

Multiple Agency Fiscal Note Summary

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| Bill Number: 5361 SB | Title: Drug offenses/resentencing |
|-----------------------------|--|

Estimated Cash Receipts

NONE

| Agency Name | 2021-23 | | 2023-25 | | 2025-27 | |
|---------------------|---------------------------|-------|-----------|-------|-----------|-------|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Local Gov. Courts | Fiscal note not available | | | | | |
| Loc School dist-SPI | | | | | | |
| Local Gov. Other | | | | | | |
| Local Gov. Total | | | | | | |

Estimated Operating Expenditures

| Agency Name | 2021-23 | | | | 2023-25 | | | | 2025-27 | | | |
|-------------------------------------|--|----------|-------------|----------|------------|----------|-------------|----------|------------|----------|-------------|----------|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Administrative Office of the Courts | Fiscal note not available | | | | | | | | | | | |
| Caseload Forecast Council | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Department of Corrections | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | | | | |
| Total \$ | 0.0 | 0 | 0 | 0 | 0.0 | 0 | 0 | 0 | 0.0 | 0 | 0 | 0 |

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------|--|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | Fiscal note not available | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Expenditures

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|-------------------------------------|---------------------------|----------|----------|------------|----------|----------|------------|----------|----------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Administrative Office of the Courts | Fiscal note not available | | | | | | | | |
| Caseload Forecast Council | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Corrections | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------|--|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | Fiscal note not available | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Breakout

NONE

| | | |
|---|---------------------------------|---|
| Prepared by: Cynthia Hollimon, OFM | Phone: (360) 810-1979 | Date Published: Preliminary 2/12/2021 |
|---|---------------------------------|---|

Individual State Agency Fiscal Note

| | | |
|-----------------------------|--|--|
| Bill Number: 5361 SB | Title: Drug offenses/resentencing | Agency: 101-Caseload Forecast Council |
|-----------------------------|--|--|

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: Shani Bauer | Phone: (360)786-7468 | Date: 02/04/2021 |
| Agency Preparation: Clela Steelhammer | Phone: 360-664-9381 | Date: 02/09/2021 |
| Agency Approval: Clela Steelhammer | Phone: 360-664-9381 | Date: 02/09/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/09/2021 |

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

SB 5361

RESENTENCING OF PERSONS CONVICTED OF A DRUG OFFENSE

**101 – Caseload Forecast Council
February 5, 2021**

SUMMARY

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

Section 1 Amends RCW 9.94A.519 by amending the requirement for a resentencing hearing for any offender sentenced for a violation of chapter 69.50 or 69.52 RCW for a crime committed prior to July 1, 2004, to apply to anyone serving a current sentence under the custody of the Department of Corrections as of June 11, 2020.

Section 1 Additionally states that, at resentencing, the court shall sentence the offender pursuant to RCW 9.94A.517, as long as the sentence does not result in a sentence longer than the high end of the standard range under the current sentencing grid.

Section 1 Additionally amends the eligibility of who is entitled for resentencing by restricting eligibility to those have not been convicted of a serious violent offense, violent offense, sex offense, or any crime involving a child; rather than restricting eligibility based on convictions for a most serious offense or violent offense.

Section 2 States the act takes effect immediately.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact on prison beds and community custody.

This bill:

- This bill may result in individuals who are currently serving a sentence under the custody of the Department of Corrections being resentenced to a confinement term that is less than their current term.

The Caseload Forecast Council (CFC) has no information concerning how many individuals would qualify for resentencing consideration under the provisions of the bill, and what sentences would result. As such, the CFC cannot reliably predict bed impacts resulting from the bill. However, as any sentences changed under the provisions of the bill would likely result in a decrease to prison beds.

Individual State Agency Fiscal Note

| | | |
|-----------------------------|--|--|
| Bill Number: 5361 SB | Title: Drug offenses/resentencing | 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: Shani Bauer | Phone: (360)786-7468 | Date: 02/04/2021 |
| Agency Preparation: Meagan Smith | Phone: 360-725-8957 | Date: 02/12/2021 |
| Agency Approval: Michael Steenhout | Phone: 360-725-8270 | Date: 02/12/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/12/2021 |

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.

SB 5361 is an act relating to the resentencing of persons convicted of drug offenses.

Section 1(1) amends RCW 9.94A.519 by changing the requirement for a resentencing hearing for any offender sentenced for a violation of chapter 69.50 RCW (Uniform Controlled Substances Act) or 69.52 RCW (Imitation Controlled Substances) for a crime committed prior to July 1, 2004, to apply to anyone serving a current sentence under the custody of the Department of Corrections (DOC) as of June 11, 2020.

Section 1(2) additionally states that, at resentencing, the court shall sentence the offender pursuant to RCW 9.94A.517, as long as the sentence does not result in a sentence longer than the high end of the standard range under the current sentencing grid.

Section 1(3) additionally amends the eligibility of who is entitled for resentencing by restricting eligibility to those have not been convicted of a serious violent offense, violent offense, sex offense, or any crime involving a child; rather than restricting eligibility based on convictions for a most serious offense or violent offense.

Section 2 states the act takes effect immediately.

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.

We assume this bill will have a fiscal impact to Department of Corrections (DOC) less than \$50,000 per Fiscal Year (FY).

This bill:

- This bill may result in individuals who are currently serving a sentence under the custody of the Department of Corrections being resentenced to a confinement term that is less than their current term.

The Caseload Forecast Council (CFC) has no information concerning how many individuals would qualify for resentencing consideration under the provisions of the bill, and what sentences would result. As such, the CFC cannot reliably predict bed impacts resulting from the bill. However, as any sentences changed under the provisions of the bill would likely result in a decrease to prison beds.

Retrospectively, there are currently three incarcerated individuals sentenced for a violation of chapter 69.50 RCW (Uniform Controlled Substances Act) or 69.52 RCW (Imitation Controlled Substances) for a crime committed prior to July 1, 2004 and serving a current sentence under the custody of DOC as of June 11, 2020. The data excludes individuals who have been convicted of a serious violent offense, violent offense, sex offense, or any crime involving a child. Under the proposed legislation these individuals would be eligible for resentencing. The DOC does not have the capability to predict how often or in what circumstances the courts

would exercise their sentencing authority, therefore, the fiscal impact for this proposed legislation is indeterminate.

The DOC assumes this bill would likely result in an ADP decrease, although the impact cannot be reliably estimated. Therefore, the fiscal impact is indeterminate, assumed to be a savings of less than \$50,000 per FY.

Customization of the Offender Management Network Information (OMNI) system is needed to meet the requirements of this legislation. An additional OMNI report would need to be created. Due to the complexity to complete the development, testing and implementation of the statutory changes, contracted services are necessary.

Cost Calculation Estimate

IT Application Development | \$120 per hour x 80 hours = \$9,600

IT Quality Assurance | \$120 per hour x 40 hours = \$4,800

IT Business Analyst | \$120 per hour x 30 hours \$3,600

Total One-Time Costs in FY2022 = \$18,000 Rounded

In order for the DOC to meet the requirements of the proposed legislation, an increase in one-time records staffing resources will be necessary. The DOC is currently managing increased workload related to implementation of concurrent supervision and compliance credits and does not have the capacity to absorb additional work.

Additionally, if multiple sentencing reform bills were enacted this legislative session, particularly if there were interdependencies, the implementation timeline assumed in this fiscal note would not be feasible without an increase in staffing resources for the combined impact of the bills.

ASSUMPTIONS

- 1) The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.
- 2) We assume Direct Variable Cost (DVC) of \$5,648 per incarcerated individual per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison and health services direct variable costs. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. The DVC is calculated by DOC and reviewed and approved with Office of Financial Management, Senate, and House staff each legislative session.
- 3) We assume additional impacts will result when ADP caseload changes in either prison or community, and resources will be necessary. The DOC will “true up” our fiscal impact in subsequent budget submittals should the legislation be enacted into session law.
- 4) We assume a phase in will be necessary to successfully achieve the reductions/additions needed based on this legislation.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

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

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| | |
|-----------------------------|--|
| Bill Number: 5361 SB | Title: Drug offenses/resentencing |
|-----------------------------|--|

Part I: Jurisdiction

Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties: Indeterminate costs incurred for prosecuting attorneys and public defenders to participate in the resentencing hearings that may occur due to this legislation
- 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: The number of resentencing hearings that will take place due to this legislation; exact costs incurred by prosecuting attorneys offices or public defenders to participate in the aforementioned resentencing hearings

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

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|-------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: David Rosen | Phone: 360-790-3274 | Date: 02/10/2021 |
| Leg. Committee Contact: Shani Bauer | Phone: (360)786-7468 | Date: 02/04/2021 |
| Agency Approval: Alice Zillah | Phone: 360-725-5035 | Date: 02/10/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/10/2021 |

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 1 amends RCW 9.94A.519 (Drug offenses – Resentencing)

Section 1 (1) amends the requirement for a resentencing hearing for any offender sentenced for a violation of chapter 69.50 (Uniform Controlled Substances Act) or 69.52 (Imitation Controlled Substances) of RCW for a crime committed prior to July 1, 2004, to apply to anyone serving a current sentence under the custody of the Department of Corrections (DOC) as of June 11, 2020.

Section 1 (2) states that, at resentencing, the court shall sentence the offender pursuant to RCW 9.94A.517 (Table 3—Drug offense sentencing grid), as long as the sentence does not result in a sentence longer than the high end of the standard range under the current drug sentencing grid.

Section 1 (3) amends the eligibility of who is entitled for resentencing by restricting eligibility to those who have not been convicted of a serious violent offense, violent offense, sex offense, or any crime involving a child. Previously, this restriction would have only applied to those convicted of a most serious offense or violent offense.

Section 1 (4) states that Section 1 expires July 1, 2022.

Section 2 is an emergency clause which states the act takes effect immediately.

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.

This legislation would have indeterminate expenditure impacts on local governments.

JAIL BEDS

This legislation would have no impact on jail beds. This legislation and the resentencing hearings it enables concern offenses for crimes committed prior to July 1, 2004 and anyone serving sentences under DOC custody as of June 11, 2020. According to RCW 9.94A.190 (Terms of more than one year or less than one year—Where served—Reimbursement of costs) sentences that include a term of confinement totaling more than one year shall be served in a facility operated or contracted for by the state. For an individual to be eligible for resentencing under this legislation, they must have a sentence of confinement much longer than the year minimum mentioned in RCW 9.94A.190. Therefore, anyone who is resentenced under this legislation can have two results:

1. A shortened sentence that would keep them in DOC custody
2. A shortened sentence that when combined with time served would see the offender released

Therefore, the resentencing done due to this legislation can in no way affect jail beds and thus increase or decrease county jail costs.

RESENTENCING HEARINGS

This legislation enables resentencing hearings for individuals who qualify under for them under Section 1 (1). Resentencing hearings require the participation of a prosecutor and, if the offender is eligible, a court-appointed defense attorney. These parties ensure adequate representation for the offender, potential victims of their crime, and ensure proper policies and procedures are adhered to. Their participation in the hearing, combined with preparation costs of their staff, represent costs local governments would incur due to this legislation.

Prosecuting attorney and public defender costs for resentencing hearings can vary case to case. For reference, according to the Washington Association of Prosecuting Attorneys (WAPA), a resentencing hearing can cause a prosecuting attorney to expend anywhere from 2 – 6 personnel hours to prepare for the hearing, attend the hearing, gather information, inform and speak with victims, and so on. For reference, according to the 2020 Association of Washington Cities Salary Survey the average hourly rate for a prosecuting attorney is \$127 an hour. Prosecuting attorney's staff might expend personnel hours as well to assist in hearing preparation. Figures for public defenders are not available at this time, but it is reasonable to assume they are comparable to those shown by prosecuting attorneys and their staff.

The number of resentencing hearings that will occur due to this legislation is unknown and therefore their cost to local governments is indeterminate.

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 on local governments.

SOURCES:

2020 Association of Washington Cities Salary Survey

Washington Association of Prosecuting Attorneys

Washington Caseload Forecast Council