services" provided in the community are successful and cost effective. Wrap around services for this population would involve participating in an established specialized Socio-Sexual Skill Training Program, which includes **early intervention training for the younger individuals, relapse training for offenders and behavioral risk management training.**
- With this approach, a DD consumer can be served outside of an institution while protecting the community.

- This bill would create an opportunity for the judicial system to solve part of the correctional systems overcrowding by filling up API with non-mentally ill defendants who are "incompetent". Thus resulting in the displacement of the mentally ill, which the State is mandated to serve.
- A person with mental retardation will not get well. This bill would have the effect of imposing a perpetual cycle of involuntary commitment and evaluation for an offense that a non-developmentally disabled person would otherwise receive a specific sentence, and then, on completion of the sentence, would be released back into the community without any support system.
- The daily rate at API is \$507.82 for Medicaid eligible consumers and \$682.00 for those not Medicaid eligible. Conversely, the community cost would not exceed a daily rate of \$274.00 Institutionalization, which is a totally inappropriate treatment\* is at least 2 1/2 times more expensive than individualized community based services.
- For all the reasons stated above, the Department of Health and Social Services does not support this bill as written but does agree that a problem exists. We urge the legislature to create an interim task force, with representatives from Department of Corrections, Department of Law and Department of Health and Social Services, to explore viable solutions.

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

No. 2  
 Bill Version: SB 321  
 (S) Publish Date: 4-11-96

Revision Date: \_\_\_\_\_  
 Title: An Act relating to civil commitment of a criminal defendant who is found to be mentally incompetent.  
 Sponsor: (S) Judiciary  
 Requestor: (S) Judiciary

Dept. Affected: Administration  
 BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

| OPERATING EXPENDITURES        | FY 97      | FY 98      | FY 99      | FY 00      | FY 01      | FY 02      |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES             | 0          | 0          | 0          | 0          | 0          | 0          |
| TRAVEL                        |            |            |            |            |            |            |
| CONTRACTUAL                   |            |            |            |            |            |            |
| SUPPLIES                      |            |            |            |            |            |            |
| EQUIPMENT                     |            |            |            |            |            |            |
| LAND & STRUCTURES             |            |            |            |            |            |            |
| GRANTS, CLAIMS                |            |            |            |            |            |            |
| MISCELLANEOUS                 |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
| <b>CAPITAL EXPENDITURES</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   |
| <b>CHANGE IN REVENUES ( )</b> | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   | <b>0</b>   |

**FUND SOURCE:** (Thousands of Dollars)

|                          |            |            |            |            |            |            |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |
| OTHER                    |            |            |            |            |            |            |
| <b>TOTAL</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY 96) cost: \$ -0-

**POSITIONS:**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary.)  
 There is no fiscal impact to the Office of Public Advocacy.

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

Phone: (907)274-1684  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 4/11/96

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# FISCAL NOTE

No. 1  
 Bill Version: SB 321  
 (S) Publish Date: 4/11/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to civil commitment of a criminal BRU: Criminal Division  
defendant if found to be mentally incompetent." Component: Criminal Division  
 Sponsor: Senate Judiciary Committee  
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

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

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |     |     |     |     |     |     |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts    |     |     |     |     |     |     |
| 1003 GF Match            |     |     |     |     |     |     |
| 1004 GF                  |     |     |     |     |     |     |
| 1005 GF/Program Receipts |     |     |     |     |     |     |
| 1006 GF/MHTIA            |     |     |     |     |     |     |
| Other                    |     |     |     |     |     |     |
| <b>TOTAL</b>             | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME |     |     |     |     |     |     |
| TEMPORARY |     |     |     |     |     |     |

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

This bill amends AS 47.30.915 to provide for the civil commitment of a criminal defendant who is mentally incompetent to stand trial on criminal charges. Generally, there are one or two occasions each year where retardation is so severe that this might occur. A mentally incompetent person committed under the state's civil commitment laws is initially committed for 30 days, which may be extended to 90 days. Thereafter, a person may be committed for succeeding periods of 180 days. However, a jury trial is required for each 180 day commitment. We do not anticipate that there will be a fiscal impact for the Department of Law initially, because of the low number of occurrences. However, there will be a fiscal impact at some point in the future if persons committed under the bill's provisions continue to present a danger to others over a long period of time, requiring repeated 180 day jury trials for an accumulating number of persons.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 4/10/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/10/96  
 Agency: Department of Law

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