

**State of Alaska**  
**FY2007 Governor's Operating Budget**

**Department of Law**  
**Human Services Section**  
**Component Budget Summary**

**Component: Human Services Section**

**Contribution to Department's Mission**

**Child Protection Section**

The Child Protection section was established in July 2005, consisting of all of the child protection attorneys in the former Human Services section. This new section was created due to the large number of attorneys who handle child protection cases. The Child Protection section provides advice and representation to the Department of Health and Social Services, Office of Children's Services, to assist that agency in the performance of its functions.

**Human Services Section**

The Human Services section provides advice and representation to the Department of Health and Social Services to assist that agency in the performance of its functions.

**Core Services**

**Child Protection Section**

Attorneys in the Child Protection section provide legal assistance to the Department of Health and Social Services, Office of Children's Services (OCS) on issues arising from the state's child protection system. Attorneys advise social workers at OCS prior to the initiation of legal action and, if necessary, they initiate legal action to remove children from abusive or neglectful homes. These attorneys litigate whether children should be in the legal custody of the state and, if so, whether they should be removed from the home of their parents. These attorneys also assist OCS social workers to implement a plan to safely return children home or take legal action to terminate parental rights to allow permanent placement in adoptive homes of children in state custody.

**Human Services Section**

Attorneys in the Human Services section provide legal assistance to the Department of Health and Social Services on issues arising from the state's health services, social services, and welfare programs. They advise divisions and offices of the department regarding changes in federal law and steps necessary at the state level to remain in compliance with federal funding requirements. Attorneys in the Human Services section prosecute foster care, assisted living, and adult foster home licensing revocations; establish senior guardianships and conservatorships; represent the state's psychiatric facility and designated treatment and evaluation centers in mental commitments; represent the state in Medicaid recipient/provider hearings and appeals and other Medicaid issues; provide advice on public health and public assistance issues; provide advice related to the certificate of need program; draft, review and consult with the Department on all regulations promulgated by the Department prior to adoption, and provide advice to the Long Term Care Ombudsman.

**FY2007 Resources Allocated to Achieve Results**

<b>FY2007 Component Budget: \$5,602,400</b>	<b>Personnel:</b>	
	Full time	59
	Part time	1
	<b>Total</b>	<b>60</b>

**Key Component Challenges**

**Child Protection Section**

Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system. These changes move cases to conclusion faster to ensure that when reunification with

the family is not in the child's best interest the child can be made legally eligible for placement in a permanent home more quickly. The changes also mandate additional court proceedings in order to ensure that the department is quickly moving to achieve a permanent plan for the child. The accelerated schedules, additional hearings, and appropriate document preparation mean that each attorney has a significant caseload. Maintaining our existing resources for child protection is necessary in order for us to effectively manage this important responsibility. Adequate attorney resources are also necessary in order to help the Office of Children's Services meet certain goals for purposes of federal funding of foster care and administrative expenses involved in child protection. An audit conducted in 2003 reflected poor performance by both the Office of Children's Services and the Department of Law, caused in large part by the lack of sufficient staff. We anticipate with additional positions created in FY2005 and FY2006, we should be able to correct these deficiencies and enable the Office of Children's Services to maximize federal reimbursement.

The section is representing the Office of Children's Services in a lawsuit filed by four Alaska Native villages alleging violations of the Indian Child Welfare Act, the Adoption and Safe Families Act, and the Multi-Ethnic Placement Act. Plaintiffs have requested the establishment of an oversight body to monitor the activities of the Office of Children's Services. Although there is currently a stay in this proceeding due to interlocutory appellate review, we anticipate large amounts of time will need to be devoted to this case in the event the state does not prevail on appeal. We expect to know sometime during FY2007 whether we will prevail on appeal or will need to once again devote one position to defending this lawsuit. Additionally, a lawsuit was recently filed by four other Alaska Native villages seeking to enjoin the implementation of the advice given in an Attorney General Opinion pertaining to the jurisdiction of Alaska Native villages to handle child protection cases. It is expected defending this lawsuit will take significant time.

In the FY2005 budget, the governor requested and the legislature authorized an increment \$508,600 for the addition of 3 attorney positions and a paralegal. In FY2006, as a result of a fiscal note attached to HB 53, the Family Rights Act, the department obtained \$586,400 in order to deal with new requirements imposed as a result of that Act. The addition of these funds enabled the department to create new attorney positions in Kenai, Palmer and Anchorage, and to create new paralegal positions in Fairbanks and Anchorage. In the past, child protection cases in Kenai and Palmer were handled out of Anchorage, requiring attorneys to travel often. The Kenai and Palmer communities are very pleased to have attorneys located in those areas.

### **Human Services Section**

Attorneys who handle cases and issues relating to Medicaid have had a large increase in work due to changes in the regulations related to Medicaid waivers. Additionally, provider appeals have increased, which requires additional audits of Medicaid providers. This increase has resulted in both administrative appeals and appeals to the superior court. This section has assumed responsibility over the legal work associated with Medicaid Liens and subrogation, which has resulted in close to 400 new open litigation files. Additionally, changes to the licensing structure in the Department as a result of SB 125 has resulted in work load increases as the department implements regulations in support of this bill. Finally, the implementation of the new public health law has resulted in an increase in the agency advice to the Division of Public Health.

## **Significant Changes in Results to be Delivered in FY2007**

### **Child Protection Section**

In FY2005 and in FY2006, the Child Protection section obtained additional attorney positions to handle child protection cases statewide. With the addition of these positions, we have been able to reduce caseloads to a more manageable 139 cases per full-time attorney. Most importantly, Alaskan children will benefit from moving to permanent home placements sooner because the legal work necessary in order to make them available for adoption will be completed more quickly. The reduction of cases will enhance our section's ability to increase compliance with federal requirements, thus increasing federal reimbursement to the Department of Health and Social Services which in turn helps to fund child-in-need-of-aid (CINA) attorneys; and recruitment and retention of attorneys for CINA positions will improve as caseload pressure on existing staff is relieved.

We had hoped to create a full-time child protection position in Nome to handle CINA cases in Nome and Kotzebue. Unfortunately, we have been unable to fill that position, so we continue to have an attorney from Anchorage assigned to that caseload. Recruitment efforts are made periodically to fill the Nome position.

### **Human Services Section**

Passage of two major bills (SB 125 regarding licensing and HB 95 regarding public health disasters and emergencies) will require increased agency advice, and possibly litigation, as the Department implements these bills. In addition, the

first complete round of Medicaid audits as result of the passage of SB 41 in 2004, have been completed. Each of the audits has a process attached to it that allows for administrative and legal review of findings. Finally, the Department of Health and Social Services has implemented a Quality Assurance program to work on program compliance, which will result in increased agency advice.

## **Major Component Accomplishments in 2005**

### **Child Protection Section**

Continued to prosecute approximately two thousand ongoing child-in-need-of-aid (CINA) cases statewide, moving toward the goal of achieving permanency for children, whether it be reunification with their parents or other permanent placements, such as adoption or guardianship.

Continued to assist the attorneys in Opinions, Appeals, and Ethics section in appellate cases stemming from CINA cases. This function was transferred to the OAE section to achieve consistency in the quality of briefing at the appellate level, but trial attorneys continue to advise and assist the appellate attorneys. An additional attorney position was created in FY2005 to deal with the increasing appellate caseload. Achieved several major victories in the Alaska Supreme Court that resulted in affirming orders terminating parental rights so the children involved may achieve a permanent placement. Between July 1, 2004 and June 30, 2005, 24 appeals or petitions for review were filed requesting supreme court review of trial court rulings in child protection matters. Of the 24 appeals or petitions filed, all 24 were filed by parents. None were filed by the state. Two appeals were settled or dismissed at the request of the appellant, three appeals resulted in published opinions; three appeals resulted in unpublished opinions; two petitions for review were denied, and one appeal was dismissed on the state's contested motion. All nine contested decisions were in the state's favor. Thirteen appeals are pending in the supreme court.

Provided legal advice and assistance to DHSS concerning HB 53, a bill reforming Alaska's child protection statutes.

Assisted in the drafting and adoption of confidentiality regulations eventually adopted by DHSS in FY2006.

Continued to revise forms and institute new practices to comply with amendments to the children's code caused by the Adoption and Safe Families Act.

Continued to work with the Child Support Enforcement Division in the Department of Revenue toward the goal of early establishment of paternity in child protection cases and consistently obtaining child support orders from parents whose children are in state custody.

Provided regular training sessions at the social worker academy on the child protection legal system.

Continued to advise the department on how to respond to public records requests.

Advised OCS personnel on how to respond to media requests.

Provided on-going advice to the Division of Public Assistance and the Medical Examiner's Office.

Represented DHSS, OCS, in a lawsuit filed by four Alaska Native villages alleging violations of the Indian Child Welfare Act, the Multi-Ethnic Placement Act, and the Adoption and Safe Families Act. This case is now before the Alaska Supreme Court on an interlocutory appeal.

Worked with DHSS, OCS, to establish procedures to ensure timely compliance with requirements of Title IV-E of the Social Security Act, to attempt to increase reimbursement for foster care and administrative expenses.

Continued to participate in a pilot project for the Family CARE (Community Assisted Recovery Efforts) Court began in August of 2002. The project encompasses the coordinated efforts of the Department of Law, Department of Administration's OPA and Public Defender, and the Court System. The pilot uses principles from the drug court model to directly engage and assist parents of children who have been the subject of CINA petitions. The entire team has been attending, over the past year, three out-of-state training seminars through the National Drug Court Institute, Family Drug Court Planning Initiative. Not only does this training assist the team in setting up and maintaining the FCC, but full attendance put the team in a better position to be awarded federal and state grants to sustain the FCC.

Participated in the Children's Justice Act Task Force, the Court Improvement Project, the CINA Rules Committee, a statewide ICWA Committee, and several other groups and committees formed for the purpose of improving the child protection field.

Responded to inquiries as a result of an Attorney General opinion advising the Office of Children's Services about the impact an Alaska Supreme Court Case (C.R.H.) has on the ability of Alaska Native tribal courts to take jurisdiction over child protection proceedings and the duty of OCS to investigate reports of harm on Alaska Native children.

Represented DHSS in a lawsuit filed by Alaska Native villages challenging the legal advice given to the department in an October 2004 form Attorney General's opinion concerning an Alaska Supreme Court case (In re C.R.H.).

## **Human Services Section**

Engaged in foster care and assisted living licensing revocation actions, including successfully prosecuting three contested hearings.

Advised the Department of Health and Social Services on matters related to compliance with federal law affecting confidential patient records, and legal matters regarding the reporting and control of diseases of public health significance.

Provided on-going advice and representation to the Division of Medical Assistance, Division of Mental Health and Developmental Disabilities and the Division of Senior Services (now the Divisions of Health Care Services, Senior and Disabilities Services, and Behavioral Health) related to the administration of the home and community based waiver programs. Such advice and representation includes representing the agency during fair hearings, superior court appeals, and supreme court appeals.

Provided advice on the administration of home and community based waiver programs. Advised the agency with respect to fair hearings sought by recipients, whose benefits were denied, reduced or terminated, participated in such hearings and handled appellate review.

Provided advice and legal representation on Medicaid lien and subrogation issues, including intervening in civil actions, seeking recovery of liens and working on and developing legislation and regulations to implement this program.

Provided advice to the Division of Health Care Services with respect to provider appeals and participated in administrative hearings and superior court appellate review. The Medicaid attorneys also provide advice to the commissioner's office on a wide range of issues including Medicaid Rate issues, tribal health Issues, regulation and legislation development and advising on programs related to increasing the amount of federal financial participation (FFP). The Medicaid attorneys also provide advice and input in working with outside counsel on Center of Medicare and Medicaid disallowance. Finally, the Medicaid attorneys are involved in advising the Department on various policy initiatives, which may or many not include the development of legislative and regulatory changes to affect those policy goals.

Provided on-going advice to the Division of Mental Health and Developmental Disabilities (now Division of Behavioral Health) related to the implementation of the involuntary mental commitment statutes (AS 47.30 et. seq.), including representing the state in mental commitment hearings, and advising the division on issues related to mental commitments.

Continued to handle a large number of guardianship and conservator cases for vulnerable adults throughout the state.

Provide on-going advice to the Pioneer Homes, including litigation in state superior court, administrative hearings and the Office of Civil Rights, related to complaints a single individual related to her father who resides in one of the homes.

Provide dedicated legal support to the Department related to the adoption of all regulations proposed by the Department.

**In FY2006, the component was split into two sections: Child Protection and Human Services. The Child Protection section is headed by Dianne Olsen, Stacie Kraly heads Human Services.**

## Statutory and Regulatory Authority

AS 44.23.020

Contact Information
<p><b>Contact:</b> Dianne Olsen, Chief Assistant Attorney General <b>Phone:</b> (907) 269-5100 <b>Fax:</b> (907) 258-6872 <b>E-mail:</b> Dianne_Olsen@law.state.ak.us</p>

**Human Services Section  
Component Financial Summary**

*All dollars shown in thousands*

	<b>FY2005 Actuals</b>	<b>FY2006 Management Plan</b>	<b>FY2007 Governor</b>
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	3,832.0	4,726.9	4,805.7
72000 Travel	86.1	37.8	37.0
73000 Services	773.7	652.4	627.9
74000 Commodities	90.0	87.8	82.1
75000 Capital Outlay	45.9	62.7	49.7
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>4,827.7</b>	<b>5,567.6</b>	<b>5,602.4</b>
<b>Funding Sources:</b>			
1004 General Fund Receipts	3,410.4	4,135.2	4,093.2
1007 Inter-Agency Receipts	1,293.9	1,359.2	1,432.3
1037 General Fund / Mental Health	123.4	73.2	76.9
<b>Funding Totals</b>	<b>4,827.7</b>	<b>5,567.6</b>	<b>5,602.4</b>

**Estimated Revenue Collections**

<b>Description</b>	<b>Master Revenue Account</b>	<b>FY2005 Actuals</b>	<b>FY2006 Managem nt Plan</b>	<b>FY2007 Governor</b>
<b><u>Unrestricted Revenues</u></b>				
None.		0.0	0.0	0.0
<b>Unrestricted Total</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b><u>Restricted Revenues</u></b>				
Interagency Receipts	51015	1,293.9	1,359.2	1,432.3
General Fund Mental Health	68520	123.4	73.2	76.9
<b>Restricted Total</b>		<b>1,417.3</b>	<b>1,432.4</b>	<b>1,509.2</b>
<b>Total Estimated Revenues</b>		<b>1,417.3</b>	<b>1,432.4</b>	<b>1,509.2</b>

**Summary of Component Budget Changes  
From FY2006 Management Plan to FY2007 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2006 Management Plan</b>	<b>4,208.4</b>	<b>0.0</b>	<b>1,359.2</b>	<b>5,567.6</b>
<b>Adjustments which will continue current level of service:</b>				
-PCN 03-0384 to Opinions, Appeals and Ethics	-135.5	0.0	0.0	-135.5
-PCN 03-2002 to Labor and State Affairs	-101.6	0.0	0.0	-101.6
-FY 07 Wage Increases for Bargaining Units and Non-Covered Employees	63.5	0.0	23.4	86.9
-FY 07 Health Insurance Cost Increases for Bargaining Units and Non-Covered Employees	7.2	0.0	2.7	9.9
-FY 07 Retirement Systems Cost Increase	121.8	0.0	44.7	166.5
<b>Proposed budget increases:</b>				
-Risk Management Self-Insurance Funding Increase	6.3	0.0	2.3	8.6
<b>FY2007 Governor</b>	<b>4,170.1</b>	<b>0.0</b>	<b>1,432.3</b>	<b>5,602.4</b>

**Human Services Section  
Personal Services Information**

Authorized Positions		Personal Services Costs		
	<u>FY2006</u> <u>Management</u> <u>Plan</u>	<u>FY2007</u> <u>Governor</u>		
Full-time	58	59	Annual Salaries	3,429,558
Part-time	2	1	COLA	91,509
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	1,780,009
			<i>Less 9.34% Vacancy Factor</i>	(495,376)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>60</b>	<b>60</b>	<b>Total Personal Services</b>	<b>4,805,700</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk I	2	0	0	0	2
Assoc Attorney II	1	0	0	0	1
Attorney III	6	0	1	2	9
Attorney IV	10	3	2	2	17
Attorney V	1	1	2	0	4
Attorney VI	1	0	1	0	2
Law Office Assistant I	8	2	3	1	14
Law Office Assistant II	2	1	1	0	4
Paralegal I	0	1	0	0	1
Paralegal II	5	0	1	0	6
<b>Totals</b>	<b>36</b>	<b>8</b>	<b>11</b>	<b>5</b>	<b>60</b>