

**State of Alaska**  
**FY2010 Governor's Operating Budget**

**Department of Law**  
**Human Services and Child Protection**  
**Component Budget Summary**

## Component: Human Services and Child Protection

### 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 (OCS), 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 (DHSS) to assist that agency in the performance of its functions.

### Core Services

- Child Protection attorneys 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 initiation of legal action to remove children from abusive or neglectful homes and, if necessary, litigate whether children should be in the legal custody of the state.
- Child Protection attorneys also assist OCS in implementing plans to safely return children home or take legal action to terminate parental rights, allowing for placement of children in adoptive or otherwise permanent homes.
- Human Services attorneys provide legal assistance to DHSS on issues arising from the state's health services, social services, and public assistance programs, including licensing, public health, the state certificate of need program, adult protective services, the long-term care ombudsman and emergency mental health.
- Human Services attorneys advise all of the divisions and offices of DHSS regarding changes for compliance with state and federal law and steps necessary at the state level to remain in compliance with federal funding requirements.

### FY2010 Resources Allocated to Achieve Results

<b>FY2010 Component Budget: \$6,655,200</b>	<b>Personnel:</b>	
	Full time	63
	Part time	2
	<b>Total</b>	<b>65</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 carries a significant caseload. Statewide, attorneys carry an average of 125 plus cases, significantly higher than the 100 cases per full time attorney suggested by the U.S. Department of Health and Human Services, Administration for Children and Families.

The Child Protection Section is assisting the Human Services Section in 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. Unless efforts to settle the case come to fruition, the trial is scheduled for late 2008. Large amounts of time will need to be devoted to this case to prepare for trial.

In addition, the section is representing OCS in a federal lawsuit that challenges the state's position that tribes do not have the authority to initiate child protection cases. The briefing has been completed and oral arguments will be scheduled soon.

Maintaining our existing attorney staffing levels and resources for child protection is critical in order for us to effectively manage these important responsibilities. Adequate attorney resources are 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. Loss of even one attorney position will have a significant negative impact on the section ability to meet federal and state statutory obligations.

It is anticipated that Title IV-E funding could be cut by as much as \$100,000 to \$300,000. That amount of money equates from one to three full time attorney positions. As explained above, maintaining our existing attorney staffing levels and resources for child protection is critical in order for us to effectively manage the important responsibility of protecting Alaska's children.

### **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. The section also handles all litigation related to provider audit appeals, which have increased exponentially because of SB 41, which requires at least 75 audits a year of Medicaid Providers. This increase will result in a marked increase in administrative evidentiary hearings in the coming year. This section assumed responsibility over the legal work associated with Medicaid Liens and subrogation, estate recovery and general eligibility for Medicaid. We also continue to see a workload increases as the department continues to protect vulnerable children and adults who resided in facilities that are licensed by the State of Alaska. We are now in the third full year of a more rigorous Certificate of Need program, and the increased regulatory oversight continues to result in additional litigation. Additionally, the changes to the Adult Protective Services and mental comment process have resulted in a number of issues related to the scope and complexity of hearings. Finally, we continue to see an increase in agency advice to the Division of Public Health as results of a greater focus on public health issues.

## **Significant Changes in Results to be Delivered in FY2010**

### **Child Protection Section**

Between 2005 and 2007, the Child Protection Section obtained additional attorney and paralegal positions to handle child protection cases statewide. While the additional positions have allowed us to reduce the caseloads to a more manageable 125 cases per full time attorney, that level of caseload is still significantly higher than the 100 cases per full time attorney guidelines issued by the U.S. Department of Health and Human Services, Administration for Children and Families. Maintaining the current level of attorney staffing is essential to continue to enable our section's to assist the Department of Health and Social Services 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. 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.

### **Human Services Section**

Passage of two major bills (SB 125 regarding licensing and HB 95 regarding public health disasters and emergencies) continue to require increased agency advice, and possibly litigation, as the Department implements these bills. And Medicaid audits, as resulting of the passage of SB 41 in 2004, continue to have an impact on workloads. Each of the audits has a process attached to it that allows for administrative and legal review of findings. Finally, changes to the Certificate of Need Program have resulted in increased litigation.

## Major Component Accomplishments in 2008

### Child Protection Section

The section continued to prosecute approximately 3,000 ongoing child-in-need-of-aid (CINA) cases statewide, moving toward the goal of achieving permanency for children, whether reunification with their parents or other permanent placements, such as adoption or guardianship.

The section continued to assist the attorneys in the Opinions, Appeals, and Ethics (OAE) 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 FY 2005 to deal with the increasing appellate caseload. As a result, the state has 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, 2006 and June 30, 2007, 15 new appeals or petitions for review were filed requesting Supreme Court review of trial court rulings in child protection matters. Of the 15 appeals or petitions filed, 13 were filed by parents, 1 was filed by the Office of Public Advocacy and 1 was filed by the state as a cross-appeal. In addition, 14 appeals or petitions were pending. During the fiscal year five of these appeals were settled or were dismissed at the request of the appellant, two appeals resulted in a published opinion; three appeals resulted in unpublished decisions; two petitions for review were denied, and two appeals were consolidated into a single proceeding. All published opinions, unpublished opinions and petition dismissals issued during this time period were decided in the State's favor. As of July 1, 2007, 14 appeals or petitions remained pending in the Supreme Court.

The section 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. Created standard forms designed to be filled out and signed in court in order to more quickly get necessary court orders to OCS.

The section 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.

The section provided regular training sessions at the social worker academy on the child protection legal system.

The section continued to advise the department on how to respond to public records requests.

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.

Represented DHSS, OCS in a lawsuit filed by four other Alaska Native villages challenging the advice given to OCS in a 2004 Attorney General's Opinion regarding tribal jurisdiction over child protection cases.

Represented DHSS, OCS in a lawsuit filed in federal court by the Native Village of Kaltag and two individuals. The main issue raised by the case is whether tribal courts of Alaska Native villages without reservations have the legal authority to initiate child protection cases that can lead to the termination of parental rights and to issue adoption orders entitled to be given full faith and credit by the state.

The section 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.

The section continued to participate in a pilot project for the Family CARE (Community Assisted Recovery Efforts) Court that began in August of 2002. The project encompasses the coordinated efforts of the Department of Law, Department of Administration's Office of Public Advocacy (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 section participated in the Children's Justice Act Task Force, the Court Improvement Project, the CINA Rules Committee, a statewide Indian Child Welfare Act (ICWA) Committee, and several other groups and committees

formed for the purpose of improving the child protection system.

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.

### **Human Services Section**

The section engaged in foster care and assisted living licensing revocation actions, including prosecuting at least twelve hearings. This number of hearings does not include any adverse action taken that we have resolved short of a contested hearing.

The section 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 and provided on-going advice to the Medical Examiner's Office.

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 and personal care attendant programs. Such advice and representation includes representing the agency during fair hearings, superior court appeals, and Supreme Court appeals.

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. The section took over the advice and legal representation of the estate recovery work, and trust management from a private contractor.

Provided advice to the Division of Health Care Services with respect to 17 provider appeals and participated in resolving many more without hearing or appeal. 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 may 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.

The section 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 of a single individual related to her father who resides in one of the homes.

Provide day-to-day advice and litigation support for all Certificate of Need matters.

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 Carla Raymond, Stacie Kraly heads Human Services.**

**Statutory and Regulatory Authority**

AS 44.23.020

Contact Information
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**Human Services and Child Protection  
Component Financial Summary**

*All dollars shown in thousands*

	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	6,178.9	5,881.4	5,826.4
72000 Travel	110.1	53.7	38.7
73000 Services	882.4	861.9	661.9
74000 Commodities	131.3	83.9	83.9
75000 Capital Outlay	82.9	44.3	44.3
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>7,385.6</b>	<b>6,925.2</b>	<b>6,655.2</b>
<b>Funding Sources:</b>			
1004 General Fund Receipts	5,330.0	5,389.6	5,068.7
1007 Inter-Agency Receipts	2,030.0	1,453.9	1,502.0
1037 General Fund / Mental Health	0.0	81.7	84.5
1061 Capital Improvement Project Receipts	25.6	0.0	0.0
<b>Funding Totals</b>	<b>7,385.6</b>	<b>6,925.2</b>	<b>6,655.2</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
<b>Unrestricted Revenues</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>Restricted Revenues</b>				
Interagency Receipts	51015	2,030.0	1,453.9	1,502.0
Capital Improvement Project Receipts	51200	25.6	0.0	0.0
General Fund Mental Health	68520	0.0	81.7	84.5
<b>Restricted Total</b>		<b>2,055.6</b>	<b>1,535.6</b>	<b>1,586.5</b>
<b>Total Estimated Revenues</b>		<b>2,055.6</b>	<b>1,535.6</b>	<b>1,586.5</b>

**Summary of Component Budget Changes  
From FY2009 Management Plan to FY2010 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2009 Management Plan</b>	<b>5,471.3</b>	<b>0.0</b>	<b>1,453.9</b>	<b>6,925.2</b>
<b>Adjustments which will continue current level of service:</b>				
-FY2010 Wage and Health Insurance Increases for Bargaining Units with Existing Agreements	181.9	0.0	48.1	230.0
-Remove Village of Curyung v. State DHSS, OCS: Sec. 27(e), Ch 11, SLA08, P 105, L 1 (SB256) Lapses 6/30/09	-500.0	0.0	0.0	-500.0
<b>FY2010 Governor</b>	<b>5,153.2</b>	<b>0.0</b>	<b>1,502.0</b>	<b>6,655.2</b>



**Human Services and Child Protection  
Personal Services Information**

Authorized Positions			Personal Services Costs	
	<u>FY2009</u> <u>Management</u> <u>Plan</u>	<u>FY2010</u> <u>Governor</u>		
Full-time	63	63	Annual Salaries	4,290,002
Part-time	2	2	COLA	170,021
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	2,139,038
			<i>Less 11.71% Vacancy Factor</i>	<i>(772,661)</i>
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>65</b>	<b>65</b>	<b>Total Personal Services</b>	<b>5,826,400</b>

**Position Classification Summary**

<b>Job Class Title</b>	<b>Anchorage</b>	<b>Fairbanks</b>	<b>Juneau</b>	<b>Others</b>	<b>Total</b>
Administrative Clerk II	2	0	0	0	2
Assoc Attorney II	1	0	0	0	1
Attorney II	1	0	0	0	1
Attorney III	9	0	1	3	13
Attorney IV	6	4	2	3	15
Attorney V	1	0	2	0	3
Attorney VI	1	0	1	0	2
Law Office Assistant I	7	2	2	1	12
Law Office Assistant II	2	1	1	1	5
Paralegal I	2	0	1	1	4
Paralegal II	5	1	0	1	7
<b>Totals</b>	<b>37</b>	<b>8</b>	<b>10</b>	<b>10</b>	<b>65</b>