

Multiple Agency Fiscal Note Summary

Bill Number: 2334 S HB	Title: Drug offender sentencing
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Estimated Cash Receipts

NONE

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	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 Health	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.								
The Evergreen State College	.0	108,351	108,351	.6	91,976	91,976	.0	0	0
Total \$	0.0	108,351	108,351	0.6	91,976	91,976	0.0	0	0

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
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	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	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 Health	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
The Evergreen State College	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Cynthia Hollimon, OFM	Phone: (360) 902-0562	Date Published: Final 2/10/2020
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Judicial Impact Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

☒ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

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 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/03/2020
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 02/04/2020
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 02/04/2020
OFM Review: Gaius Horton	Phone: (360) 902-0608	Date: 02/05/2020

157,973.00

Request # 2334 SHB-1

Form FN (Rev 1/00)

1

Bill # 2334 S HB

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

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

NONE

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

NONE

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

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

Part II: Narrative Explanation

This bill would make various changes to the drug offender sentencing alternative (DOSA). References to drug addiction are changed to “substance abuse disorder”.

This bill differs from HB 2334:

- Would modify certain eligibility criteria for the DOSA;
- Would change the content of and requirements related to certain court-requested DOSA eligibility assessments;
- Would provide that a person ordered to participate in the residential treatment-based DOSA may be initially confined in a county facility in order to facilitate direct transfer to a residential treatment facility, and that residential treatment may be up to six months (instead of three to six months);
- Would provide that treatment completion and continued care for residential treatment-based DOSA sentences must be in accordance with Department of Health rulemaking;
- Would limit credit toward a total confinement sentence for time served on community custody prior to DOSA revocations;
- Would require that the Washington State Institute for Public Policy to report on the effectiveness of the DOSA program; and
- Would make various other technical changes to statutes governing the DOSA.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 1(d)(i) - Would allow defendants charged with robbery in the second degree (no firearm and not reduced from first degree) to apply for a DOSA if the robbery conviction occurred seven years prior.

Section 1(3) - Would extend the eligibility requirement for residential DOSA from a standard range midpoint of 24 months to 26 months.

Section 1(5)(d) - Would remove requirements from the examination report and would reduce factors for courts consideration.

Section 1(10) – Would give the Washington State Institute for Public Policy the responsibility to report DOSA statistics to the Governor and appropriate committees of the legislature.

Section 2(1) – Would impose a greater than one year requirement for prison based DOSA.

Section 3(1) - Would modify language to allow for earlier discharge from a residential treatment facility.

Section 5 – Would establish an effective date of January 1, 2021 for this bill.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Judgement and Sentencing forms and Statement of Defendant on Plea of Guilty form would need to be modified. Judicial education would be required. These impacts would be managed within existing resources.

Individual State Agency Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	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: Yvonne Walker	Phone: 360-786-7841	Date: 02/03/2020
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/05/2020
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/05/2020
OFM Review: Cynthia Hollimon	Phone: (360) 902-0562	Date: 02/07/2020

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 attached.

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 attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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*

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

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

Part V: New Rule Making Required

SHB 2334

RELATING TO DRUG OFFENDER SENTENCING

101 – Caseload Forecast Council

February 3, 2020

SUMMARY

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

Section 1 Amends RCW 9.94A.660 by modifying the eligibility for the Drug Offender Sentencing Alternative (DOSA) in following ways:

- Amends DOSA eligibility criteria by removing the disqualification of a current or prior conviction for a sex offense, but adds language that individuals currently, or may be required, to register pursuant to RCW 9A.44.130 are not eligible for DOSA.
- States that an offender is eligible for DOSA if the offender has no prior convictions for Robbery in the Second Degree that did not involve the use of a firearm and was not reduced from a Robbery in the First Degree within seven years of the current offense.
- Removes the requirement that the standard sentence range for the current offense be greater than one year.
- Amends the Residential DOSA eligibility requirement that midpoint of the standard range be greater than twenty-four months, by elevating it to a midpoint of twenty-six months.

Section 1 additionally amends RCW 9.94A.660 by stating the responsibility of the examination for the individual the court is considering for the alternative must be performed by an agency certified by the Department of Health to provide substance abuse disorder services and removes components of what the examination must contain.

Section 1 additionally amends RCW 9.94A.660 by amending the credit allowed for individuals that the court has revoked the DOSA sentence and has ordered a term of total confinement within the standard range. Removes the allowance for any time previously served under this section, allowing full credit for time served in total confinement and inpatient treatment and restricts time served in community custody to 50% credit.

Section 1 additionally requires the Washington Institute for Public Policy (WSIPP) to report by November 1, 2022, to the legislature on the effectiveness of DOSA in reducing recidivism, and states WSIPP may coordinate with the Caseload Forecast Council and the Department of Corrections (DOC). An additional report is due November 1, 2028, and every five years thereafter.

Section 2 Amends RCW 9.94A.662 by adding the requirement that the high end of the range must be greater than one year for an individual to be eligible for Prison DOSA.

Section 3 Amends RCW 9.94A.662 by changing the current time required in the residential treatment time from 3-6 months to up to six months, with treatment completion and care in accordance with rules established by the Department of Health (DOH).

- Requires DOH to consider craftier established by the America Society of Addiction Medicine when establishing the rules.
- Section 3 Additionally allows up to 30 days of confinement in a county facility after sentencing and prior to transfer to the residential program in order to facilitate direct transfer to a residential treatment facility.
- Section 4 Amends the definition for “Drug Offender Sentencing Alternative” in RCW 9.94A.030.
- Section 4 Includes an effective date for the act of January 1, 2021.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None. It is assumed that assisting DOC with the reporting requirements in Sec. 1(10) could be done with existing resources.

Impact on jail beds.

This bill:

- This bill expands eligibility for Residential DOSA. The bill allows individuals sentenced to Residential DOSA to be held in jail after sentencing for up to 30 days while waiting to start the residential treatment program, which would increase jail average daily population (ADP). The bill additionally expands eligibility for Residential DOSA to individuals with a presumptive jail sentence, resulting in a potential reduction to jail ADP.

Impact on prison beds and community custody.

This bill:

- This bill expands eligibility of both Prison and Residential DOSA. The bill may result in additional individuals receiving either a Prison or Residential DOSA sentence, which would reduce prison ADP.
- Individuals receiving a Residential DOSA have 24 months of community custody and those receiving a Prison DOSA have ½ the midpoint of the standard range as community custody, regardless of risk to reoffend, resulting in increased community custody ADP for any additional sentences imposed based on provisions within this bill.
- Under provisions of the bill, individuals for whom the court revokes the DOSA sentence during the period of community custody and imposes a sentence of total confinement will receive 50% credit for time previously served in the community under this section, rather than full credit. Credits associated with time previously served in partial confinement are not included. This will result in increased prison ADP.

The Caseload Forecast Council (CFC) has no information concerning how often the courts would impose an alternative sentence under the provisions of the bill, how long individuals may be held in jail confinement awaiting transfer to the residential treatment program or how many sentences are revoked by the court. As such, the CFC cannot reliably predict bed impacts

resulting from the bill. However, any additional alternative sentences would impact prison, jail, and community custody APD.

Individual State Agency Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	Agency: 300-Department of Social and Health 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: 02/03/2020
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 02/04/2020
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 02/04/2020
OFM Review: Jason Brown	Phone: (360) 902-0539	Date: 02/05/2020

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.

SHB 2334 has no fiscal impact to the Department of Social and Health Services (DSHS) as passage of this legislation will not impact workload or client benefits.

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.

None

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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*

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

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	Agency: 303-Department of Health
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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.

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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: Yvonne Walker	Phone: 360-786-7841	Date: 02/03/2020
Agency Preparation: Donna Compton	Phone: (360) 236-4538	Date: 02/04/2020
Agency Approval: Carl Yanagida	Phone: 360-7894832	Date: 02/04/2020
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 02/04/2020

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.

SHB 2334 removes the requirement for the Department of Health (department) to conduct an examination of a drug offender under the residential substance use disorder treatment-based alternative.

Section 1: Requires the Department of Corrections to conduct an examination of a drug offender when ordered by the courts when the court is considering imposing a sentence under the residential substance use disorder treatment-based alternative. The exam must be performed by an agency certified by the department to provide substance use disorder services.

No new work or rulemaking is required by the department; therefore no fiscal impact.

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.

NONE

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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*

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

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

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

Individual State Agency Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	Agency: 310-Department of Corrections
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/03/2020
Agency Preparation: Greg Scott-Braaten	Phone: 360-725-8977	Date: 02/05/2020
Agency Approval: Michael Steenhout	Phone: 360-725-8270	Date: 02/05/2020
OFM Review: Cynthia Hollimon	Phone: (360) 902-0562	Date: 02/07/2020

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.

Changes in this bill from the previous bill include:

Section 1 (1) (c) changes the language regarding sex offenders that qualify. The language now reads: The offender has no current or prior convictions for a sex offense for which the offender is currently or may be required to register pursuant to RCW 9A.44.130.

Section 1 (5) now reverts language that the Department of Health (DOH) would conduct examinations of potential DOSA candidates back to the Department of Corrections (DOC). Language is added to this subsection to state that the examination must be performed by an agency certified by DOH to provide substance use disorder services.

Section 1 (10) relating to costs of examinations and treatment plans being able to be paid for at the option of the counties from the criminal justice treatment account under RCW 71.24.580 is stricken from RCW 9.94A.660.

Section 1 (10) now states: The Washington State Institute for Public Policy shall submit a report to the governor and the appropriate committees of the legislature by November 1, 2022, analyzing the effectiveness of the drug offender sentencing alternative in reducing recidivism among various offender populations. An additional report is due November 1, 2028, and every five years thereafter. WSIPP may coordinate with the department and the caseload forecast council in tracking data and preparing the report.

Section 1 (11) is no longer exists as the language, which was revised to state WSIPP shall submit the DOSA efficiency report, as opposed to DOC, was moved to the revised Section 1 (10).

Section 4 (21) amends RCW 9.94A.030 to change the definition of what a DOSA sentence is to strike out violent and sex offense from those ineligible and to refer to RCW 9.94A.660 for full eligibility criteria.

Section 5 is the revised section 4 from the previous bill to state that this act will take effect January 1, 2021.

The below remain unchanged:

Section 1 (d) adds that an offender cannot have a prior conviction in this state, another state, or the united states for Robbery in the second degree that did not involve the use of a firearm and was not reduced from robbery in the first degree within seven years of conviction or any other violent offense within 10 years of the current conviction to be eligible for a Drug Offender Sentencing Alternative (DOSA).

Section 1 (1) (f) is stricken from RCW 9.94A.660 and removes the criteria that that the end of the standard sentence range for residential DOSA be greater than 1 year.

Section 1 (3) increases the standard range mid-point for Residential DOSA from 24 months to 26 months.

Section 1 (7) (d) states an offender that is sentenced to a term of total confinement that violates conditions on a DOSA will now receive fifty percent credit for time served in community custody as opposed to full credit.

Section 2 (1) amends RCW 9.94A.662 to state that the court may only order a prison-based DOSA if the high end of the standard sentence range for the current offense is greater than one year.

Section 3 (1) (b) amends RCW 9.94A.664 to add that to help facilitate transfer of an offender to a residential DOSA facility, a sentence may include an indeterminate term of confinement of no more than 30 days in a facility operated or utilized under contract by the county.

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.

The fiscal impact of this bill is indeterminate, assumed to be greater than \$50,000 per Fiscal Year (FY).

This bill expands eligibility of both prison and residential DOSA. This may result in additional Prison or Residential DOSA sentences, which would reduce prison ADP.

This bill states that WSIPP may coordinate with DOC on data tracking and preparing a report on the effectiveness of the DOSA program on reducing recidivism. It is assumed this can data collecting effort can be absorbed within existing resources.

Individuals receiving a Residential DOSA have 24 months of community custody and Prison DOSA has one half the mid-point of the standard range as community custody. This would result in increased community custody ADP.

Individuals who have their DOSA sentence revoked during the period of community custody who have a total confinement sentence will now only receive fifty percent credit for time previously served in the community, rather than full credit. This will result in increased prison ADP. This also impacts sentence calculation complexity and may require programming updates.

The DOC believes that with the striking of the counties paying for their own assessments and creation of treatment plans out of the criminal justice treatment account in section 1 (10) will have a fiscal impact on DOC. If these costs related to individuals sentenced to a residential DOSA under a presumptive jail sentence fall to DOC, it is assumed that this would create increased workload and costs for the vendor that DOC uses for the DOSA program.

With the criteria of those eligible for residential DOSA being opened to those with a presumptive jail sentence and due to the above mentioned language in section 1 (10) of this bill being stricken from RCW 9.94A.660, It is unclear, but assumption could be made that DOC would be the provider for services and custodian for those sentenced to DOSA even though they are under a presumptive jail sentence. RCW 9.94A.664 states those sentenced to residential DOSA will serve a term of community custody equal to on-half the midpoint of the standard sentence range or two years, whichever is greater. If DOC is the provider for these services and will have custody of those under these sentences, significant costs, community custody impacts, and DOSA bed

impacts would most likely occur and would require DOC to amend its contract with its vendor or find an additional vendor to provide services for this additional group of individuals. This also creates more complexity to sentencing and may require IT programming costs for sentence calculations. Due to current residential DOSA capacity issues, it is assumed this would create even more of a waitlist for services than DOC currently has. DOC would “true-up” these costs in subsequent budgetary submittals if these additional costs and custody impacts fall to DOC and this bill is enacted into session law.

The Caseload Forecast Council (CFC) has no information concerning how often the courts would impose an alternative sentence under the provisions of this bill, how long individuals may be held in jail confinement awaiting transfer to the residential treatment program, or how many sentences are revoked by the court. As such, the CFC cannot reliably predict bed impacts from the bill. However, any additional alternative sentences would impact prison, jail and community custody ADP.

For illustration purposes only:

The cost of one Substance Use Disorder Assessment is \$228.75.

The addition of one bed for Residential DOSA has an annual cost of \$37,595.

The addition of one to Prison ADP results in an annual Average Unit Cost of \$15,896.

The addition of one to Community Custody ADP results in an annual cost \$4,958 (not including start-up costs).

Due to the fact that the CFC cannot accurately predict the impact of this bill on DOSA beds, prison ADP, or community custody ADP, this bill will have an indeterminate fiscal impact, assumed to be greater than \$50,000 with the assumption that this bill will increase DOSA placements, prison ADP and community custody ADP.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.
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III. B - Expenditures by Object Or Purpose

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

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

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 2334 S HB	Title: Drug offender sentencing	Agency: 376-The Evergreen State College
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.0	0.0	0.6	0.0
Account					
General Fund-State 001-1	0	108,351	108,351	91,976	0
Total \$	0	108,351	108,351	91,976	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: 02/03/2020
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 02/04/2020
Agency Approval: Holly Joseph	Phone: 360-867-6652	Date: 02/04/2020
OFM Review: Breann Boggs	Phone: (360) 902-0659	Date: 02/04/2020

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.

Sec. 10 of SHB 2334 directs the Washington State Institute for Public Policy to submit a report to analyze the effectiveness of the drug offender sentencing alternative in reducing recidivism among various offender populations. WSIPP may coordinate with the department and the caseload forecast council in tracking data and preparing the report.

The first report is due on November 1, 2022. An additional report is due November 1, 2028, and every five years thereafter.

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.

In order to complete the assignment outlined in Sec. 10 of SHB 2334 WSIPP would assign the following resources:

FY22

- 0.44 FTE Researcher to develop a study plan, scope the study, submit data requests, submit the Washington State Institutional Review Board (WSIRB) application, process and analyze the data.
- 0.10 FTE Data Manager for data processing
- 0.06 FTE Methods Review to develop a study plan
- Assumes \$750 in WSIRB fees.

FY23

- 0.40 FTE Researcher for analyze data and write the report
- 0.06 FTE Methods Review for methodological review
- 0.06 FTE Editing/Publication for publication

These costs would repeat in FY28 and FY29 and then every five years thereafter. We estimate the cost in FY27 to be \$121,927 and the cost in FY28 to be \$102,778. Ongoing costs do not reflect potential increases in data availability and cost.

*Goods and other services include 13% for office expenses and 12% indirect rate for The Evergreen State College.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
001-1	General Fund	State	0	108,351	108,351	91,976	0
Total \$			0	108,351	108,351	91,976	0

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years				0.6	
A-Salaries and Wages		66,508	66,508	56,444	
B-Employee Benefits		18,512	18,512	16,230	
C-Professional Service Contracts					
E-Goods and Other Services		22,581	22,581	19,302	
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-WSIRB fees		750	750		
Total \$	0	108,351	108,351	91,976	0

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 2020	FY 2021	2019-21	2021-23	2023-25
Data Management	105,408				0.1	
Editing/Publication	83,364				0.0	
Methods Review	111,660				0.1	
Researcher	103,320				0.4	
Total FTEs					0.6	0.0

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*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 2334 S HB	Title: Drug offender sentencing
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Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☐ Cities:

☒ Counties: Indeterminate costs for jails due to holding individuals awaiting the start of residential treatment programs and indeterminate savings due to individuals with presumptive jail sentences receiving the Drug Offender Sentencing Alternative

☐ 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 jail beds necessary due to how often the courts would impose an alternative sentence, how long individuals would be held in jail awaiting transfer, and how many sentences the court would revoke

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: Kyle Siefering	Phone: 360-725-3042	Date: 02/10/2020
Leg. Committee Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/03/2020
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/10/2020
OFM Review: Cynthia Hollimon	Phone: (360) 902-0562	Date: 02/10/2020

Part IV: Analysis

A. SUMMARY OF BILL

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

CHANGES FROM PRIOR BILL VERSION:

The substitute version of this legislation creates the following changes from the prior bill versions :

- removes the restriction on those convicted of an offense that involves the presence of a minor child enhancement (RCW 9.94A.533(13)) from DOSA eligibility
- strikes language stipulating that costs for DOSA examinations and preparing recommended service delivery plans (formerly defined as treatment plans) may be paid, at the option of the county, from funds provided through the Criminal Justice Treatment Account (CJTA)
- changes that treatment and completion of care under the bill should be in accordance with rules established by the Department of Health (DOH) while considering criteria by the American Society of Addiction Medicine (ASAM), instead of by the ASAM criteria itself
- amends the definition of DOSA to align with the legislation.

These changes do not have an effect on the indeterminate nature of the legislations expenditure and revenue impacts .

SUMMARY OF CURRENT BILL VERSION:

Section 1 of this legislation would amend RCW 9.94A.660 by modifying the eligibility for the Drug Offender Sentencing Alternative (DOSA) in the following ways:

- Amends DOSA eligibility criteria by removing the disqualification of a current or prior conviction for a sex offense , but adds language that disqualifies individuals who are currently required, or may be required, to register pursuant to RCW 9A.44.130.
- Stating that an offender is eligible for DOSA if the offender has no prior convictions for Robbery in the Second Degree that did not involve the use of a firearm and was not reduced from a Robbery in the First Degree within seven years of the current offense .
- Removing the requirement that the standard sentence range for the current offense be greater than one year .
- Amending the residential DOSA eligibility requirement that midpoint of the standard range be greater than 24 months , by elevating it to a midpoint of 26 months.
- Amending the credit allowed for individuals that the court has revoked the DOSA sentence and has ordered a term of total confinement within the standard range, and removing the allowance for any time previously served under this section, allowing full credit for time served in total confinement and inpatient treatment and restricts time served in community custody to 50 % credit.

Section 1 also would amend RCW 9.94A.660 to remove the provision that allows that costs for DOSA examinations and preparing treatment plans may be paid, at the option of the county, from CJTA funds.

Sections 2 would amend RCW 9.94A.662 to add the requirement that the high end of the range must be greater than one year for an individual to be eligible for prison DOSA.

Section 3 of this legislation amend RCW 9.94A.664 in the following ways:

- by changing the current time required in the residential treatment time from 3-6 months to up to six months, with treatment completion and care in accordance with rules established by the Department of Health.
- allowing up to 30 days of confinement in a county facility after sentencing and prior to transfer to the residential program in order to facilitate direct transfer to a residential treatment facility.

Section 4 amends the definition for DOSA to align with the legislation.

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.

CHANGES IN EXPENDITURE IMPACTS FROM PRIOR BILL VERSION:

The substitute version of this legislation removes the restriction on those convicted of an offense that involves the presence of a minor child enhancement (RCW 9.94A.533(13)) from DOSA eligibility. However, it is unknown how many individuals would subsequently become eligible for DOSA with that restriction removed.

The substitute version would also remove the provision under current law that allows that costs for DOSA examinations and preparing treatment plans may be paid, at the option of the county, from CJTA funds. As all DOSA treatments under current law are for those with sentences of a year or more which would otherwise occur in Department of Corrections (DOC) facilities, DOC currently covers those costs. Striking this language would assign all costs for examinations and treatments plans to DOC, including for those with sentences of under a year who would become eligible for DOSA under this legislation. Therefore, striking this language removes the option that these

costs could be paid for by county CJTA funds, but has no expenditure impacts to local governments as funds are not currently being used under this option.

The substitute version would also change that treatment and completion of care under the bill should be in accordance with rules established by DOH while considering criteria by ASAM, instead of by the ASAM criteria itself. This change is not anticipated to have a significant impact on local government expenditures.

SUMMARY OF CURRENT BILL VERSION EXPENDITURES:

This legislation would have indeterminate impacts on local government expenditures due to impacts on jail average daily populations (ADP). This legislation would expand eligibility for Residential DOSA, while also allowing individuals sentenced to Residential DOSA to be held in jail after sentencing for up to 30 days while waiting to start the residential treatment program, which would increase jail average daily population. However, this legislation would additionally expand eligibility for Residential DOSA to individuals with a presumptive jail sentence, resulting in a potential reduction to jail ADP.

The Caseload Forecast Council (CFC) has no information concerning how often the courts would impose an alternative sentence under the provisions of this legislation, how long individuals may be held in jail confinement awaiting transfer to the residential treatment program, or how many sentences would be revoked by the courts. As such, the CFC cannot reliably predict jail bed impacts resulting from the bill. The Local Government Fiscal Note Program's 2020 Criminal Justice Cost Model estimates that the average daily jail bed cost is \$114 per day.

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.

This legislation would have no revenue impacts for local government.

SOURCES:

Caseload Forecast Council
Department of Corrections