

**State of Alaska  
FY2021 Governor's Operating Budget**

**Department of Law  
Opinions, Appeals and Ethics  
Component Budget Summary**

**Component: Opinions, Appeals and Ethics**

**Contribution to Department's Mission**

The Opinions, Appeals and Ethics Section represents the State of Alaska and its agencies in civil appeals; provides critical analysis on complex legal questions, and advises the state and its agencies on ethics matters and Native Law issues.

**Core Services**

- Represent the state and its agencies before the Alaska Supreme Court, Ninth Circuit Court of Appeals, and U.S. Supreme Court, providing the highest level of appellate representation in matters that significantly affect state interests. In addition, section attorneys represent the Department of Health and Social Services in all child protection and civil commitment appeals before the Alaska Supreme Court.
- Assist all attorneys in the Civil Division with appeals and critical motions to ensure consistent legal positions and quality representation.
- Advise the executive branch and its agencies on legal questions that demand the most complex and comprehensive research and analysis.
- Review all Attorney General Opinions prior to publication to ensure clarity and completeness in addressing questions of public importance. Section attorneys both draft some Attorney General Opinions and review opinions drafted by other attorneys in the Civil Division.
- Ensure compliance with the Executive Branch Ethics Act by training and advising agencies and individual employees on the Act's requirements and by investigating and resolving ethics complaints. An assistant attorney general in the section serves as the designated ethics supervisor for the Department of Law and handles professional ethics issues involving both department staff and outside counsel.
- Provide advice and representation to the state and its agencies on specialized legal issues such as attorneys' fees and Native Law issues.
- Recommend to the Attorney General whether to participate as amicus curiae in appeals before the federal courts, including the United States Supreme Court, in cases that may affect state interests.

**Major Component Accomplishments in 2019**

- Prevailed in two cases before the U.S. Supreme Court, which overturned adverse Ninth Circuit decisions: *Sturgeon v. Frost*, addressing the extent of federal authority over navigable waters in Alaska, and *Nieves et al. v. Bartlett*, defending Alaska State Troopers from damages claims arising out of reasonable arrest.
- Filed three amicus briefs in support of cert. petitions to the U.S. Supreme Court on cases raising important issues for the state: *Our Lady of Guadalupe School v. Morrissey-Berru* and *Stephen Wise Temple v. Su*, cases in which the state is supporting a religious school's First Amendment rights in selecting faculty; and *Guerin v. Fowler*, where the state is fighting a Ninth Circuit decision that exposes the state pension systems to class-action claims.
- Represented the Department of Health and Social Services in every child protection and civil commitment appeal before the Alaska Supreme Court.
- Reviewed briefs and staffed moot courts in every Civil Division appeal before the Alaska Supreme Court and Ninth Circuit to ensure the highest quality appellate representation for the state.
- Provided critical motion support and strategic counsel to the Civil Division's Special Litigation section in high-profile and complex trial court cases.
- Promoted and enforced compliance with the Alaska Executive Branch Ethics Act by advising individuals and agencies on ethics questions, presenting ethics trainings, drafting ethics opinions and memoranda of advice, and investigating and resolving ethics complaints against former and current state employees.
- Advised state agencies and officials on a wide variety of Native Law issues.

## Key Component Challenges

- A key challenge for the section is to lend its expertise in appellate briefing and argument to all Civil Division sections, given the volume of appeals to which the state is a party. At any given time, the Civil Division has between 100 and 150 civil appeals pending, 25-30 of which are child protection cases involving child abuse and neglect. The section directly handles all of the child protection appeals statewide, as well as all appeals of civil commitments statewide. The section also generally handles appeals in cases that concern constitutional and legal issues of particular import. For the rest of the Civil Division's appeals, attorneys in the Opinions, Appeals and Ethics section review and revise appellate briefs drafted by other attorneys and help prepare them for oral argument.
- Because section attorneys have expertise in writing and analysis, they are frequently consulted on some of the thorniest and most sensitive legal issues facing state government. Providing this high-quality advice, while maintaining the output required by the Civil Division's appellate caseload, is a challenge.
- The section prepares or reviews Attorney General Opinions. A key challenge in this area has been to develop protocols to ensure the section is involved early in the opinion process so the department can render timely and high quality advice to state agencies, to improve agency decision making.
- The Executive Branch Ethics Act is another key challenge for the section. The section handles issues, investigations, hearings, opinions, and oral and written advice, and also provides ethics training for state agencies. Some matters require significant factual and legal research, and advice must be prompt and consistent. The section's designated ethics attorney frequently works extra hours to ensure that individual and agency clients receive the guidance they need.
- Native Law issues continue to impact virtually every area of state government's responsibilities. The section provides advice on a wide variety of Native Law issues including civil and criminal jurisdiction, trust lands, waivers of sovereign immunity, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. The Civil Division anticipates this area of law and legal services will be a continuing challenge for the section.

## Significant Changes in Results to be Delivered in FY2021

No changes are anticipated in the coming fiscal year.

## Statutory and Regulatory Authority

AS 44.23.020

Contact Information
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Opinions, Appeals and Ethics Personal Services Information				
Authorized Positions			Personal Services Costs	
	<u>FY2020</u> <u>Management</u> <u>Plan</u>	<u>FY2021</u> <u>Governor</u>		
Full-time	14	14	Annual Salaries	1,381,118
Part-time	0	0	COLA	724
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	732,549
			<i>Less 1.93% Vacancy Factor</i>	(40,791)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>14</b>	<b>14</b>	<b>Total Personal Services</b>	<b>2,073,600</b>

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney II	2	0	0	0	2
Attorney III	1	0	0	0	1
Attorney IV	2	0	0	0	2
Attorney V	4	1	0	0	5
Attorney VI	1	0	0	0	1
Law Office Assistant II	1	1	0	0	2
Paralegal I	1	0	0	0	1
<b>Totals</b>	<b>12</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>14</b>

**Component Detail All Funds**  
**Department of Law**

**Component:** Opinions, Appeals and Ethics (2716)  
**RDU:** Civil Division (35)

Non-Formula Component

	<b>FY2019 Actuals</b>	<b>FY2020 Conference Committee</b>	<b>FY2020 Authorized</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>	<b>FY2020 Management Plan vs FY2021 Governor</b>	
71000 Personal Services	417.9	2,341.4	2,341.4	2,022.6	2,073.6	51.0	2.5%
72000 Travel	2.4	2.2	2.2	21.0	21.0	0.0	0.0%
73000 Services	82.0	254.6	254.6	354.6	304.6	-50.0	-14.1%
74000 Commodities	4.9	0.0	0.0	0.0	0.0	0.0	0.0%
75000 Capital Outlay	0.9	0.0	0.0	0.0	0.0	0.0	0.0%
77000 Grants, Benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
78000 Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
<b>Totals</b>	<b>508.1</b>	<b>2,598.2</b>	<b>2,598.2</b>	<b>2,398.2</b>	<b>2,399.2</b>	<b>1.0</b>	<b>0.0%</b>
<b>Fund Sources:</b>							
1004 Gen Fund (UGF)	508.1	1,450.8	1,450.8	1,300.8	1,301.8	1.0	0.1%
1007 I/A Rcpts (Other)	0.0	1,147.4	1,147.4	1,097.4	1,097.4	0.0	0.0%
<b>Unrestricted General (UGF)</b>	<b>508.1</b>	<b>1,450.8</b>	<b>1,450.8</b>	<b>1,300.8</b>	<b>1,301.8</b>	<b>1.0</b>	<b>0.1%</b>
<b>Designated General (DGF)</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>0.0%</b>
<b>Other Funds</b>	<b>0.0</b>	<b>1,147.4</b>	<b>1,147.4</b>	<b>1,097.4</b>	<b>1,097.4</b>	<b>0.0</b>	<b>0.0%</b>
<b>Federal Funds</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>0.0%</b>
<b>Positions:</b>							
Permanent Full Time	16	16	16	14	14	0	0.0%
Permanent Part Time	0	0	0	0	0	0	0.0%
Non Permanent	0	0	0	0	0	0	0.0%

**Change Record Detail - Multiple Scenarios with Descriptions**  
**Department of Law**

**Component:** Opinions, Appeals and Ethics (2716)  
**RDU:** Civil Division (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		NP
										PFT	PPT	
***** <b>Changes From FY2020 Conference Committee To FY2020 Authorized</b> *****												
<b>FY2020 Conference Committee</b>												
	ConfCom	2,598.2	2,341.4	2.2	254.6	0.0	0.0	0.0	0.0	16	0	0
1004 Gen Fund		1,450.8										
1007 I/A Rcpts		1,147.4										
<b>Subtotal</b>		<b>2,598.2</b>	<b>2,341.4</b>	<b>2.2</b>	<b>254.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>16</b>	<b>0</b>	<b>0</b>
***** <b>Changes From FY2020 Authorized To FY2020 Management Plan</b> *****												
<b>Transfer Attorney III (03-0162) to Human Services for Required Legal Expertise</b>												
	Trout	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	0	0
Transfer a full-time Attorney III (03-0162), range 22, located in Juneau, from the Opinions, Appeals and Ethics office to the Human Services section to keep pace with the required level of legal expertise needed within the section. The remaining staff within the Opinions, Appeals and Ethics office are sufficient to accommodate anticipated workload.												
Department of Law attorney positions are transferred as needed to align expertise with workload.												
<b>Transfer Attorney IV (03-0410) to Special Litigation for Required Legal Expertise</b>												
	Trout	-200.0	-200.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	0	0
1004 Gen Fund		-150.0										
1007 I/A Rcpts		-50.0										
Transfer a full-time Attorney IV (03-0410), range 24, located in Anchorage, from the Opinions, Appeals and Ethics section to the Special Litigation office to keep pace with the required level of legal expertise needed within the office. The remaining staff within the Opinions, Appeals and Ethics section are sufficient to accommodate anticipated workload.												
Department of Law attorney positions are transferred as needed to align expertise with workload.												
<b>Align Authority with Anticipated Expenditures</b>												
	LIT	0.0	-118.8	18.8	100.0	0.0	0.0	0.0	0.0	0	0	0
Transfer authority from personal services to cover anticipated travel and services costs. The remaining personal services authority is sufficient to cover anticipated expenditures.												
<b>Subtotal</b>		<b>2,398.2</b>	<b>2,022.6</b>	<b>21.0</b>	<b>354.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>14</b>	<b>0</b>	<b>0</b>
***** <b>Changes From FY2020 Management Plan To FY2021 Governor</b> *****												
<b>FY2021 Salary and Health Insurance Increases</b>												
	SalAdj	1.0	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		1.0										

**Change Record Detail - Multiple Scenarios with Descriptions**  
**Department of Law**

**Component:** Opinions, Appeals and Ethics (2716)  
**RDU:** Civil Division (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		NP
										PFT	PPT	
FY2021 GGU Salary Increases: \$0.7												
FY2021 increase to GGU Health Insurance from \$1530 to \$1555 per member per month: \$0.3												
<b>Align Authority with Anticipated Expenditures</b>												
	LIT	0.0	50.0	0.0	-50.0	0.0	0.0	0.0	0.0	0	0	0
Transfer authority from services to cover anticipated personal services costs. The remaining services authority is sufficient to cover anticipated expenditures.												
<b>Totals</b>		<b>2,399.2</b>	<b>2,073.6</b>	<b>21.0</b>	<b>304.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>14</b>	<b>0</b>	<b>0</b>

**Line Item Detail (1676)**  
**Department of Law**  
**Travel**

**Component:** Opinions, Appeals and Ethics (2716)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
2000	Travel		2.4	21.0	21.0
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
<b>2000 Travel Detail Totals</b>			<b>2.4</b>	<b>21.0</b>	<b>21.0</b>
2000	In-State Employee Travel	Travel for attorneys to interview witnesses and attend court proceedings, as well as for necessary training for both attorneys and paraprofessionals. Includes travel for management purposes.	1.9	11.0	11.0
2006	Other Travel Costs	Travel cost transfers.	0.5	10.0	10.0



**Line Item Detail (1676)**  
**Department of Law**  
**Services**

**Component:** Opinions, Appeals and Ethics (2716)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
3000	Services		82.0	354.6	304.6
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
<b>3000 Services Detail Totals</b>			<b>82.0</b>	<b>354.6</b>	<b>304.6</b>
3002	Legal and Judicial Services	Depositions, research costs, expert witness and consultant fees.	15.0	15.0	15.0
3011	Other Services	Cost transfers and miscellaneous items within the services line (commissions, etc.).	67.0	339.6	289.6

**Line Item Detail (1676)**  
**Department of Law**  
**Commodities**

**Component:** Opinions, Appeals and Ethics (2716)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
4000	Commodities		4.9	0.0	0.0
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
<b>4000 Commodities Detail Totals</b>			<b>4.9</b>	<b>0.0</b>	<b>0.0</b>
4022	Commodity Transfer	Commodity cost transfers.	4.9	0.0	0.0

**Line Item Detail (1676)**  
**Department of Law**  
**Capital Outlay**

**Component:** Opinions, Appeals and Ethics (2716)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
5000	Capital Outlay		0.9	0.0	0.0
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2019 Actuals</b>	<b>FY2020 Management Plan</b>	<b>FY2021 Governor</b>
<b>5000 Capital Outlay Detail Totals</b>			<b>0.9</b>	<b>0.0</b>	<b>0.0</b>
5009	Capital Outlay Transfer	Capital cost transfers.	0.9	0.0	0.0

**Revenue Detail (1681)**  
**Department of Law**

**Component:** Opinions, Appeals and Ethics (2716)

Revenue Type (OMB Fund Code) Revenue Source	Component	Comment	FY2019 Actuals	FY2020 Management Plan	FY2021 Governor
<b>5007 I/A Rcpts (1007 I/A Rcpts)</b>			<b>0.0</b>	<b>1,097.4</b>	<b>1,097.4</b>
5301 Inter-Agency Receipts	Law - Opinions, Appeals and Ethics (2716)	Interagency receipts - the Opinions, Appeals and Ethics component provides senior-level analysis and specialized legal services and representation to state government on all legal opinions, civil appeals in state and federal court, all executive branch ethics, public finance matters, and Native Alaskan/Indian Law matters. Billable time is charged directly to the case/matter of reimbursable service agreements throughout the Civil Division.	0.0	1,097.4	1,097.4

**Personal Services Expenditure Detail**  
**Department of Law**

**Scenario:** FY2021 Governor (16414)  
**Component:** Opinions, Appeals and Ethics (2716)  
**RDU:** Civil Division (35)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range / Step	Comp Months	Split / Count	Annual Salaries	COLA	Premium Pay	Annual Benefits	Total Costs	UGF Amount
03-0007	Attorney II	FT	A	XE	Anchorage	N00	20D / E	12.0		77,532	0	0	45,171	122,703	0
03-0048	Attorney V	FT	A	XE	Fairbanks	99	25P / Q	12.0		157,047	0	0	71,092	228,139	171,104
03-0052	Law Office Assistant II	FT	A	SS	Fairbanks	603	13B / C	12.0		48,078	0	0	35,254	83,332	0
03-0057	Paralegal I	FT	A	GP	Anchorage	200	14F / G	12.0		53,965	724	0	37,225	91,914	91,914
03-0134	Attorney IV	FT	A	XE	Anchorage	N00	24C / D	12.0		98,160	0	0	52,218	150,378	150,378
03-0203	Attorney II	FT	A	XE	Anchorage	N00	20D / E	12.0		76,764	0	0	44,909	121,673	60,837
03-0208	Law Office Assistant II	FT	A	SS	Anchorage	600	13F / J	12.0		54,264	0	0	37,367	91,631	45,816
03-0295	Attorney V	FT	A	XE	Anchorage	N00	25J / K	12.0		121,660	0	0	60,245	181,905	136,429
03-0316	Attorney V	FT	A	XE	Anchorage	N00	25F	12.0		114,420	0	0	57,772	172,192	86,096
03-0338	Attorney VI	FT	A	XE	Anchorage	N00	26L	12.0		130,452	0	0	63,249	193,701	145,276
03-0342	Attorney V	FT	A	XE	Anchorage	N00	25L	12.0		125,940	0	0	61,707	187,647	93,824
03-0379	Attorney IV	FT	A	XE	Anchorage	N00	24F / J	12.0		107,892	0	0	55,542	163,434	81,717
03-0380	Attorney III	FT	A	XE	Anchorage	N00	22F	12.0		92,964	0	0	50,443	143,407	0
03-0408	Attorney V	FT	A	XE	Anchorage	N00	25K	12.0		121,980	0	0	60,355	182,335	136,751

<b>Total Positions</b>				<b>Total Salary Costs:</b>	1,381,118
<b>Full Time Positions:</b>	14	0	0	<b>Total COLA:</b>	724
<b>Part Time Positions:</b>	0	0	0	<b>Total Premium Pay:</b>	0
<b>Non Permanent Positions:</b>	0	0	0	<b>Total Benefits:</b>	732,549
<b>Positions in Component:</b>	14	0	0	<b>Total Pre-Vacancy:</b>	2,114,391
				<b>Minus Vacancy Adjustment of 1.93%:</b>	(40,791)
				<b>Total Post-Vacancy:</b>	2,073,600
				<b>Plus Lump Sum Premium Pay:</b>	0
				<b>Personal Services Line 100:</b>	2,073,600
<b>Total Component Months:</b>	168.0				

PCN Funding Sources:	Pre-Vacancy	Post-Vacancy	Percent
1004 General Fund Receipts	1,200,141	1,176,987	56.76%
1007 Interagency Receipts	914,251	896,613	43.24%
<b>Total PCN Funding:</b>	<b>2,114,391</b>	<b>2,073,600</b>	<b>100.00%</b>

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column. [No valid job title] appearing in the Job Class Title indicates that the PCN has an invalid class code or invalid range for the class code effective date of this scenario.

# CIVIL DIVISION

## Opinions, Appeals and Ethics

