

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2122 HB	<b>Title:</b> Sexually violent predators
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## Estimated Cash Receipts

NONE

## Estimated Expenditures

Agency Name	2013-15			2015-17			2017-19		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Public Defense	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	(.1)	(115,769)	(115,769)	(.2)	(231,538)	(231,538)	(.2)	(231,538)	(231,538)
Department of Social and Health Services	.5	144,000	144,000	1.0	288,000	288,000	1.0	288,000	288,000
<b>Total</b>	<b>0.4</b>	<b>\$28,231</b>	<b>\$28,231</b>	<b>0.8</b>	<b>\$56,462</b>	<b>\$56,462</b>	<b>0.8</b>	<b>\$56,462</b>	<b>\$56,462</b>

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Cheri Keller, OFM	<b>Phone:</b> 360-902-0563	<b>Date Published:</b> Final 1/23/2014
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 36301

FNS029 Multi Agency rollout

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2122 HB	<b>Title:</b> Sexually violent predators	<b>Agency:</b> 056-Office of Public Defense
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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: Sarah Koster	Phone: 360-786-7303	Date: 01/08/2014
Agency Preparation: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/23/2014
Agency Approval: Joanne Moore	Phone: 360 956-2107	Date: 01/23/2014
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 01/23/2014

Request # 2122-1

## 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(5) amends RCW 71.09.070 to allow a committed person to secure an expert evaluation only if he/she has participated in the most recent interview and evaluation conducted by the Department of Social and Health Services.

Section 1(6) requires the committed person to provide to the court proof of participation in the Department's interview and evaluation when requesting appointment of an expert or other professional person.

Section 1(7) temporarily suspends the timeline for annual examinations when a court orders a trial to determine whether unconditional release is appropriate. If the court or a jury finds the person continues to meet the definition of sexually violent predator then the Department must conduct an examination no later than one year after the trial.

Section 2(20) adds a definition of "treatment."

If HB 2122 results in the same number or a greater number of committed persons declining to participate in the Department's annual evaluation and interview, OPD would expect to see fewer defense experts involved in post-commitment proceedings, which likely would decrease OPD's post-commitment expert costs by an unknown amount. If HB 2122 compels substantially more committed persons to participate in the Department's annual evaluation and interview, OPD would expect to see a commensurate number of requests for defense experts in post-commitment proceedings, which, depending on the number of participating committed persons, could increase OPD's post-commitment expert costs by an unknown amount.

### 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.*

Pursuant to various provisions of chapter 2.70 RCW and Chapter 71.09 RCW, the Office of Public Defense (OPD) contracts with attorneys to represent indigent respondents who have a right to counsel in sexually violent predator (SVP) commitment proceedings. HB 2122 is not expected to impact the number of contracted defense attorneys necessary to adequately represent indigent respondents. Attorney compensation is based on an annual fee for a full-time caseload.

Pursuant to RCW 71.09.055, OPD is responsible for the cost of expert evaluations conducted on behalf of indigent respondents involved in SVP legal proceedings. RCW 71.09.055 caps the cost for a defense expert at \$10,000 except as authorized for good cause by court order. Since July 1, 2012, when it began administering indigent defense services in SVP civil commitment cases, OPD has received two court orders for costs greater than the statutory limit, and both of these occurred prior to commitment. OPD has not received any court orders

for expert costs beyond the statutory limits for post-commitment proceedings such as are addressed in this legislation. Many defense experts cost less than the statutory limit.

Defense attorneys that represent respondents in SVP cases report that their committed clients' access to experts assists the attorneys in understanding the clients' specific issues. If HB 2122 results in the same number or a greater number of committed persons declining to participate in the Department's annual evaluation and interview, OPD would expect to see fewer defense experts involved in post-commitment proceedings, which likely would decrease OPD's post-commitment expert costs by an unknown amount. If HB 2122 compels substantially more committed persons to participate in the Department's annual evaluation and interview, OPD would expect to see a commensurate number of requests for defense experts in post-commitment proceedings, which, depending on the number of participating committed persons, could increase OPD's post-commitment expert costs by an unknown amount.

### **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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2122 HB	<b>Title:</b> Sexually violent predators	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.0	(0.2)	(0.1)	(0.2)	(0.2)
<b>Account</b>					
General Fund-State 001-1	0	(115,769)	(115,769)	(231,538)	(231,538)
<b>Total \$</b>	0	(115,769)	(115,769)	(231,538)	(231,538)

### 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: Sarah Koster	Phone: 360-786-7303	Date: 01/08/2014
Agency Preparation: Gretchen Leanderson	Phone: 253-597-4434	Date: 01/10/2014
Agency Approval: Brendan VanderVelde	Phone: 360 586-2104	Date: 01/10/2014
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 01/10/2014

Request # 2014-025-1

## 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, subsection (3) amends RCW 71.09.070 to require that the evaluator's report on the mental condition of a committed person includes whether the committed person participated in the interview. Subsection (5) allows the committed person to retain or be appointed counsel if indigent, and the court may appoint a qualified expert or professional to examine them if the committed person participated in the most recent interview and evaluation completed by the Department of Social and Health Services (DSHS). Subsection (6) places the burden on the committed person to provide proof of compliance with the section when requesting appointment of an expert or professional person. Subsection (7) suspends Section 1 if an unconditional release trial is ordered pursuant to RCW 71.09.090. If the court or jury determines that this person continues to meet the definition of a sexually violent predator, DSHS must conduct an examination no later than one year after the date of the order, and the examination must comply with the requirements of the section.

Section 2 adds the definition of "treatment" as the sex offender specific treatment program at the special commitment center or a specific course of sex offender treatment pursuant to RCW 71.09.092 (1) and (2).

The Attorney General's Office (AGO) estimates a workload impact of -0.08 Assistant Attorney General (AAG) and -0.1 Paralegal (PL) with savings of \$-115,769 in Fiscal Year (FY) 2015 and in each FY thereafter. The decrease in staffing is for a small reduction in legal services necessary for 6 fewer recommitment trials per FY.

We estimate direct litigation cost savings of \$-90,000 in FY2015 and in each FY thereafter, which is included in this cost.

This bill is assumed effective 90 days after the end of the 2014 legislative session.

### 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.*

No cash receipt impact.

These AGO activities are funded with General Fund-State dollars.

There is no client agency being billed for legal services.

### 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 AGO estimates a workload impact of -0.08 AAG and -0.1 PL with savings of \$-115,769 in FY2015 and in each FY thereafter. The decrease in staffing is for a small reduction in legal services necessary for 6 fewer recommitment trials per FY.

We estimate direct litigation cost savings of \$-90,000 in FY2015 and in each FY thereafter, which is included in this cost.

Assumptions:

1. Legal services associated with the enactment of this bill are assumed to begin on July 1, 2014.
2. We assume post-commitment litigation is a significant and rising source of the workload of the AGO's SVP Unit. In the past five years, the AGO has tracked a 200% increase in the number of unconditional release trials that have been ordered, and an 88% increase in the number of appeals filed. Many of the new unconditional release trials are being ordered despite the respondents not successfully completing sex offender specific treatment, and many where the respondents have not even cooperated with the annual review process/evaluation. The annual review is the means by which the state meets its burden of determining whether a civilly committed SVP continues to meet the criteria established by statute. By not participating in the annual review and creating an obstacle for the state to meet its high burden, civilly-committed SVPs increase the need for litigation. We assume this trend of rising post-commitment litigation will continue.
3. We assume defining treatment in this legislation will reduce unnecessary post-commitment litigation by reducing the number of individuals petitioning for unconditional release arguing rehabilitation through treatment, since some of those petitions come from SVPs who have not participated in sex offender specific treatment. In FY2014, two individuals have petitioned for unconditional release arguing rehabilitation through treatment without participating in the sex offender specific treatment available to them at the Special Commitment Center. We assume this legislation will reduce up to two post-commitment litigation cases per biennium, resulting in up to two fewer hearings and up to two fewer recommitment trials.
4. We assume this legislation will increase the number of civilly committed individuals who participate in annual reviews and thus reduce post-commitment litigation. We assume this increased participation will result in up to two fewer recommitment trials per biennium.
5. We assume that resetting the clock for the annual review after a trial resulting in recommitment will reduce post-commitment litigation by up to two cases per biennium.
6. We assume this legislation will reduce the need of direct litigation costs when civilly committed SVPs refuse to participate in the annual reviews administered by the experts at the Special Commitment Center. This includes additional expert witnesses, and up to three fewer Joint Forensic Unit Psychologists that the state is required to hire per biennium. These experts can cost the state up to \$15,000 each.
7. We assume the cost of one recommitment trial is approximately \$19,295.
  - A. 0.01 AAG, \$2,666
  - B. 0.02 PL, \$1,629
  - C. Direct litigation Costs of \$15,000 per trial.
8. We assume that this legislation may prevent the need to request additional funding in the near future as post-commitment litigation continues to rise. The Sexual Violent Predator Unit of the AGO currently has a workload that is about 64% higher than that recommended by the 2009 staffing model ordered by the legislature. Due to the significant budget challenges faced by the state, the AGO has refrained from requesting additional

funding to address this substantial workload increase.

## Part III: Expenditure Detail

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

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years		(0.2)	(0.1)	(0.2)	(0.2)
A-Salaries and Wages		(13,497)	(13,497)	(26,994)	(26,994)
B-Employee Benefits		(4,037)	(4,037)	(8,074)	(8,074)
C-Professional Service Contracts		(90,000)	(90,000)	(180,000)	(180,000)
E-Goods and Other Services		(3,677)	(3,677)	(7,354)	(7,354)
G-Travel		(285)	(285)	(570)	(570)
J-Capital Outlays		(950)	(950)	(1,900)	(1,900)
M-Inter Agency/Fund Transfers		(3,323)	(3,323)	(6,646)	(6,646)
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$0	\$(115,769)	\$(115,769)	(\$231,538)	\$(231,538)

**III. B - 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 2014	FY 2015	2013-15	2015-17	2017-19
Assistant Attorney General	88,056		(0.1)	0.0	(0.1)	(0.1)
Paralegal II	58,656		(0.1)	(0.1)	(0.1)	(0.1)
<b>Total FTE's</b>	146,712		(0.2)	(0.1)	(0.2)	(0.2)

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

Program	FY 2014	FY 2015	2013-15	2015-17	2017-19
Sexually Violent Predator Unit (SVP)		(115,769)	(115,769)	(231,538)	(231,538)
<b>Total \$</b>		(115,769)	(115,769)	(231,538)	(231,538)

## 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

<b>Bill Number:</b> 2122 HB	<b>Title:</b> Sexually violent predators	<b>Agency:</b> 300-Dept of Social and Health Services
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.0	1.0	0.5	1.0	1.0
<b>Account</b>					
General Fund-State 001-1	0	144,000	144,000	288,000	288,000
<b>Total \$</b>	0	144,000	144,000	288,000	288,000

### 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:

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- ☐ 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: Sarah Koster	Phone: 360-786-7303	Date: 01/08/2014
Agency Preparation: Mickie Coates	Phone: 360-902-8077	Date: 01/13/2014
Agency Approval: Kelci Karl-Robinson	Phone: 360-902-8174	Date: 01/13/2014
OFM Review: Peter Graham	Phone: (360) 902-0582	Date: 01/13/2014

Request # 14HB2122.1-1

## 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.*

Reports prepared on the annual evaluations of persons committed under RCW 71.09 must indicate whether the committed person participated in the interview and examination. If the committed person participated in the most recent interview and evaluation, they may retain a qualified expert to examine him or her.

If an unconditional release trial is ordered pursuant to RCW 79.09.090, this section is suspended until completion of that trial. If the individual is found to continue to meet the definition of a sexually violent predator, the Department of Social and Health Services (DSHS) must conduct an examination pursuant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

### 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

*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.*

It is assumed that passage of this legislation will result in more residents of the Special Commitment Center (SCC) participating in their annual reviews. The current rate of participation in annual reviews ranges from 70 to 75 percent. It is assumed that passage of this legislation will increase participation in annual reviews to 90 to 95 percent.

Resident participation in the annual review will result in increased staff effort to:

- Prepare for in person evaluation

- Travel to and conduct in person evaluation

- Prepare the report

- Prepare for and provide in-trial testimony (It is anticipated that some of the material retrieved in interviews will be introduced during trial)

This increase in staff effort is estimated at approximately 27 hours per case.

It is estimated that one forensic psychologist will be needed to complete this additional work.

Current caseload is approximately 305.

305 cases \* 20 percent increase = 61 more cases participating in annual evaluations

61 cases \* 27 hours = 1,647 increased staff hours (approximately one FTE)

Total estimated cost for the additional forensic psychologist is estimated at \$144,000 per year.

This estimated cost assumes the hiring of a forensic psychologist. However, if the SCC off-island office does not have space to accommodate the additional staff it may be necessary to contract for these services. If this happens, costs will be substantially more than are reflected in this fiscal note. Contract costs are estimated at \$175 per hour for evaluations and up to \$275 per hour for court testimony.

### Part III: Expenditure Detail

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

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years		1.0	0.5	1.0	1.0
A-Salaries and Wages		101,000	101,000	202,000	202,000
B-Employee Benefits		33,000	33,000	66,000	66,000
C-Professional Service Contracts					
E-Goods and Other Services		8,000	8,000	16,000	16,000
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		2,000	2,000	4,000	4,000
9-					
<b>Total:</b>	\$0	\$144,000	\$144,000	\$288,000	\$288,000

#### III. B - 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 2014	FY 2015	2013-15	2015-17	2017-19
Forensic Psychologist	101,000		1.0	0.5	1.0	1.0
<b>Total FTE's</b>	101,000		1.0	0.5	1.0	1.0

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

Program	FY 2014	FY 2015	2013-15	2015-17	2017-19
Special Commitment Center (001)		144,000	144,000	288,000	288,000
<b>Total \$</b>		144,000	144,000	288,000	288,000

### 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.*

New or amended rules may be needed to implement this legislation.