

Multiple Agency Fiscal Note Summary

Bill Number: 2065 HB	Title: Offender score recal.
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Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

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	Fiscal note not available											
Office of the Governor	Fiscal note not available											
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Children, Youth, and Families	Fiscal note not available											
Department of Corrections	Fiscal note not available											
Total \$	0.0	0	0	0	0.0	0	0	0	0.0	0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

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	Fiscal note not available								
Office of the Governor	Fiscal note not available								
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	Fiscal note not available								
Department of Corrections	Fiscal note not available								
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
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

NONE

Prepared by: Danya Clevenger, OFM	Phone: (360) 688-6413	Date Published: Preliminary 1/22/2024
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Individual State Agency Fiscal Note

Bill Number: 2065 HB	Title: Offender score recal.	Agency: 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: Michelle Rusk	Phone: 360-786-7153	Date: 01/16/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 01/17/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 01/17/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/19/2024

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.

HB 2065

SCORING OF PRIOR JUVENILE OFFENSES IN SENTENCING RANGE CALCULATIONS

**101 – Caseload Forecast Council
January 16, 2024**

SUMMARY

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

Section 1 Intent section.

Section 2 Adds a new section to chapter 9.94A RCW that states any person sentenced for an offense committed prior to July 23, 2023, and whose score was increased due to juvenile adjudication(s) that are not scorable under current law is entitled to a resentencing hearing upon the offender’s motion for relief if the person is currently incarcerated in total confinement and has a release date of January 1, 2025, or later; and, until January 1, 2027 the person:

- Has a release date on the sentence within three years, or the person would be eligible for release on the sentence within three years if resentenced to a standard range sentence based on a score that does not include offenses that are not scorable under RCW 9.94A.525; or
- Has served over 15 years of their sentence; or
- Has served at 50% of their sentence.

Section 3 Additionally states that beginning January 1, 2027, this section applies to individuals meeting the requirements of subsection (2) of this section.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact Summary

This bill:

- Reduces offender scores for some individuals currently incarcerated.

Impact on prison and jail beds

The bill applies changes regarding which juvenile offense can be included in the offender score from EHB 1324 (2023) retroactively and gives priority for resentencing of individuals currently incarcerated whose offender score is impacted by the provision of the bill.

Individuals that committed their offense prior to July 23, 2023, would be sentenced under scoring provisions that were in place at the time of their offense (including juvenile offenses in scoring), but would be allowed to file a motion for relief from sentence if juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed. It is unknown how many individuals will file motions.

As this applies to incarcerated individuals, the CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, reductions in offender scores will result in most sentences receiving lower confinement, reducing the use of prison and jail beds. Some individuals may have a reduced score that shifts the presumptive sentence from prison to non-prison.

Juvenile Rehabilitation Bed Impacts

Generally, the scoring rules for adult convictions should not impact juvenile bed needs. However, current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve to their confinement at a Juvenile Rehabilitation (JR) facility until age 25, or until release if occurring prior to age 25. As a result, any adult conviction for an offense committed by someone under the age of 18 that included juvenile adjudications in the offender score may reduce the need for JR beds as removing the juvenile adjudications from scoring may result in a lower offender score. However, as less than 1% of all sentences in the adult system are committed by those less than age 18, it is assumed any impacts to JR would be minimal.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 2065 HB

Title: Offender score recalc.

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: Indeterminate expenditure impact resulting from a change in demand for jail beds
- Counties: Indeterminate expenditure impact resulting from prosecutorial costs from participating in resentencing hearings; indeterminate expenditure impact resulting from a change in demand for jail beds
- 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: Number of resentencing hearings that will be granted; prosecutor costs for a given hearing; magnitude and direction of any change in demand for jail beds

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 01/22/2024
Leg. Committee Contact: Michelle Rusk	Phone: 360-786-7153	Date: 01/16/2024
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/22/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/22/2024

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 2 would add a new section to chapter 9.94A RCW, specifying that a person sentenced for an offense committed prior to July 23, 2023, and whose offender score for that offense was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed is entitled to a resentencing hearing if the person is currently incarcerated in total confinement with a release date on the sentence of January 1, 2025, or later, and until January 1, 2027, the person:

- Has a release date on the sentence within three years, or the person would be eligible for release on the sentence within three years if they were resentenced to a standard range sentence based on an offender score which does not include juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed; or
- Has served over 15 years of their sentence; or
- Has served at least 50 percent of their sentence.

If the court finds that the person is currently incarcerated in total confinement, has a release date of January 1, 2025, or later, and the previous offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed, that person must be resentenced as if any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed were not part of the offender score at the time the original sentence was imposed.

Beginning on January 1, 2027, section 2 would apply to all people incarcerated in total confinement with a release date of January 1, 2025, or later, whose previous offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the resentencing petition was filed.

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.

The proposed legislation would result in an indeterminate, but significant increase in local government expenditures as a result of the resentencing hearings the bill would require. The amended sentences resulting from these hearings could have an indeterminate impact on local government expenditures on jail beds.

Section 2 would entitle people meeting certain conditions whose sentences were increased by counting certain prior juvenile convictions to be resentenced as if these prior convictions were not a part of their criminal history score. These resentencing hearings would require the participation of both prosecutors, and in the cases of people who are indigent, public defenders. The Office of Public Defense indicates, however, that per the requirements of RCW 2.70.020 (3), the office would have a role in providing counsel for resentencings under the provisions of the proposed legislation.

Please note that while these resentencing hearings would also create additional court costs, these costs are discussed in the fiscal note prepared by the Administrative Office of the Courts.

According to the Washington Association of Prosecuting Attorneys (WAPA), the attorney time required for each of these hearings can vary widely based on the complexity of a given case, ranging from an hour for a simple hearing, to a week or more for a complex hearing required for a case like murder. In 2023, WAPA estimated that if a similar number of people sought resentencing under section 3 of HB 1324, which contained the same resentencing provisions as the proposed legislation, as were estimated to be eligible for resentencing as a result of the Blake decision, prosecution costs could total \$10 million or more. WAPA indicates that some of those people may have finished their sentences over the past year, however, in which case total prosecution costs could be lower than the previous estimate of \$10 million or more.

It is unknown, however, exactly how many people may motion for and be granted a resentencing hearing under the provisions of section 2 of the proposed legislation, as well as how much attorney time a given hearing may require from

prosecutors, so the magnitude of the resulting increase in county expenditures as a result of additional resentencing hearings is indeterminate.

According to the Washington State Caseload Forecast Council (CFC), demand for jail beds could change as a result of the resentencing that this bill would require. While CFC does not have the data necessary to reliably estimate jail bed impacts resulting from this bill, reduced criminal history scores would result in most sentences having a reduced term of confinement, which could decrease demand for jail beds. Some presumptive sentences, however, may shift from prison to jail, which would increase demand for jail beds.

It is unknown, however, how many presumptive sentences may shift from prison to jail, or what the reductions in confinement time may be because of the sentencing changes this bill would make, so the net change in demand for jail beds, and the resulting expenditure impact on local governments, is indeterminate. The 2024 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost to occupy a jail bed is \$145.

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 proposed legislation would have no impact on local government revenues.

SOURCES:

Local government fiscal note for HB 1324, 2023

Local Government Fiscal Note Program Criminal Justice Cost Model, 2024

Washington Association of Prosecuting Attorneys

Washington State Caseload Forecast Council

Washington State Office of Public Defense