

Multiple Agency Fiscal Note Summary

Bill Number: 5605 S SB AMS HARG S2145.2	Title: Governmental liability
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	Fiscal note not available								
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Estimated Capital Budget Impact

NONE

Prepared by: Carl Yanagida, OFM	Phone: (360) 902-0553	Date Published: Pending Distribution
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 31297

FNS029 Multi Agency rollup

Judicial Impact Fiscal Note

Bill Number: 5605 S SB AMS HARG S2145.2	Title: Governmental liability	Agency: 055-Admin Office of the Courts
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Part I: Estimates



No Fiscal Impact

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 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.

Legislative Contact	Jennifer Strus	Phone: (360)786-7316	Date: 01/24/2012
Agency Preparation:	Julia Appel	Phone: (360) 705-5229	Date: 01/24/2012
Agency Approval:	Dirk Marler	Phone: 360-705-5211	Date: 01/24/2012
OFM Review:	David Dula	Phone: (360) 902-0543	Date: 01/24/2012

Request # -1

Part II: Narrative Explanation

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

Section 2 adds a new section to chapter 4.24 RCW. Subsection (1) provides that no governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties pursuant to chapter 26.44 RCW with regard to investigating allegations of child abuse or neglect if such duties were performed without gross negligence. Subsection (3) provides that the Department of Social and Health Services (DSHS) shall comply with the orders of the court, including shelter care and other dependency orders, and are not liable for acts performed to comply with such court orders. In providing reports and recommendations to the court, caseworkers are entitled to the same witness immunity as would be provided to any other witness.

Section 3 adds a new section to chapter 4.24 RCW which provides that no governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties with regard to the supervision of offenders so long as the duties were performed without gross negligence. Supervision includes any type of community-based supervision.

It is assumed that there will be some decrease in the tort cases filed against governmental entities as a result of these provisions although there is no data available to predict the size of the decrease.

In addition, any workload savings to the courts can only be realized if the number of judicial officers is reduced together with a corresponding reduction in staff. Based on current staffing levels, budget cuts in most jurisdictions, and the current judicial needs gap according to the objective workload analysis under RCW 2.56.030(11), it is unlikely that actual staffing reductions would occur. Rather, it is more likely that judges and staff would redirect their efforts to provide adequate time and attention to other cases before the court and to reducing caseload backlogs. The number of superior and district court judge positions in each county is established by statute. Positions cannot be eliminated during the term of office.

Based on the Staffing and Judicial Needs Estimates for 2010, there is a disparity between the number of judges in the courts of limited jurisdiction and superior courts and the estimated need in these courts to handle current judicial workload. The report reflects a need for an additional 11.74 district court judges, 17.37 municipal court judges, and 67 superior court judges. It is estimated that this legislation would reduce, but not eliminate, the gap between judicial needs shown by the objective workload analysis and the number of judges.

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 5605 S SB AMS HARG S2145.2	Title: Governmental liability	Agency: 100-Office of Attorney General
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Part I: Estimates

☒ No Fiscal Impact

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: Jennifer Strus	Phone: (360)786-7316	Date: 01/24/2012
Agency Preparation: Gretchen Leanderson	Phone: 253-597-4434	Date: 01/27/2012
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 01/27/2012
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 01/30/2012

Request # 12-077-1

Part II: Narrative Explanation

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

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

Section 1 amends RCW 26.44.010, the legislative intent section, to put the child's safety and health interests before the interests of the parent when they conflict. It also requires that reports of child abuse and neglect be maintained and disseminated with strictest regard for privacy.

Section 2 is a new section added to chapter 4.24 RCW.

Section 2(1) provides governmental entities, officer, agents, employees and volunteers with immunity from criminal prosecution or civil liability for performing their duties pursuant to chapter 26.44 RCW with regard to investigating allegations of child abuse or neglect provided the duties were performed without gross negligence.

Section 2(2) provides that the duty to conduct a reasonable investigation of child abuse or neglect upon a referral pertains only to the children who are the subject of the referral.

Section 2(3) provides that caseworkers, in providing recommendations to the court, are entitled to the same witness immunity as would be provided to other witnesses.

Section 2(4) provides that nothing in this section diminishes any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees.

Section 3 is a new section added to chapter 4.24 RCW.

Section 3(1) provides that governmental entities, officer, agents, employees and volunteers are immune from criminal prosecution or civil liability with regard to supervision of offenders so long as their duties were performed without gross negligence.

Section 3(2) provides that supervision for this section is to include community-based supervision, including but not limited to probation, parole, community custody, community placement, community supervision, and post-release supervision.

Section 3(3) provides that nothing in this section diminishes any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees.

This bill is assumed effective July 1, 2012.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Request # 12-077-1

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

None.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 5605 S SB AMS HARG S2145.2	Title: Governmental liability	Agency: 310-Department of Corrections
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

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: Jennifer Strus	Phone: (360)786-7316	Date: 01/24/2012
Agency Preparation: Dawn Deck	Phone: (360) 725-8510	Date: 01/26/2012
Agency Approval: Alan Haskins	Phone: 360-725-8264	Date: 01/26/2012
OFM Review: Adam Aaseby	Phone: 360-902-0539	Date: 01/26/2012

Request # 047-1

Part II: Narrative Explanation

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

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

Section 1 – Amends RCW 26.44.010 and 1999 c176 s27 to include language that when a child’s interests of basic nurture, physical and mental health, and safety conflict with parents’ interests of the child should prevail. When deciding whether a parent and a child should be separated during or immediately following an investigation of alleged child abuse or neglect, the safety of the child shall be the department’s paramount concern. Reports of child abuse and neglect shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions.

Section 2 – A new section is added to chapter 4.24 RCW to include language that no governmental entities, their officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties pursuant to RCW 26.44 with regard to investigating allegations of child abuse or neglect if such duties were performed without gross negligence. (2) The duty to conduct a reasonable investigation of child abuse or neglect upon a referral runs only to children who are the subject of a referral under RCW 26.44. (3) The department and its employees shall comply with the orders of the court, including shelter care and other dependency orders, and are not liable for acts performed to comply with such court orders. In providing reports and recommendations to the court, caseworkers are entitled to the same witness immunity as would be provided to any other witness. (4) Nothing in this section diminishes any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees.

Section 3 – A new section is added to chapter 4.24 to include language no governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties with regard to the supervision of offenders so long as the duties were performed without gross negligence. (2) For the purpose of this section, supervision includes any type of community-based supervision including, but not limited to probation, parole, community custody, community placement, community supervision, and postrelease supervision. (3) Nothing in this section diminished any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The proposed legislation eliminates the liability for state and local entities performing their job duties with regard to the supervision of offenders so long as the duties were being performed without gross negligence.

The surviving provision affecting the Department of Corrections in the engrossed substitute bill is a gross negligence standard for negligent supervision cases. The Department is unable to determine whether that standard will result in the dismissal of cases because it is unknown how many claims would not rise to the level of “gross negligence” or how strict the courts will be when instructing the jury on the definition of “gross negligence” should the cases go to trial. In addition,

if this legislation were to result in a reduction of “negligent supervision” cases, the savings would be recognized by OFM/Risk Management or by a reduction in insurance premiums. The Department assumes this bill would result in some decrease in tort cases filed against DOC and also assumes some savings in the payouts coming out of the Self Insurance Liability Account. Consequently, while the fiscal impact is indeterminate, the Department assumes the savings will exceed \$50,000 per year.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 5605 S SB AMS HARG S2145.2	Title: Governmental liability
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☐ 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:

Part III: Preparation and Approval

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 01/30/2012
Leg. Committee Contact: Jennifer Strus	Phone: (360)786-7316	Date: 01/24/2012
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 01/30/2012
OFM Review: Carl Yanagida	Phone: (360) 902-0553	Date: 01/30/2012

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Section 2 establishes that no governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties with regard to investigating allegations of child abuse or neglect if such duties were performed without gross negligence. The duty to conduct a reasonable investigation of child abuse or neglect upon a referral applies to children who are the subject of a referral under chapter 26.44 RCW.

Section 3 establishes that no governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties with regard to the supervision of offenders so long as the duties were performed without gross negligence. For the purposes of this section, supervision includes any type of community-based supervision including, but not limited to, probation, parole, community custody, community placement, community supervision, and post-release supervision.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

The legislation would have no expenditure impact for local government.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

The legislation would have no revenue impact for local government.

SOURCES:

Administrative Office of the Courts

Washington Defender Association