

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief
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## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	55,000	0	0	30,000	0	0	3,000
Department of Licensing	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>55,000</b>	<b>0</b>	<b>0</b>	<b>30,000</b>	<b>0</b>	<b>0</b>	<b>3,000</b>

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		5,100,000				
Local Gov. Total		5,100,000				

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	10.0	17,954,400	17,954,400	17,954,400	10.0	17,954,400	17,954,400	17,954,400	10.0	17,954,400	17,954,400	17,954,400
Administrative Office of the Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Office of Public Defense	6.0	0	0	11,932,841	6.0	0	0	11,961,371	6.0	0	0	11,969,122
Office of Civil Legal Aid	Fiscal note not available											
Office of Attorney General	.2	0	0	55,000	.1	0	0	30,000	.0	0	0	3,000
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Enterprise Services	.0	0	0	0	.0	0	0	0	.0	0	0	0
Washington State Patrol	12.0	3,011,187	3,011,187	3,011,187	10.0	2,415,308	2,415,308	2,415,308	10.0	2,415,308	2,415,308	2,415,308
Department of Licensing	.0	0	0	23,000	.0	0	0	0	.0	0	0	0
Department of Corrections	31.4	6,342,000	6,342,000	6,342,000	25.6	5,350,000	5,350,000	5,350,000	25.6	5,350,000	5,350,000	5,350,000
<b>Total \$</b>	<b>59.6</b>	<b>27,307,587</b>	<b>27,307,587</b>	<b>39,318,428</b>	<b>51.7</b>	<b>25,719,708</b>	<b>25,719,708</b>	<b>37,711,079</b>	<b>51.6</b>	<b>25,719,708</b>	<b>25,719,708</b>	<b>37,691,830</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other			8,600,000						
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			8,600,000						

### Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Office of Civil Legal Aid	Fiscal note not available								
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Enterprise Services	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Licensing	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

### Estimated Capital Budget Breakout

<b>Prepared by:</b> Gaius Horton, OFM	<b>Phone:</b> (360) 819-3112	<b>Date Published:</b> Preliminary 3/ 8/2023
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years	10.0	10.0	10.0	10.0	10.0
<b>Account</b>					
General Fund-State 001-1	8,977,200	8,977,200	17,954,400	17,954,400	17,954,400
State Subtotal \$	8,977,200	8,977,200	17,954,400	17,954,400	17,954,400
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
<b>Account</b>					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
<b>Account</b>					
Local - Cities					
Cities Subtotal \$					

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

### Estimated Capital Budget Impact:

NONE

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note for Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 02/22/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/22/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/22/2023

184,709.00

Request # 200-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

The only fiscal impact change of the substitute would be removal of the requirement to develop pattern forms.

The bill would establish procedures and requirement for vacating convictions, resentencing, and refunding legal financial obligations (LFOs) pursuant to the State v. Blake decision (February 25, 2021).

Section 1 would expand the definition of terms for LFO, qualifying nonconviction, and beyond the Washington State Supreme Court decision.

Section 3 would require:

- \* prosecuting attorneys to file amended orders with the court to dismiss and vacate a conviction and for nonconvictions, file an exparte order to issue a refund for LFOs paid as a result of a qualifying conviction or nonconviction.

- \* clerks to conduct an objectively reasonable search to identify collection cost records and LFO refund amounts ordered by the court as a result of a qualifying convictions/nonconvictions.

Section 4 would allow a person with a qualifying conviction/nonconviction to file a motion with the sentencing court for a vacation of the conviction or a refund of conviction/nonconviction LFO.

Section 5 would require the court, upon a determination of any valid motion to vacate any qualifying conviction, to:

- \* direct the clerk to inform the Department of Licensing to reinstate driving privileges.

- \* direct the clerk to cancel any unpaid balances of LFOs and remove the LFOs from collections, if assigned to a collection agency.

- \*inform the party they have the right to challenge the amount of the refunded order and, if indigent, the person may request publicly funded counsel.

- \* order the AOC to refund any LFO paid as a result of the qualifying conviction.

Section 7 would require the court, upon a determination of any valid motion to refund LFOs for any qualifying nonconviction, to:

- \* direct the clerk to cancel any unpaid balances of LFOs and remove the LFOs from collections, if assigned to a collection agency.

- \* provide the clerk with itemized LFO amount to be refunded.

- \* order the AOC to refund any LFO paid as a result of the qualifying conviction.

The clerk would transmit the order to the AOC Refund Bureau.

Section 8: Within 3 years of the issuance of a refund from the AOC refund bureau, a person may challenge the amount of any LFO amount ordered by a court. If a person is indigent, they may request publicly funded counsel.

Section 9 would prohibit reallocation of LFO refunds to any other LFO the person is required to pay and has an outstanding balance. If reallocation occurred prior to the effective date of the bill, the bill would require the clerk to identify those cases, determine the amount previously reallocated, and notify the prosecutor and the AOC. The reallocation amount shall be refunded.

Additionally, the clerks will need to identify whether and the amount needing to be refunded for the following:

- \* Crime Victim Penalty Assessment

- \* DNA Collection Fee

- \* Court Appointed Counsel

- \* Crime Lab Fee

- \* Fines imposed under RCW 69.50.430 (certain felony convictions)

- \* Interlocal Drug Fund

- \* Public Safety and Education Assessment

- \* Drug court costs

- \* Associated interest and collection fees

- \* Chemical dependence evaluation and treatment costs

The bill provides a methodology for the clerks to follow to determine the amount of a refund, if any, of the specified fees.

184,709.00

Form FN (Rev 1/00)

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Request # 200-1

Bill # 1492 S HB

Sections 10 and 12 would require the AOC to continue the implementation efforts surrounding State v. Blake which includes: 1) in collaboration with local court staff, prepare comprehensive lists of all cases impacted by the State v. Blake decision going back to 1971 and 2) establish a centralized process for refunding LFOs including a searchable online database.

## II. B - Cash Receipts Impact

None

## II. C - Expenditures

### IMPACTS TO ADMINISTRATIVE OFFICE OF THE COURTS

Sections 10 and 12. In the 2022 enacted supplemental budget, the Legislature directed AOC to develop a centralized refund process and to develop comprehensive lists of cases impacted by the Supreme Court's ruling. To accomplish this work, the Legislature provided funding for one year. The AOC requested ongoing funding in the 2023-25 biennial budget to continue the 10 positions to implement the State v. Blake decision. The same assumptions are included as fiscal impact for this bill.

FTE: 10  
FY 2024 and ongoing: \$1,627,200

Beginning July 1, 2023 and ongoing, AOC would require salary, benefits, and associated standard costs for these 10.0 FTE for the following.

#### Development of Comprehensive Case Lists

2.0 FTEs would coordinate the comprehensive lists – 1.0 FTE assigned to assist superior courts and 1.0 FTE assigned to assist district and municipal courts.

2.0 FTEs would deal with data quality issues in the systems and associated data sets. For 30 years, court staff have been entering data into various systems in various ways with a varying degree of accuracy. This has led to substantial data issues in case information and these individuals would be dedicated solely to Blake data sets.

#### Blake Refund Bureau

1.0 FTE would make Blake-related payments, reimbursing both local governments and individuals.

1.0 FTE would get the word out to people about the opportunity to vacate old charges and obtain reimbursements.

#### General Administration

1.0 FTE would ensure the refund bureau is established and operates successfully and that the lists that are generated are accurate and timely.

1.0 FTE would execute and monitor of all the Blake-related contracts with local governments (over 100 contracts). Even with the LFO refund component centralized at AOC, these contracts would remain in place to reimburse local governments and courts for the work necessary to vacate and resentencing individuals that impacted by the Blake ruling.

1.0 FTE would coordinate the scheduling of hearings in cases where multiple jurisdictions have overlapping charges that need to be vacated.

1.0 FTE would provide administrative support.

#### Explanation of standard costs by object for AOC Staff:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

184,709.00

Form FN (Rev 1/00)

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Request # 200-1

Bill # 1492 S HB

**STATE REIMBURSEMENT OF SUPERIOR COURT COSTS**

In King County, cases filed between 1979 and 2021 take about 80 minutes to process. King County has 56,000 cases and is estimated to be about 20 percent of the state for this specific case area. Cases filed between 1971-1978 (where electronic records are often absent and difficult to research) take significantly longer to locate and process. Estimates for these cases is that it will take about 10 hours to locate each eligible case on average. King County estimates there are 7,000 eligible cases for this period.

Therefore, statewide superior court estimates there are approximately 315,000 eligible cases statewide. Over 8 years, the estimate is another 46 additional clerk staff would be needed statewide to complete the work under this bill with a total estimated cost of \$42.4 million.

**STATE REIMBURSEMENT OF DISTRICT AND MUNICIPAL COURTS**

The district and municipal courts have an estimated 136,000 cases filed between 1979 and 2021. Using the same general assumptions as the superior courts for both processing time on pre- and post-1979 cases, the cost estimate for court staff time statewide to complete the work under this bill would be \$16.4 million.

County impact for district courts is assumed to be about 73% of the cases, equaling \$12.0 million over 8 years.  
 City impact for municipal courts is assumed to be about 27% of the cases, equaling \$4.4 million over 8 years.

**STATE REIMBURSEMENT OF LEGAL FINANCIAL OBLIGATIONS**

This impact is indeterminate. The bill would expand the definition of legal financial obligations eligible for refunds. In the 2021-23 biennium, the Administrative Office of the Courts received the following appropriations to reimburse courts for LFO refunds.

County Legal Financial Obligations = \$46,750,000  
 Municipal Legal Financial Obligations = \$10,000,000

The expectation is the amount would need to be larger with the expanded LFO definition.

**Part III: Expenditure Detail**

**III. A - Expenditure By Object or Purpose (State)**

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	10.0	10.0	10.0	10.0	10.0
Salaries and Wages	941,300	941,300	1,882,600	1,882,600	1,882,600
Employee Benefits	300,000	300,000	600,000	600,000	600,000
Professional Service Contracts					
Goods and Other Services	38,000	38,000	76,000	76,000	76,000
Travel	25,000	25,000	50,000	50,000	50,000
Capital Outlays	16,000	16,000	32,000	32,000	32,000
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services	7,350,000	7,350,000	14,700,000	14,700,000	14,700,000
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements	306,900	306,900	613,800	613,800	613,800
<b>Total \$</b>	<b>8,977,200</b>	<b>8,977,200</b>	<b>17,954,400</b>	<b>17,954,400</b>	<b>17,954,400</b>

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

**III. B - Expenditure By Object or Purpose (County)**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

**III. C - Expenditure By Object or Purpose (City)**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

**III. D - FTE Detail**

<b>Job Classification</b>	<b>Salary</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>2023-25</b>	<b>2025-27</b>	<b>2027-29</b>
Administrative Secretary	55,900	1.0	1.0	1.0	1.0	1.0
Business Analyst	101,100	1.0	1.0	1.0	1.0	1.0
Communications Officer	71,500	1.0	1.0	1.0	1.0	1.0
Contracts Specialist	91,500	1.0	1.0	1.0	1.0	1.0
Manager	135,900	1.0	1.0	1.0	1.0	1.0
Senior Court Program Analyst	101,100	3.0	3.0	3.0	3.0	3.0
Senior Financial Services Analyst	81,000	1.0	1.0	1.0	1.0	1.0
System Integrator	101,100	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>

**III. E - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B1 - Expenditures by Object Or Purpose (State)**

NONE

**IV. B2 - Expenditures by Object Or Purpose (County)**

NONE

**IV. B3 - Expenditures by Object Or Purpose (City)**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 056-Office of Public Defense
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.0	6.0	6.0	6.0	6.0
<b>Account</b>					
Judicial Stabilization Trust Account-State 16A-1	5,963,400	5,969,441	11,932,841	11,961,371	11,969,122
<b>Total \$</b>	5,963,400	5,969,441	11,932,841	11,961,371	11,969,122

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 02/28/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/28/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/28/2023



## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The sections of SHB 1492 that will have a fiscal impact on the Washington State Office of Public Defense (OPD) include:

Sec. 3(1)(a)(ii): Requires prosecutors to notify the OPD when a person who is eligible for vacation of a qualifying conviction is currently serving a sentence under the supervision of the Department of Corrections, as those individuals may become eligible for resentencing under section 6 of the bill.

Sec. 6(1): Provides the right to assistance of counsel for persons who may file a motion to be resentenced where the vacation of a qualifying conviction affects a sentence for separate conviction.

Sec. 8(1): Provides affected persons with the right to challenge a court-ordered refund amount resulting from a prosecutor-filed motion to vacate a qualifying conviction or nonconviction, and provides the affected person with the right to amend the refund amount to include document-verified collateral costs paid as a result of the qualifying conviction or nonconviction.

Sec. 8(2): Provides that if the person is indigent, the person may request the services of counsel, which will be coordinated by state OPD subject to appropriated funding. The services of counsel would include both reviewing the basis for the individual's challenge, and representing the person on a motion to amend the reimbursement order. These hearings will be held in Superior, District, and Municipal Courts.

Sec. 10(3): Requires the Administrative Office of the Courts (AOC) to provide installment reports of qualifying convictions and nonconvictions to the OPD. The OPD may share these reports with local public defense organizations or their contractors providing legal representation to those impacted by State v. Blake.

Sec. 12(4): Requires AOC to notify individuals who have obtained a refund of their right to challenge the refund amount with the assistance of counsel as described in Section 8(2) within a three year time frame. The notice must include information about how to contact OPD to request assistance of counsel to challenge a refund amount.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Assumptions:

#### CONTINUATION OF CURRENT BLAKE DEFENSE FUNDING

1. Pursuant to Engrossed Substitute Senate Bill 5693, Chapter 297, Laws of 2022, Section 115 (5), OPD currently receives funding to support Blake defense efforts in counties, and to provide state-level management and oversight of Blake defense efforts statewide. These funds will expire June 30, 2023. OPD submitted a 2023-2025 Decision Package (entitled AE – Blake Response – Continuation) which is included in the Governor's Budget, to continue these efforts. The costs associated with SHB 1492, as reflected in this fiscal note, correspond to expenditures identified in that Decision Package. In addition, the Department of Commerce's Local Government Fiscal Note for SHB 1492 appears to rely on a continuation of this funding to OPD for local government support.

## FUNDING FOR LOCAL GOVERNMENT PUBLIC DEFENSE SERVICES

2. Expenditure Object Code N – Grants, Benefits & Client Services: OPD currently receives \$5.1 million to support county governments in (1) resentencing individuals whose current sentences may be reduced due to Blake, and (2) filing motions to vacate convictions for individuals who are no longer serving sentences, but have a criminal history which includes simple drug possession. OPD does not receive funding for Blake defense in municipalities.

2.a. It is assumed that OPD will continue allocating funds for defense in County Superior Courts to persons eligible for resentencing under State v. Blake. (See Local Government Fiscal Note.)

2.b. For individuals no longer serving Blake-affected sentences, HB 1492 requires prosecutors to proactively vacate historic Blake convictions without the involvement of defense counsel. Therefore, it is anticipated that OPD will fund fewer public defense motions to vacate Blake convictions in FY '23 - '25.

2.c. However, SHB 1402 requires OPD to provide public defense services to individuals seeking to challenge their ordered reimbursement amount in Superior, District, and Municipal Courts. Defense counsel would screen individuals' challenges, and provide representation in non-frivolous cases. Given the wide number and variety of county and city jurisdictions associated with these reimbursement challenges, OPD assumes that it will not enter into grant agreements with all cities and counties for this level of representation. OPD assumes that in many instances it will enter into contracts directly with public defense organizations and law offices to provide defense representation. Each defense organization or law office will be responsible for screening and representing individuals with non-frivolous Blake reimbursement challenges in the courts within a given geographic area or court jurisdiction.

2.d. It is assumed that the potential vacature cost savings associated with 2.b. above will be absorbed by the added services to challenge reimbursement amounts as described in 2.c. above.

## FUNDING FOR OPD STATE-LEVEL MANAGEMENT AND OVERSIGHT

3. Pursuant to Engrossed Substitute Senate Bill 5693, Chapter 297, laws of 2022, Section 115 (5) – (6), and OPD's '23-'25 Blake Response Decision Package, it is assumed that OPD will continue to receive state funding for statewide management of Blake defense efforts. OPD management duties would be expanded under SHB 1492, and additional duties will be absorbed by OPD staff and associated costs as included in OPD's '23-'25 Blake Response Decision Package. Those costs include:

3.a. As identified at Expenditure Object Code A, Salaries and Wages in the amount of \$510,000 in FY24 (and higher amounts in subsequent years consistent with the state salary schedule, and as identified in Expenditure Object Code B, Employee Benefits in the amount of \$133,400 for FY24. Salaries and benefits increase in subsequent years pursuant to OPD's salary schedule. These costs are based on the following staffing:

2.0 FTE Managing attorneys. One will oversee all grant funds and state-contracted attorneys for Blake defense services. One will manage triage efforts, analyzing data from various resources to identify and prioritize individuals eligible for Blake defense services, and track completion of Blake activities. Annual salary per attorney \$115,000 and benefits \$26,450.

2.0 FTE Paralegals to support the efforts of the Managing Attorneys. In FY 24 annual salary per paralegal \$70,000 and benefits \$16,100. Those amounts increase per salary schedule in subsequent years.

1.0 FTE Community Outreach Specialist to develop and implement a communication plan to inform impacted community members of available services for Blake relief. Much of the public is still unaware of their eligibility to vacate convictions and receive LFO reimbursements. In FY 24 annual salary \$70,000 and benefits \$16,100. Those amounts increase per salary schedule in subsequent years.

0.5 FTE Data Analyst to merge, sort, and organize Blake-related data from state, county and city sources. Annual salary \$45,000 and benefits \$20,700.

0.5 FTE Administrative Assistant to support the above-mentioned positions. Annual salary \$25,000 and benefits \$11,500. Those amounts increase per salary schedule in subsequent years.

4. As identified in Expenditure Object Code C – Professional Service Contracts, OPD assumes it will enter into contracts in the amount of \$200,000 per fiscal year. Contracts would be with service providers for additional technical service such as data analysis, and technical consultation for defense attorneys on complex legal issues beyond the scope of OPD staff

experience.

5. As identified in Expenditure Object Code E – Goods and Other Services, OPD assumes it will spend \$10,000 per fiscal year for software, training, and other related resources associated with state-level management and oversight of Blake defense.

6. As identified in Expenditure Object Code G – Travel, OPD assumes it will spend \$10,000 per fiscal year for travel costs associated with state-level management and oversight of Blake defense.

**FUND SHIFT TO THE JUDICIAL STABILIZATON TRUST ACCOUNT FOR STATE V. BLAKE DEFENSE SERVICES**

7. The speed and pace of Blake work is unpredictable, and many defense functions under SHB 1492 cannot begin until after prosecutors, courts, and the AOC have completed certain new tasks. Given the uncertain timeline for the Blake defense services required by SHB 1492, and to ensure timely assistance for Blake public defense under these circumstances, OPD assumes a funding shift from the State General Fund into the Judicial Stabilization Trust Account (JSTA) to provide for the fiscal year flexibility allowed within the biennialized JSTA fund.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
16A-1	Judicial Stabilization Trust Account	State	5,963,400	5,969,441	11,932,841	11,961,371	11,969,122
<b>Total \$</b>			5,963,400	5,969,441	11,932,841	11,961,371	11,969,122

**III. B - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.0	6.0	6.0	6.0	6.0
A-Salaries and Wages	510,000	514,856	1,024,856	1,047,640	1,053,828
B-Employee Benefits	133,400	134,585	267,985	273,731	275,294
C-Professional Service Contracts	200,000	200,000	400,000	400,000	400,000
E-Goods and Other Services	10,000	10,000	20,000	20,000	20,000
G-Travel	10,000	10,000	20,000	20,000	20,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	5,100,000	5,100,000	10,200,000	10,200,000	10,200,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	5,963,400	5,969,441	11,932,841	11,961,371	11,969,122

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Community Outreach Specialist (1.0 FTE)	70,000	1.0	1.0	1.0	1.0	1.0
Data Analyst (0.5 FTE)	90,000	0.5	0.5	0.5	0.5	0.5
Managing Attorney (2.0 FTE)	115,000	2.0	2.0	2.0	2.0	2.0
Paralegal (2.0 FTE)	70,000	2.0	2.0	2.0	2.0	2.0
Program Assistant (0.5 FTE)	50,000	0.5	0.5	0.5	0.5	0.5
<b>Total FTEs</b>		6.0	6.0	6.0	6.0	6.0

**III. D - Expenditures By Program (optional)**

NONE

## **Part IV: Capital Budget Impact**

### **IV. A - Capital Budget Expenditures**

NONE

### **IV. B - Expenditures by Object Or Purpose**

NONE

### **IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

### **IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.1	0.0
<b>Account</b>					
Legal Services Revolving Account-State 405-1	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 02/23/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/23/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/23/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Section 1: New section providing definitions, including defining “qualifying conviction” as “any conviction or juvenile adjudication of a qualifying offense. “Qualifying non conviction” also is defined. “Qualifying offense” is defined to include “any offense that the State Supreme Court rules unconstitutional in light of State v. Blake, No. 96873-0 (decided February 25, 2022).”

Section 2: New section declaring eligibility to have a qualifying conviction vacated by the sentencing court.

Section 3: New section applying to prosecuting attorneys and court clerks.

Section 4: New section authorizing persons with a qualifying conviction or qualifying non-conviction to apply for a vacation of the conviction or a refund of non-conviction legal financial obligations.

Section 5: New section applying to the courts when they determine any valid motion to vacate any qualifying conviction under this chapter.

Section 6: New section authorizing motions for resentencing if vacation of a qualifying conviction affects a sentence imposed for a separate conviction by altering the person’s offender score under RCW 9.94A.525.

Section 7: New section applying to the courts when they determine any valid motion to refund legal obligations for a non-qualifying conviction under this chapter.

Section 8: New section authorizing challenges of refund amounts issued by the Refund Bureau within three years of the issuance of the refund.

Section 9: New section applying to legal financial obligations refunded as a result of vacated legal financial obligations.

Section 10: New section requiring the Administrator of the Court (AOC), in coordination with court clerks, to develop comprehensive reports for each court for all persons with qualifying convictions or qualifying non convictions. Due dates for reports are listed.

Section 11: New section exempting from public disclosure any reports compiled, received, or shared under this chapter.

Section 12: New section requiring AOC to create and administer a Refund Bureau to provide direct refunds to entitled persons. The Refund Bureau must create a model application form for refund requests. The Department of Corrections (DOC) must provide AOC with a certified list of all qualifying convictions in which the defendant paid any amount towards the cost of supervision by January 1, 2024. AOC must create a searchable database to facilitate the refund process.

Section 13: New section providing that nothing in this chapter is intended to modify or affect other vacation procedures or requirements.

Section 14: Adds a new section to RCW 42.56 to exempt from public disclosure any reports compiled, received, or shared under this chapter.

Section 15: Amends RCW 9.94A.640 to provide an exception to the bar to an offender from having a record of conviction cleared, as provided in Section 1 and subsection (3) of this section.

Section 16: Amends RCW 9.96.060 to add a reference to Section 1 and subsection (6) of this section.

Section 17: Amends RCW 72.09.480 to provide that legal financial obligations reimbursed pursuant to State v. Blake are exempt from subsection (2)'s deduction requirement when the defendant is in custody in a correctional facility.

Section 18: Provides that Sections 1 through 13 constitute a new chapter in Title 9 RCW.

This bill is assumed effective 90 days after the end of the 2023 legislative session.

## **II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Administrative Office of the Courts (AOC). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

### **AGO AGENCY ASSUMPTIONS:**

AOC will be billed for non-Seattle rates:

FY 2024: \$29,000 for 0.11 Deputy Solicitor General FTE (DSG) and 0.06 Legal Assistant 3 FTE (LA).

FY 2025: \$26,000 for 0.10 DSG and 0.05 LA.

FY 2026: \$19,000 for 0.07 DSG and 0.04 LA.

FY 2027: \$11,000 for 0.04 DSG and 0.02 LA.

FY 2028: \$3,000 for 0.01 DSG and 0.01 LA.

## **II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

### **Attorney General's Office (AGO) Agency Assumptions:**

This bill is assumed effective 90 days after the end of the 2023 legislative session.

Location of staffing is assumed to be in a non-Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables. The Management Analyst 5 (MA), is used as a representative classification. An example ratio is for every 1.0 Deputy Solicitor General FTE (DSG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of an MA.

Assumptions for the AGO Solicitor General's Office (SGO) Legal Services for the Administrative Office of the Courts (AOC):

The AGO will bill AOC for legal services based on the enactment of this bill.

This bill would require the SGO to provide additional advice to AOC on questions relating to the implementation of the new requirements in this bill, including creation and maintenance of a refund bureau and searchable database, and compliance with notice and reporting requirements.

SGO total FTE workload impact for non-Seattle rate:

- FY 2024: \$29,000 for 0.11 DSG and 0.06 LA.
- FY 2025: \$26,000 for 0.10 DSG and 0.05 LA.
- FY 2026: \$19,000 for 0.07 DSG and 0.04 LA.
- FY 2027: \$11,000 for 0.04 DSG and 0.02 LA.
- FY 2028: \$3,000 for 0.01 DSG and 0.01 LA.

The AGO Torts Division (TOR) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Department of Enterprise Services (DES). This bill will not impact the provision of legal services to DES. The Legislature intends to provide only procedures for vacating certain convictions, non-convictions, pleas, sentences, legal financial obligations, and the like for drug-related offenses covered by the State v. Blake decision. DES is not involved with any of the procedures described in the bill. Therefore, costs are not included in this request.

The AGO Government Compliance and Enforcement Division (GCE) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing Washington State Patrol (WSP). GCE provides litigation support for a number of WSP programs, including asset forfeitures resulting from drug trafficking. The provisions of this bill, which relate to convictions for simple possession of drugs would not have an impact on any of GCE’s administrative forfeiture work or other program work. Therefore, costs are not included in this request.

The AGO Criminal Justice Division (CRJ) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing WSP. This bill adds requirements for WSP regarding updates to criminal history records and about subsequent dissemination of information. CRJ assumes there may be legal advice needed regarding eligibility to possess firearms. If such requests arise, however, new legal services are nominal and costs are not included in this request.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>			29,000	26,000	55,000	30,000	3,000

#### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.1	0.0
A-Salaries and Wages	20,000	18,000	38,000	21,000	2,000
B-Employee Benefits	6,000	6,000	12,000	6,000	1,000
E-Goods and Other Services	3,000	2,000	5,000	3,000	
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000



**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Deputy Solicitor General AAG	138,000	0.1	0.1	0.1	0.1	0.0
Legal Assistant 3	55,872	0.1	0.1	0.1	0.0	0.0
Management Analyst 5	91,524	0.0	0.0	0.0	0.0	
<b>Total FTEs</b>		0.2	0.2	0.2	0.1	0.0

**III. D - Expenditures By Program (optional)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Solicitor General Division (SGO)	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/22/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/22/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/22/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

See attached.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None.

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

See attached.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

**SHB 1492**  
**PROVIDING RELIEF FOR PERSONS AFFECTED**  
**BY *STATE V. BLAKE***  
**101 – Caseload Forecast Council**  
**February 21, 2023**

**SUMMARY**

**A brief description of what the measure does that has fiscal impact.**

- Section 1 Adds a new section defining terms in the act, to include “Qualifying Conviction,” “Qualifying Nonconviction,” and “Qualifying Offense.”
- Section 2 Adds a new section stating that any person with a qualifying conviction is eligible to have such conviction vacated by the sentencing court under this chapter. Additionally state any person with a qualifying conviction or qualifying nonconviction is eligible for a refund of all legal financial obligations paid as a result of the qualifying conviction or qualifying nonconviction.
- Section 3 Adds a new section requiring a prosecuting attorney to review all qualifying convictions and nonconvictions upon receipt of a report required in Section 9 of the act.
- Section 4 Adds a new section state persons with a qualifying conviction or nonconviction may apply to the sentencing court for a vacation of the conviction or a refund of nonconviction legal financial obligations (LFOs), regardless of whether a prosecuting attorney is expected to file a motion under Section 3 of the act. Requires the prosecutor to respond within 30 days to any applications.
- Section 5 Adds a new section requiring the court to do the following when a valid motion to vacate a qualifying conviction is determined:
- Set aside each plea or verdict, dismiss the information, indictment, complaint, or citation and vacate the judgment and sentence;
  - Quash any outstanding warrants related to the vacated qualifying conviction;
  - Release the individual from all penalties resulting from the vacated qualifying conviction;
  - Prohibit the vacated qualifying conviction from being included in a person’s criminal history for purposes of determining bail in a subsequent prosecution;
  - Direct the clerk to notify Dept. of Licensing to reinstate the person’s privilege to drive if suspended due to the qualifying conviction; and
  - Other requirements associated with legal financial obligations resulting from the qualifying conviction.
- Section 5 Additionally requires the clerk to transmit the court order to vacate a qualifying conviction to the Washington State Patrol (WSP), upon receipt of the court order. Requires WSP and any local police agency to update their records to reflect the vacation and transmit the vacation order to the Federal Bureau of Investigation,

within 7 working days of receipt. States vacated convictions may not be disseminated or disclosed.

Section 5 Additionally states a qualifying conviction vacated under this chapter may not be included in a person's criminal history and the person must be released from all penalties and disabilities resulting from the offense.

Section 6 States that if a vacation of a qualifying conviction affects a sentence imposed for a separate conviction by altering the person's criminal history, then a person may file a motion to be resentenced. States any person with a qualifying conviction who is currently serving a sentence, or a pending sentence, under the supervision of the Department of Corrections (DOC) has a right to counsel for resentencing proceedings. Restricts prosecuting attorneys from filing dismissed chargers in relation to the conviction for which a person qualifies for resentencing.

Sections 7-9 Concerns LFOs.

Section 10 Adds a new section requiring the Administrative Office of the Courts (AOC), in coordination with other specified courts, to develop reports for each court of all persons with qualifying convictions or qualifying nonconvictions. Lists the prioritization of cases and states DOC and the clerks of the courts shall provide assistance. Requires clerks to provide reports to local prosecutors. Requires AOC to complete the report for all qualifying convictions and qualifying nonconvictions under Section 1(9)(a)-(c) by January 1, 2024, for those under Section 1(9)(a)-(c); and for those under Section 1(9)(d) by July 1, 2024.

Section 11 Adds a new section to chapter 42.56 RCW stating reports compiled, received, and shared under this chapter are exempt from disclosure under the chapter. Additionally adds that no public agency, public official, or custodian shall be liable for any loss or damage based on a release of a report under this chapter if acted in good faith.

Section 12 Adds a new section requiring AOC to create and administer a refund bureau to provide refunds to individuals entitled to such pursuant to a vacated qualifying conviction or qualifying nonconviction. Additionally required DOC to provide AOC with a certified list of all qualifying convictions in which the defendant paid any amount towards the cost of supervision.

Section 13 New section that states nothing in this chapter is intended to modify or have any affect on procedures or requirements for a vacation of a criminal offense under other provisions of law.

Section 14 Adds a new section to chapter 42.56 RCW stating reports compiled, received, and shared under Section 9 of the act are exempt from disclosure under the chapter.

Section 15 Amends RCW 9.94A.640 by adding provisions of Section 1 of the act and subsection 3 of this section from the list of offenders who may not have the record of conviction cleared.

Section 16 Amends RCW 9.96.060 by adding a reference to Section 1 of the act and correcting a reference to a subsection changed by the act exclusions to the list of persons convicted of a misdemeanor or gross misdemeanor who may not have the record of conviction cleared.

Section 17 Amends RCW 72.09.480 by amending the definition of "program" and excluding subsection (9) added in this section to the list of required deductions. Subsection (9) is added, stating LFOs reimbursed pursuant to *State v. Blake* are exempt from required deductions. Additionally exempts funds for certificate programs from required deductions.

Section 18 States Sections 1-13 of the act constitute a new chapter in Title 9 RCW.

## **EXPENDITURES**

### **Assumptions.**

None.

### **Impact on the Caseload Forecast Council.**

None.

### **Impact Summary**

This bill establishes a process for vacating convictions and nonconvictions and reimbursement of LFOs pursuant to the *State v. Blake* decision, and sets timelines for review and processing of *State v. Blake* cases.

### **Impact on Prison and Jail beds, Juvenile Rehabilitation (JR) and local detention beds and DOC Supervision Caseload**

While eligible individuals currently have the ability to apply for vacation, this bill may result in the identification, and subsequent vacation or resentencing, of additional individuals with a simple possession offense. Additionally, this bill expands the right to vacate convictions to individuals convicted of an offense that was predicated by a simple possession offense listed in Section 1(6)(a)-(c) of the act (i.e., individuals who have convictions for Unlawful Possession of a Firearm in the First or Second Degree whose prior offense that predicated the conviction was a *State v. Blake* offense). The definition of qualifying conviction established in this bill includes RCWs for simple possession dating back to 1951, which may be an expansion of eligible individuals.

As such, there may be decreased need for Prison and Jail beds, JR and local detention beds, and reduced DOC Supervision caseload, but the CFC does not have the information necessary to estimate the impact.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 179-Department of Enterprise Services
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Julie McVey	Phone: (360) 407-9334	Date: 02/22/2023
Agency Approval: Ashley Howard	Phone: (360) 407-8159	Date: 02/22/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/22/2023



## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The purpose of this bill is to provide relief for persons affected by State v. Blake. This bill amends RCW 9.94A.640, 9.96.060, and 72.09.480, and adds a new section to chapter 42.56 RCW, and adds a new chapter to Title 9 RCW.

Section 2 indicates that those convicted of certain drug-related offenses may have their conviction expunged and may seek reimbursement for costs and penalties associated with that conviction.

Section 10 (1) indicates that the Administrative Office of the Courts must create and administer a refund bureau to provide direct refunds to persons who are entitled to a refund of legal financial obligations.

These payments would not be made from the Department of Enterprise Services Self-Insurance Liability Account. Therefore, there is no fiscal impact to the Department of Enterprise Services.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

#### **IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

#### **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 225-Washington State Patrol
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	12.0	12.0	12.0	10.0	10.0
<b>Account</b>					
General Fund-State 001-1	1,570,873	1,440,314	3,011,187	2,415,308	2,415,308
<b>Total \$</b>	1,570,873	1,440,314	3,011,187	2,415,308	2,415,308

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Michael Middleton	Phone: (360) 596-4072	Date: 02/23/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 02/23/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 02/24/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The substitute bill continues to have a fiscal impact for the Washington State Patrol (WSP). Newly proposed language does not affect the work we would undertake as a result of the bill. New numbering of sections and subsections result in changes to the impacting references, but the majority of the original assumptions remain.

Subsections 1(9)(a) through (e) list qualifying offenses that could be eligible for records vacating or the conditions under which the qualifying offense meets such eligibility. The substitute version removes some offenses that were previously identified as qualifying. This does not change our expected fiscal impact.

Section 5(3) of the proposed substitute retains language establishing a seven working-day turnaround on complying with vacate orders while amending language to make permissible the dissemination or disclosure of a record only with other criminal justice enforcement agencies.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Our overall fiscal impact has increased slightly as a result of the recent change to our approved indirect cost rate which becomes effective July 1, 2023.

To fully meet the expected workload of the bill requires continuation and expansion of our Drug Conviction Correction Unit (DCCU) within the Criminal Records Division that is currently funded under a one-time budget proviso. We estimate a 25% monthly increase in records (from approximately 8,000 to 10,000) for vacation processing as a result of this bill requiring a unit of 10.0 FTE: 1.0 Correctional Records Supervisor, 1.0 Correctional Records Technician Lead, and 8.0 Correctional Records Technicians. With the seven-day turnaround on processing introduced by subsection 5(3) and each CRT presently processing approximately 1,300 records a month the unit size provides a processing buffer to account for impacts from work absence or turnover. New staff require approximately 6-8 months of training to be fully skilled in the systems processing, so initial throughput of the added CRTs will be less than 1,300 records per month.

Note: The governor's budget proposal includes funding for 8 of the 10 FTE referenced in the paragraph above to continue the DCCU work.

Additionally, we expect that our existing backlog of vacate orders will be approximately 25,000 records by July 1, 2023, which will require an additional 2.0 Correctional Records Technicians for a period of two years, inclusive of training time, to clear the backlog and allow the DCCU to achieve and maintain the seven-day turnaround on processing.

We base estimated salary expenditures on current levels for the positions requested per published salary schedules, plus any applicable incentive or assignment pay. We compute estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers' compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase.

We compute estimated support expenditures such as supplies & materials, communications, computer costs (hardware and software), vehicle and vehicle operating costs, among others, using average costs to support agency FTEs. We adjust the estimated support costs to reflect the needs of individual divisions or positions within the agency.

We base our estimate for agency indirect costs on the federal indirect cost rate of 33.41 percent approved by the U.S. Department of Transportation on February 14, 2023. This rate is effective July 1, 2023, and is used on all estimates completed after the approval date. We apply this indirect cost rate percentage to all categories of expenditure with only two exceptions: capital equipment and expenditures after \$25,000 of each projected contract. Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	1,570,873	1,440,314	3,011,187	2,415,308	2,415,308
<b>Total \$</b>			1,570,873	1,440,314	3,011,187	2,415,308	2,415,308

**III. B - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29	
FTE Staff Years	12.0	12.0	12.0	10.0	10.0	
A-Salaries and Wages	688,428	688,428	1,376,856	1,153,368	1,153,368	
B-Employee Benefits	292,877	292,877	585,754	489,222	489,222	
C-Professional Service Contracts						
E-Goods and Other Services	79,824	66,288	146,112	110,480	110,480	
G-Travel	12,000	12,000	24,000	24,000	24,000	
J-Capital Outlays	134,400	21,900	156,300	36,500	36,500	
M-Inter Agency/Fund Transfers						
N-Grants, Benefits & Client Services						
P-Debt Service						
S-Interagency Reimbursements						
T-Intra-Agency Reimbursements						
9-Indirect Costs	363,344	358,821	722,165	601,738	601,738	
<b>Total \$</b>		1,570,873	1,440,314	3,011,187	2,415,308	2,415,308

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Correctional Records Supervisor	68,076	1.0	1.0	1.0	1.0	1.0
Correctional Records Technician	55,872	10.0	10.0	10.0	8.0	8.0
Correctional Records Technician Lead	61,632	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		12.0	12.0	12.0	10.0	10.0

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 240-Department of Licensing
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

### Estimated Operating Expenditures from:

		FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>						
Highway Safety Account-State 106		23,000	0	23,000	0	0
-1						
<b>Total \$</b>		23,000	0	23,000	0	0

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: Don Arlow	Phone: (360) 902-3736	Date: 02/23/2023
Agency Approval: Gerrit Eades	Phone: (360)902-3863	Date: 02/23/2023
OFM Review: Kyle Siefering	Phone: (360) 995-3825	Date: 02/23/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

See attached fiscal note

### II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached fiscal note

### II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached fiscal note

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
106-1	Highway Safety Account	State	23,000	0	23,000	0	0
<b>Total \$</b>			23,000	0	23,000	0	0

### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	23,000		23,000		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	23,000	0	23,000	0	0

**III. C - Operating FTE Detail:** FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.

NONE

### III. D - Expenditures By Program (optional)

NONE



## **Part IV: Capital Budget Impact**

### **IV. A - Capital Budget Expenditures**

NONE

### **IV. B - Expenditures by Object Or Purpose**

NONE

### **IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

### **IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

Agency 240 – Department of Licensing

Bill Number: SHB 1492

Bill Title: State v. Blake relief

**Part 1: Estimates**

No Fiscal Impact

**Estimated Cash Receipts:**

**INDETERMINATE; PLEASE SEE NARRATIVE**

**Estimated Expenditures:**

	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
FTE Staff Years	-	-	-	-	-

Operating Expenditures	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Highway Safety	106	23,000	-	23,000	-	-
<b>Account Totals</b>		<b>23,000</b>	<b>-</b>	<b>23,000</b>	<b>-</b>	<b>-</b>

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions.

- If the fiscal impact is **less than \$50,000** per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- If fiscal impact is **greater than \$50,000** per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: (360) 786-7841	Date: 2/20/2023
Agency Preparation: Don Arlow	Phone: (360) 902-3736	Date: 2/23/2023
Agency Approval: Gerrit Eades	Phone: (360) 902-3931	Date:

Request #	1
Bill #	1492 SHB

## **Part 2 – Explanation**

This bill requires the courts to refund or cancel financial obligations related to a qualifying conviction or nonconviction defined by the State v. Blake decision. The bill requires the courts to vacate qualifying convictions and nonconvictions and provide the Administrative Office of the Courts (AOC) with reports related to paid financial obligations that must be refunded. In addition, the bill also authorizes AOC to notify the Department of Licensing (DOL) to reinstate driving privileges when applicable.

**SHB 1492 compared to HB 1492:** SHB 1492 removes any fee related to reissuing or reinstating a driver's license from the definition of financial obligations. During analysis of the substitute bill the department discovered a missing element from the original bill's analysis. This fiscal note includes an information technology systems modification.

### **2.A – Brief Description Of What The Measure Does That Has Fiscal Impact**

Section 1 states that the definition of a legal financial obligation does not include any fee related to reissuing or reinstating a driver's license under Chapter 46.20 RCW.

Section 5 directs the court to notify DOL to reinstate a person's driving privilege if they were suspended due to a qualifying conviction under the provisions of the bill.

### **2.B - Cash receipts Impact**

Cash receipts impact is indeterminate. The bill requires courts to vacate qualifying convictions and nonconvictions and provide AOC with reports related to paid financial obligations that must be refunded. The bill also authorizes AOC to notify DOL to reinstate driving privileges when applicable. It is assumed that reinstatements under the bill would not be accompanied by the \$75 reissue fee collected by DOL. It is not known how many individuals subject to the State v. Blake decision will have their conviction vacated and driving privileges reinstated at no fee.

### **2.C – Expenditures**

This bill will not have an impact on operational expenditures.

#### **Information Services:**

The agency will use appropriated funds to hire contract programmers to accomplish this work or to support current staff implementing this legislation within the required timeline. Appropriated funds may also be used to hire agency temporary staff to support permanent staff assigned to this legislative effort.

Any change requires a process to ensure changes are correctly applied to the system. This involves Project Managers that manage the team that completes the update, business analyst that documents and reviews the system changes, architect services that analyzes how the update could have an effect on other systems or DOL processes, developers who create the change, and testers and quality assurance teams that ensure the update is working correctly.

Cost Category	Description	Rate	2024	2025	2026	2027	2028	2029	Total Cost
TESTER	Test to verify individual components meet requirements; ensure that other business transactions have not been impacted.	\$ 22,620	4,500	-	-	-	-	-	4,500
BUSINESS ANALYST	Determine business requirements; translate requirements into what changes are needed to various systems including account codes, inventory codes, testing considerations, etc.	\$ 16,530	1,700	-	-	-	-	-	1,700
PROJECT MANAGER	Manage schedule and contracts	\$ 28,710	2,900	-	-	-	-	-	2,900
SECURITY AND ARCHITECT SERVICES	Create the conceptual model that defines the structure, behavior and framework of a computerized system including a breakdown of the system into components, the component interactions and interfaces (including with the environment, especially the user), and the technologies and resources to be used in the design.	\$ 16,530	1,700	-	-	-	-	-	1,700
CONTRACTED FAST DEVELOPER / TESTER	Updates to the DRIVES system will require additional vendor hours outside of the contracted maintenance to make system updates to implement this bill.	\$ 37,236	7,400	-	-	-	-	-	7,400
Trainer	Trains business partners and employees in new system processes and capabilities.	\$ 22,620	2,300	-	-	-	-	-	2,300
Project Contingency	Office of the Chief Information Officer designated rate of 10%	\$ 25,474	2,100	-	-	-	-	-	2,100
<b>Totals</b>			<b>22,600</b>	-	-	-	-	-	<b>22,600</b>

What DOL will implement:

1. Modify system to add a new disposition type for the dismissal.

### Part 3 – Expenditure Detail

#### 3.A – Operating Budget Expenditures

Operating Expenditures	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Highway Safety	106	23,000	-	23,000	-	-
<b>Account Totals</b>		<b>23,000</b>	<b>-</b>	<b>23,000</b>	<b>-</b>	<b>-</b>

#### 3.B – Expenditures by Object or Purpose

Object of Expenditure	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Goods and Services	23,000	-	23,000	-	-
<b>Total By Object Type</b>		<b>23,000</b>	<b>-</b>	<b>23,000</b>	<b>-</b>

#### 3.C – FTE Detail

None.

### Part 4 – Capital Budget Impact

None.

### Part 5 – New Rule Making Required

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	37.1	25.6	31.4	25.6	25.6
<b>Account</b>					
General Fund-State 001-1	3,667,000	2,675,000	6,342,000	5,350,000	5,350,000
<b>Total \$</b>	3,667,000	2,675,000	6,342,000	5,350,000	5,350,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Preparation: John Ching	Phone: (360) 725-8428	Date: 03/02/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 03/02/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/07/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

S HB1492 differs from HB1492 in that it directs the Department of Corrections (DOC) to provide to the Administrative Office of the Courts (AOC) a certified list of all qualifying convictions in which a defendant paid any amount towards the Cost of Supervision (COS) by January 1, 2024. The bill also defines collection costs, cost of supervision, and document-verified collateral cost. The bill redefines Prosecuting Attorney (PA), qualifying conviction, and Legal Financial Obligation (LFO) (notably removing COS and thereby excluding DOC from references to LFO refund in the bill). And the bill removes predicated offenses listed in the original bill in addition to the possession specific offenses covered by the Blake decision.

The purpose of this bill is to provide relief for persons affected by State v. Blake. This bill amends RCW 9.94A.640, 9.96.060, and 72.09.480, and adds a new section to chapter 42.56 RCW, and adds a new chapter to Title 9 RCW.

Section 1 adds a new section and defines COS as a fee paid to DOC.

Section 3(1)(a) states that on all qualifying convictions and non-convictions PAs will need to determine if the defendant is serving any sentence under DOC supervision. While not specified, it appears DOC would need to provide this data.

Section 6 gives indigent individuals the right to court-appointed counsel and defines individuals under DOC supervision as indigent for this purpose.

Section 12(1) authorizes AOC to issue refunds of COS payments made “as a result of a qualifying convictions” through its refund bureau, based on a certified list from DOC. This wording anticipates that DOC will refund in full all COS paid, specifically on the vacated cause. However, DOC does not apply COS payments in this way. If it is even possible to calculate COS paid by cause, it will be exceedingly difficult and time-consuming work, which DOC’s LFO/COS Unit is not currently staffed to manage.

Section 12(2) requires DOC to provide AOC with a single certified list of all qualifying convictions in which the defendant paid any amount towards the COS by January 1, 2024.

Effective date is assumed to be 90 days after adjournment of session in which this bill is passed.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None.

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

We assume this bill will have a fiscal impact to DOC greater than \$50,000 per Fiscal Year (FY).

This bill establishes a process for vacating convictions and non-convictions and reimbursement of COS pursuant to the State v. Blake decision and sets timelines for review and processing of State v. Blake cases.

## LFO/COS REIMBURSEMENT IMPACTS

Section 12(2) requires DOC to provide AOC with a single certified list of all qualifying convictions in which the defendant paid any amount towards the COS by January 1, 2024. We project it will take two full years to complete calculations on just those vacates DOC has already received, not to include the known vacates that have not been granted yet.

Calculating COS paid and applying payments to specific vacated causes will be time and labor intensive. We assume 33.3 Fiscal Technicians are required for 6 months to complete the bulk of the calculations, then beginning the second year, 6.0 Fiscal Technicians for ongoing maintenance. 2.0 Management Analyst 4's would be needed during the first 6 months of the first year to manage this newly formed team. 1.0 Management Analyst 4 would be needed starting from the second year onward.

- 2.0 Management Analyst 4
  - o Responsible for creating processes and job aids for staff related to vacates and resentencing.
  - o Maintains data
  - o Conducts second reviews and is responsible for updates in the electronic database.
  
- 33.3 Fiscal Technician 2s
  - o Reviews all release orders, calculates associated refunds of LFOs, COS, and other fees, and processes calculations for formally incarcerated, or supervised, individuals.
  - o Prepares the metrics/data to be transferred to the AOC and Prosecutor's office.

## ASSUMPTIONS:

1. 6 months to complete per deadline in substitute
2. No review for causes where no COS payment was made
3. Estimated 50,000 total vacates; no predicated offenses per substitute
4. Estimate 34% with COS prior to 10/1/2011 (requires review of frozen OBTS reports = 60+ min/review), 66% with COS on/after 10/1/2011 (15 min/review)
5. Full staffing to these projected levels by 7/1/2023
6. Project 20% have paid any COS on the vacated cause
7. Project 40% will have multiple causes, averaging 3 causes
8. Does not account for work associated with potential appeals, reconciling OMNI records, re-reviews for newly vacated causes, administrative work associated with lists received
9. Estimates may change if AOC assumes any of the processing work

## RESENTENCING STAFFING IMPACTS

DOC's funding for State v. Blake and other resentencing support resources ends June 30, 2023. As of December 2022, DOC has processed over 29,000 orders due to State v. Blake. Additional RCWs that qualify for a vacate will add to the existing workload. These resentencing decisions impact multiple divisions across the department. The following staff will be needed to support this work going forward:

- 1.0 Resentencing Administrator
  - o Analyzes information; leads multi-disciplinary work groups; develops, implements, and manages plans in response to changes involving legislation, court decisions, or other law changes impacting post-conviction re-sentencing.
  - o Works across DOC with all impacted units, programs, and divisions for such changes to ensure effective and appropriate policies and procedures are developed and implemented accordingly and that resources are distributed to those intended.
  - o Responsible for ensuring the safe and successful release of individuals impacted by post-conviction resentencing.
  
- 1.0 Office Assistant 3
  - o Assists the Resentencing Administrator by scheduling meetings, monitoring resentencing email boxes, creating agendas, taking meeting minutes, tracking actions for follow-up, recording decisions, writing, and editing memos and other documents,

and assisting with tracking important data points for reporting to DOC leadership, stakeholders, the Governor's Office, and the legislature.

- 1.0 Director of Social Work
  - o Develop policies and procedures to support the effective transition of healthcare and other support services as people release from prison.
  - o Direct the process for establishment of surrogate decision-makers and guardians.
  - o Provide clinical oversight for facility-based social workers.
  - o Collaborate with other divisions for comprehensive reentry planning.
  - o Collaborate with other state agencies, to include Health Care Authority and Department of Social and Health Services, to enhance smooth transitions from prison to the community.
  
- 1.0 Management Analyst 4
  - o Responsible for creating processes and job aids for staff related to vacates and resentencing.
  - o Maintains the data related to quality reviews for vacates and resentencing.
  - o Responsible for tracking the conditional commutation process for community custody in collaboration with the Office of Public Defense (OPD) and Governor's Office for this task.
  - o Conducts second reviews for all quality reviews and is responsible for updates in the electronic database.
  
- 3.0 Management Analyst 3
  - o Monitors a centralized email box to answer inquiries from attorneys who are preparing for a resentencing.
  - o Responsible for quality review of sentence and time calculations related to vacates and resentencing.
  - o Responsible to ensure correct coding of actions.
  - o Answers questions for facility records staff on complex resentencing questions.
  
- 1.0 Correctional Records Technician Lead
  - o Responsible to maintain the list of vacated convictions and assigns work to ensure the conviction is vacated from the Criminal Conviction Record (CCR), so that the static portion of the WA One is accurate.
  
- 2.0 Correctional Records Technicians
  - o Responsible to update the criminal conviction record to ensure that vacated convictions are no longer scoring on the static portion of the WA One. This workload is only anticipated to increase once the Administrative Office of the Courts/OPD identify the impacted individuals for court action (they received funding as well for this work).
  
- 3.0 Communication Consultant 3
  - o Complete expedited public disclosure reviews to aid legal proceedings related to resentencing.
  
- 3.0 Correctional Specialist 3
  - o Work closely with classification counselors and health services staff to determine reentry needs of the individual and prioritize services and resources for those without support upon release.

The DOC requests funding for the indirect costs of agency administration (3.4 FTE's and \$320,000) and requests funding for interagency costs of (\$65,000), for the purpose of implementing this legislation. The approved agency indirect rate and associated cost of administration are calculated based on the salaries and benefits of staff conducting back office administrative functions, divided by all remaining salaries and benefits.

Cost Summary (rounded to the nearest thousand):

FY2024: \$3,667,000 and 37.1 FTE's  
FY2025: \$2,675,000 and 25.6 FTE's  
FY2026: \$2,675,000 and 25.6 FTE's  
FY2027: \$2,675,000 and 25.6 FTE's  
FY2028: \$2,675,000 and 25.6 FTE's



FY2029: \$2,675,000 and 25.6 FTE's

**ASSUMPTIONS:**

1. If the Policy Level Decision Package, EL – Resentencing & Reentry Support is funded in the 2023-25 Biennium, the fiscal impacts of this legislation will need to be adjusted.
2. It is assumed that DOC will “true-up” the needs requested in this fiscal note in a future decision package should this legislation be signed into session law.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	3,667,000	2,675,000	6,342,000	5,350,000	5,350,000
<b>Total \$</b>			3,667,000	2,675,000	6,342,000	5,350,000	5,350,000

**III. B - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	37.1	25.6	31.4	25.6	25.6
A-Salaries and Wages	2,070,000	1,604,000	3,674,000	3,208,000	3,208,000
B-Employee Benefits	846,000	613,000	1,459,000	1,226,000	1,226,000
C-Professional Service Contracts					
E-Goods and Other Services	104,000	70,000	174,000	140,000	140,000
G-Travel	146,000	139,000	285,000	278,000	278,000
J-Capital Outlays	181,000	6,000	187,000	12,000	12,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	320,000	243,000	563,000	486,000	486,000
9-					
<b>Total \$</b>	3,667,000	2,675,000	6,342,000	5,350,000	5,350,000

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
COMMUNICATIONS CONSULTANT 3	75,741	3.0	3.0	3.0	3.0	3.0
CORRECTIONAL RECORDS TECHNICIAN	63,735	2.0	2.0	2.0	2.0	2.0
CORRECTIONAL RECORDS TECHNICIAN LEAD	70,287	1.0	1.0	1.0	1.0	1.0
CORRECTIONS SPECIALIST 3	77,028	3.0	3.0	3.0	3.0	3.0
DIRECTOR OF SOCIAL WORK	133,044	1.0	1.0	1.0	1.0	1.0
FISCAL TECHNICIAN 2	43,798	16.7	6.0	11.4	6.0	6.0
MANAGEMENT ANALYST 3	71,515	3.0	3.0	3.0	3.0	3.0
MANAGEMENT ANALYST 4	82,901	2.0	2.0	2.0	2.0	2.0
MANAGEMENT ANALYST 5	91,525	3.4	2.6	3.0	2.6	2.6
OFFICE ASSISTANT 3 - TEAMSTERS	52,304	1.0	1.0	1.0	1.0	1.0
RESENTENCING ADMINISTRATOR	118,116	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		37.1	25.6	31.4	25.6	25.6

**III. D - Expenditures By Program (optional)**

<b>Program</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>2023-25</b>	<b>2025-27</b>	<b>2027-29</b>
Administration & Support Svcs (100)	320,000	243,000	563,000	486,000	486,000
Community Supervision (300)	1,327,000	559,000	1,886,000	1,118,000	1,118,000
Interagency Payments (600)	65,000	44,000	109,000	88,000	88,000
Offender Change (700)	1,955,000	1,829,000	3,784,000	3,658,000	3,658,000
<b>Total \$</b>	<b>3,667,000</b>	<b>2,675,000</b>	<b>6,342,000</b>	<b>5,350,000</b>	<b>5,350,000</b>

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None.

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1492 S HB	<b>Title:</b> State v. Blake relief
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**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities:
- Counties: Costs for county prosecutors and court-appointed defense attorneys; revenue for public defense. Please see the fiscal note of the Administrative Office of the Courts for a discussion of revenue reductions due to reimbursed LFOs.
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

**Part II: Estimates**

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Decreased need for jail beds

**Estimated revenue impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	2,550,000	2,550,000	5,100,000		
<b>TOTAL \$</b>	2,550,000	2,550,000	5,100,000		
<b>GRAND TOTAL \$</b>					5,100,000

**Estimated expenditure impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	4,300,000	4,300,000	8,600,000		
<b>TOTAL \$</b>	4,300,000	4,300,000	8,600,000		
<b>GRAND TOTAL \$</b>					8,600,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

**Part III: Preparation and Approval**

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 02/22/2023
Leg. Committee Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/19/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/22/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/22/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Description of the bill with an emphasis on how it impacts local government.*

#### **CHANGES BETWEEN THIS VERSION AND PRIOR BILL VERSION:**

The substitute bill revises the definition of "qualifying offense" to remove certain offenses predicated on a qualifying offense; separates collection costs and document-verified collateral costs from the definition of legal financial obligations (LFO); and establishes standards for when collection costs and nonconviction LFOs are readily ascertainable. A prosecutor must determine collection costs that are "readily ascertainable," and is not required to determine amounts paid to nonpublic agencies and the Department of Corrections. The provision of a court-appointed attorney to assist an indigent person in bringing a motion is subject to funding provided for this purpose, and court-appointed counsel for persons entitled to resentencing is provided consistent with standards for appointment of counsel based on indigency. The requirement that prosecutors file quarterly reports on the status of all filed motions is also removed. Law enforcement agencies no longer have to update their records to reflect the vacation of the qualifying conviction and transmit the order vacating the conviction to the Federal Bureau of Investigation.

#### **SUMMARY OF CURRENT BILL:**

Section 1 creates a new section. "Collection cost" means any fee or cost paid to a collection agency as a result of a qualifying conviction or qualifying nonconviction. A collection cost is "readily ascertainable" if the clerk or collection agency maintains a record or accounting of the collection cost or the defendant has provided documentation of the collection cost.

Sec. 2 creates a new section. Any person with a qualifying conviction is eligible to have such conviction vacated by the sentencing court under this chapter. Any person with a qualifying conviction or qualifying nonconviction is eligible for a refund of all legal financial obligations (LFOs), collection costs, and document-verified collateral costs paid as a result of the qualifying conviction or qualifying nonconviction as provided in this chapter.

Sec. 3 creates a new section. Upon receipt of a report from the clerk under section 10 of this act, a prosecuting authority shall review all qualifying convictions and qualifying nonconvictions within his or her jurisdiction. For each qualifying conviction and qualifying nonconviction, the prosecuting authority shall: (i) Coordinate with the appropriate clerk and other appropriate entities to develop a list of all LFOs and readily ascertainable collection cost amounts paid as a result of the qualifying conviction or qualifying nonconviction; and (ii) Determine whether the person is currently serving a sentence for any offense under the supervision of the Department of Corrections (DOC), and in such case, notify the Office of Public Defense that the person may be eligible for resentencing under section 6 of this act.

For each qualifying conviction, the prosecuting authority shall file an ex parte motion by January 1, 2026, with the applicable sentencing court to dismiss and vacate the conviction under this chapter. For each qualifying nonconviction where LFOs or readily ascertainable collection costs were paid as a result of the qualifying nonconviction, the prosecuting authority shall file an ex parte motion by January 1, 2026, with the applicable sentencing court to refund the LFOs and readily ascertainable collection costs under this chapter.

Sec. 4 creates a new section. A person with a qualifying conviction or qualifying nonconviction may file a motion with the sentencing court for a vacation of the conviction and a refund of LFOs. For a motion for a refund, the prosecuting authority shall furnish the applicant with the amount paid by the applicant for any LFOs and readily ascertainable collection costs 14 court days in advance of the hearing. The prosecuting authority may object to a motion only on the basis that the conviction is not a qualifying conviction.

Sec. 6 creates a new section. If the vacation of a qualifying conviction under this chapter affects a sentence imposed for a separate conviction by altering the person's criminal history, then the person may file a motion to be resentenced in the applicable sentencing court. Any person with a qualifying conviction who is serving a current or pending sentence under the supervision of DOC has a right to court-appointed counsel for resentencing proceedings. For the purposes of this chapter, individuals incarcerated under the jurisdiction of DOC are presumed indigent.

Sec. 8 creates a new section. Within three years of issuance of a refund amount from the refund bureau, a person may challenge the amount of any LFO or collection cost refund ordered by the court.

## **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

### **CHANGES BETWEEN THIS VERSION AND PRIOR BILL VERSION:**

The substitute bill reduces fiscal impacts for prosecutors because they will no longer need to submit quarterly reports. Additionally, law enforcement agencies no longer have to update their records to reflect the vacation of the qualifying conviction and transmit the order vacating the conviction to the Federal Bureau of Investigation.

### **SUMMARY OF CURRENT BILL:**

The legislation would have both known and indeterminate costs. Costs for county public defense and prosecutors are shown in the grid. These figures assume that requests for conviction vacations and reimbursed LFOs would be addressed in the next two years. It may take longer to work through the case load, in which case the costs would be spread out over a longer period of time.

### **PUBLIC DEFENSE COSTS:**

The Office of Public Defense assumes that it would distribute \$5.1 million in pass-through funding and resources to counties for Blake defense services. The Local Government Fiscal Note Program (LGFN) assumes county costs for public defense would match this appropriation and would be spread over fiscal years 2024 and 2025.

### **COUNTY PROSECUTOR COSTS:**

According to the Washington Association of Prosecuting Attorneys, the legislation would result in costs for prosecutors as they must determine which collection costs are readily ascertainable, and file ex parte motions for all qualifying convictions and nonconvictions. These costs are estimated at a total of \$3 to \$4 million in addition to what has already been allocated by the Legislature. For the purposes of this fiscal note, LGFN assumes the costs to be \$3.5 million, spread between fiscal years 2024 and 2025.

### **JAIL BED IMPACTS:**

According to the Caseload Forecast Council, the bill may result in the identification, and subsequent vacation or resentencing, of additional individuals with a simple possession offense. As a result, there may be a decreased need for jail beds.

## **C. SUMMARY OF REVENUE IMPACTS**

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

The Office of Public Defense assumes it would continue to provide \$5.1 million in pass-through funding and resources to counties for Blake defense services. Continuing the model previously adopted by the Legislature, counties could opt to either receive funds through entitlement grants, or they may instead delegate OPD to directly contract with attorneys to perform Blake work in their counties.

### **SOURCES:**

Caseload Forecast Council  
Office of Public Defense  
Office of Civil Legal Aid  
Washington State Association of Sheriffs and Police Chiefs