

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5503 SB	<b>Title:</b> Habitual property offenders
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## Estimated Cash Receipts

NONE

## Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	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
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<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>

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Trisha Newport, OFM	<b>Phone:</b> (360) 902-0417	<b>Date Published:</b> Final 2/ 9/2015
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

ENPID: 39320

FNS029 Multi Agency rollout

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5503 SB	<b>Title:</b> Habitual property offenders	<b>Agency:</b> 055-Admin Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
<b>Total \$</b>					

### Estimated Expenditures from:

COUNTY	FY 2016	FY 2017	2015-17	2017-19	2019-21
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2016	FY 2017	2015-17	2017-19	2019-21
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					
Local Subtotal \$					
Total Estimated Expenditures \$					

*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: Lindsay Erickson	Phone: 786-7465	Date: 01/30/2015
Agency Preparation: Renee Lewis	Phone: 360-704-4142	Date: 02/02/2015
Agency Approval: Renee Lewis	Phone: 360-704-4142	Date: 02/02/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/02/2015

Request # 5503 SB-2

## Part II: Narrative Explanation

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

A new section would be added to RCW 9.94A to read as follows:

- (1) The prosecuting attorney may file a special allegation when sufficient evidence exists to show that the accused is a habitual property offender.
- (2) In a criminal case in which there has been a special allegation and the accused has been convicted of the underlying crime, the court shall make a finding of fact prior to sentencing whether the person is a habitual property offender based on the person's criminal history. If the court finds by a preponderance of the evidence that the person is a habitual property offender, the person shall be sentenced in accordance with RCW 9.94A.533(15).
- (3) For purposes of this section, a person is a habitual property offender if:
- (a) The present felony conviction for which the person is being sentenced is for residential burglary, burglary in the second degree, theft in the first degree, theft in the second degree, theft of a firearm, unlawful issuance of checks or drafts, organized retail theft, theft with special circumstances, or mail theft;
- (b) The person has an offender score of nine points or higher;
- (c) At least nine of the points in the person's offender score result from any combination of the following felony offenses: Residential burglary, burglary in the second degree, theft in the first degree, theft in the second degree, theft of a firearm, unlawful issuance of checks or drafts, organized retail theft, theft with special circumstances, or mail theft; and
- (d) The person has either received drug treatment related to any felony conviction or has refused drug treatment related to any felony conviction.

Sec. 3. RCW 9.94A.533 would be amended to say:

- (15)(a) The following additional times shall be added to the standard sentence range if the court finds that the offender is a habitual property offender pursuant to section 2 of this act:
- (i) Twenty-four months if the offender is being sentenced for a felony defined as a class B felony;
- (ii) Twelve months if the offender is being sentenced for a felony defined as a class C felony.
- (b) A sentence imposed pursuant to this subsection is not to exceed the statutory maximum for the crime as established in RCW 9A.20.021.
- (c) Notwithstanding any other provision of law, all habitual property offender enhancements imposed under this subsection 5) are mandatory and shall be served in total confinement. However, whether or not the mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(3).

Based on input from the courts, these enhancements are generally negotiated as part of a plea package and if it goes to trial, it may add time to the sentencing process however the additional time would be insignificant.

### II. B - Cash Receipts Impact

### II. C - Expenditures

## Part III: Expenditure Detail

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

<i>State</i>	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
<b>Total \$</b>					

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

<b><i>County</i></b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
FTE Staff Years					
<b>Total \$</b>					

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

<b><i>City</i></b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
FTE Staff Years					
<b>Total \$</b>					

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5503 SB	<b>Title:</b> Habitual property offenders	<b>Agency:</b> 101-Caseload Forecast Council
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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: Lindsay Erickson	Phone: 786-7465	Date: 01/30/2015
Agency Preparation: Ed Vukich	Phone: 360-664-9374	Date: 02/03/2015
Agency Approval: John Steiger	Phone: 360-664-9370	Date: 02/03/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 02/09/2015

## 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.*

See the attachment.

### 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.*

See the attachment.

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

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.

# **SB 5503**

## **A SPECIAL ALLEGATION FOR HABITUAL PROPERTY OFFENDERS**

**101 – Caseload Forecast Council  
February 3, 2015**

### **SUMMARY**

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

Section 1 establishes a special allegation for habitual property offenders.

Section 1 additionally defines habitual property offender. (See the note at the end.)

Section 2 expands provisions concerning adjustments to standard sentences by adding a habitual property offender sentence enhancement of 24 months if the current sentence is for a Class B felony offense.

Section 2 additionally expands provisions concerning adjustments to standard sentences by adding a habitual property offender sentence enhancement of 12 months if the current sentence is for a Class C felony offense.

### **EXPENDITURES**

#### **Assumptions.**

None.

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

This bill would require modification of the Council's adult and juvenile databases and data entry programs. These recurring costs are included in the agency's budget.

#### **Impact on prison and jail beds.**

This bill:

- Establishes new sentence enhancements.

The adult felony sentencing database maintained by the Caseload Forecast Council records scores of 9 or greater simply as 9, so scores greater than 9 cannot be distinguished in the data. Additionally, the adult felony sentencing database only records up to 10 prior offenses. These two issues, combined with potentially conflicting provisions in the bill, negate a reliable estimation of bed impacts resulting from the bill.

**\*\*\*\*\*Note\*\*\*\*\***

As the bill is currently written, there are possibly conflicting provisions. Specifically, Section 1(2) possibly conflicts with Section 1(3)(b) and (c).

In Section 1(2), the finding of an offender being a habitual property offender is based on the offender's criminal history. Criminal history is defined in RCW 9.94A.030(11):

Criminal history means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

Section 1(3)(b) and (c) refer to offender score (and how large it must be). Under RCW 9.94A.525(1), which concerns the offender score:

A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589

RCW 9.94A.589(1)(a) states:

Except as provided in (b) or (c) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score . . .

Essentially, according to the bill, the allegation is made based on the offender's criminal history, but it is also based on the offender score. Criminal history encompasses prior convictions and adjudications, while the offender score is determined using not only the offender's criminal history, but also "other current offenses" (which include current offenses on that particular judgment and sentence form, as well as current offenses on other judgment and sentence forms for which sentences are being imposed on the same day).



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5503 SB	<b>Title:</b> Habitual property offenders	<b>Agency:</b> 300-Dept of Social and Health Services
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## Part I: Estimates

☒ **No Fiscal Impact**

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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: Lindsay Erickson	Phone: 786-7465	Date: 01/30/2015
Agency Preparation: Mickie Coates	Phone: 360-902-8077	Date: 02/05/2015
Agency Approval: Ken Brown	Phone: 360-902-7583	Date: 02/05/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 02/09/2015

## 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.*

The bill applies to adult felony cases and subsequent sentencing. There is no impact to the Department of Social and Health Services, Juvenile Justice and Rehabilitation Administration.

### 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.*

## 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> 5503 SB	<b>Title:</b> Habitual property offenders	<b>Agency:</b> 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.*

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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: Lindsay Erickson	Phone: 786-7465	Date: 01/30/2015
Agency Preparation: Margaret Andreas	Phone: (360) 725-8262	Date: 02/05/2015
Agency Approval: Sarian Scott	Phone: (360) 725-8270	Date: 02/05/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 02/09/2015

## 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.*

This bill adds a special allegation for habitual property offenders.

Section 1 adds a new section to RCW 9.94A, the Sentencing Reform Act of 1981.

Section 1 describes the findings of the legislature that (1) there are a significant number of property crimes in Washington and current practices related to property crimes are ineffective at reducing recidivism; and (2) a large portion of property crimes in Washington are committed by habitual offenders; increasing sanctions for habitual property offenders will provide more effective deterrents.

Section 2 adds a new section to RCW 9.94A.

Section 2(1) allows the prosecuting attorney to file a special allegation when sufficient evidence exists to show that the accused is a habitual property offender.

Section 2(2) stipulates that in a criminal case in which there has been a special allegation and the accused has been convicted of the underlying crime, the court will make a finding prior to sentencing whether the person is a habitual property offender. If the court finds that the person is a habitual property offender, the person will be sentenced in accordance with RCW 9.94A.533, adjustments to standard sentences.

Section 2(3) lists the criteria for inclusion as a habitual property offender, as used in the section. A person is a habitual property offender if:

- (a) The present felony conviction is for residential burglary, burglary in the second degree, theft in the first or second degree, theft of a firearm, unlawful issuance of checks or drafts, organized retail theft, theft with special circumstances, or mail theft;
- (b) The person has an offender score of nine (9) points or higher;
- (c) At least nine (9) of the points result from a combination of the felony offenses listed in section 2(3)(a); and
- (d) The person has either received drug treatment related to a felony conviction or has refused drug treatment related to a felony conviction.

Section 3(15)(a) amends RCW 9.94A.533, the Sentencing Reform Act of 1981, adjustments to the standard sentence, to incorporate additional times to be added to the standard sentence range if the court finds that the offender is a habitual property offender.

Section 3(15)(a)(i) adds 24 months if the offender is being sentenced for a felony defined as a class B felony.

Section 3(15)(a)(ii) adds 12 months if the offender is being sentenced for a felony defined as a class C felony.

Section 3(15)(b) stipulates that the sentence cannot exceed the statutory maximum for the crime as established in RCW 9A.20.021, Washington Criminal Code, classification of crimes, maximum sentences for crimes committed July 1, 1984 and after.

Section 3(15)(c) requires habitual property offender enhancements to be mandatory and served in total

confinement, with the exception that an offender may be granted an extraordinary medical placement as authorized under RCW 9.94A.728.

This bill is assumed to be effective July 1, 2015.

## **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.

Costs will be general fund state.

## **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 fiscal impact of the proposed bill is estimated to be indeterminate, assumed to be greater than \$50,000 per year.

This bill will likely result in prison bed impact due to new sentence enhancements for habitual property offenders. The Caseload Forecast Council (CFC) is unable to reliably estimate the bed impact and provided the following information:

“The adult felony sentencing database maintained by the CFC records scores of nine (9) or greater simply as nine (9), so scores greater than nine (9) cannot be distinguished in the data. Additionally, the adult felony sentencing database only records up to 10 prior offenses. These two (2) issues, combined with potentially conflicting provisions in the bill negate a reliable estimation of bed impacts resulting from the bill.”

### **Assumptions:**

1. We assume impact based on the CFC estimated impact for prison beds. The CFC is not able to reliably estimate the bed impact of this bill. The CFC identified 513 convictions for property offenses where the offender had a score of nine (9) or greater. Of these offenses, 105 were class C felonies and the remainder were class B felonies. Because the adult felony sentencing data based records scores of nine (9) or greater simply as nine (9), and the data base only records up to 10 prior offenses, there is insufficient information to determine how many of the 513 offenses would have been subject to the special allegation.

2. Due to the large number of convictions for property offenses and given that many property offenders are repeat offenders, DOC believes that this bill will have prison bed impact. To illustrate, if we assume 513 convictions for property offenses per year where the offender has a score of nine (9) or higher, and assume that 20% of the offenses would be eligible for the special enhancement, Average Daily Population (ADP) would increase as follows, reaching a maximum increase of 128 in FY2019.

FY2016 -0-

FY2017 -0-

FY2018 118

FY2019 128

3. DOC assumes that this bill would result in an ADP increase of four (4) or more, though the impact cannot be estimated. Consequently, though the fiscal impact is indeterminate, DOC assumes any increase will be greater than \$50,000 per FY [ $\$12,387 \times 4 \text{ ADP} = \$49,548/\text{FY}$ ].

4. We assume an Average Unit Cost (AUC) of \$12,387 per offender per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison custody staffing on living/housing units, prison direct variable costs, health services direct variable costs, and prison non-custody essential staffing on living/housing units. It does not include staffing or dollars for staff needed at the facility outside of the living/housing units. AUC is calculated by DOC and reviewed and approved by the Office of Financial Management, the Senate, the House and the Washington State Institute for Public Policy staffing each legislative session. DOC will need to true up impact to DOC so that full impact can be determined, i.e. opening/closing units or prisons once we better understand impacts down to the custody level, and facility.

5. We assume additional impacts will result when ADP caseload changes in either prison or community, and resources will be necessary. DOC will “true up” our fiscal impact in subsequent budget submittals.

### **Part III: Expenditure Detail**

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

NONE

Not applicable.

### **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 required.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 5503 SB	<b>Title:</b> Habitual property offenders
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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: 02/09/2015
Leg. Committee Contact: Lindsay Erickson	Phone: 786-7465	Date: 01/30/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/09/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 02/09/2015

## **Part IV: Analysis**

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

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

Sec. 2. amends RCW 9.94A. The prosecuting attorney may file a special allegation for a habitual property offender. In a criminal case in which there has been a special allegation and the accused has been convicted of the underlying crime, the court shall make a finding of fact prior to sentencing whether the person is a habitual property offender based on the person's criminal history. If the court finds by a preponderance of the evidence that the person is a habitual property offender, the person shall be sentenced in accordance with RCW 9.94A.533(15).

Sec. 3 amends RCW 9.94A.533. The following additional times shall be added to the standard sentence range if the court finds that the offender is a habitual property offender: 24 months if the offender is being sentenced for a class B felony, and 12 months if the offender is being sentenced for a class C felony.

### **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 potentially result in savings for county jails, as sentences which had previously been served in jails would be transferred to Department of Corrections prisons. However, due to technical issues with provisions in the bill, the Caseload Forecast Council is unable to assess the bed impacts resulting from the legislation. As such, it is not possible to determine whether there would be savings to jails and if so, what those would be.

### **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:**

Caseload Forecast Council

Administrative Office of the Courts