

Multiple Agency Fiscal Note Summary

Bill Number: 5035 S SB	Title: Drug offender scoring
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Estimated Cash Receipts

NONE

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	.0	0	0	0	.0	0	0	0	.0	0	0	0
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									
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	.0	0	0	.0	0	0	.0	0	0
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									
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: Final 3/ 4/2021
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Judicial Impact Fiscal Note

Bill Number: 5035 S SB	Title: Drug offender scoring	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

Estimated Capital Budget Impact:

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 Kayla Hammer	Phone: 360-786-7400	Date: 02/25/2021
Agency Preparation: Pam Kelly	Phone: 360-705-5318	Date: 03/02/2021
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 03/02/2021
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/03/2021

167,230.00

Request # 5035 SSB-1

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

Part III: Expenditure Detail

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

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

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

NONE

167,230.00

Form FN (Rev 1/00)

Part II: Narrative Explanation

This bill would eliminate any convictions for the crime of simple possession, solicitation, conspiracy or attempt to possess or deliver a controlled substance from being included in determining an offenders sentencing score if it has been more than five years since the offender's date of entry of judgement and sentence.

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

Section 1(2)(e) – Would eliminate any convictions for the crime of simple possession or solicitation, conspiracy, or attempt or possess a controlled substance under RCW's 69.50.4013 or 9A.28.020 through 9A.28.040 from an offender's sentencing score if it has been more than five years since the offender's date of entry of judgment and sentence

II.B - Cash Receipt Impact

None

II.C – Expenditures

This bill would require judicial education and bench book updates. These updates could be managed within existing resources.

Part III: Expenditure Detail

III.A – Expenditures by Object or Purpose

	FY 2021	FY 2022	2021-23	2023-25	2025-27
FTE – Staff Years					
A – Salaries & Wages					
B – Employee Benefits					
C – Prof. Service Contracts					
E – Goods and Services					
G – Travel					
J – Capital Outlays					
P – Debt Service					
Total:					

III.B – Detail:

Job Classification	Salary	FY 2021	FY 2022	2021-23	2023-25	2025-27
Total FTE's						

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 5035 S SB	Title: Drug offender scoring	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: Kayla Hammer	Phone: 360-786-7400	Date: 02/25/2021
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/26/2021
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/26/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/01/2021

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

SSB 5035

DRUG OFFENDER SCORING

101 – Caseload Forecast Council

February 26, 2021

SUMMARY

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

Section 1 Amends RCW 9.94A.525 by changing how a criminal history score is calculated. For violations of RCW 69.50.4013 (simple possession) including solicitation, conspiracy, or attempt to possess, such offenses are excluded from the offender score if it has been more than five years since the entry of the Judgment and Sentence.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact on beds and supervision.

This bill:

- May reduce criminal history scores for some individuals convicted of a felony offense.

The Caseload Forecast Council (CFC) is unable to determine the impacts, if any, of the bill. A recent Washington State Supreme Court decision (*State v. Blake*) has ruled that RCW 69.50.4013 is unconstitutional. As a result, it is possible that as of the date of the decision, simple possession offenses will no longer be included in the offender score. If so, then there are no impacts from the proposed legislation.

If it is determined that the prior convictions for simple possession offenses should still be included in the offender score, the CFC is unable to estimate the impacts of the bill as the CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, any reductions in offender scores will result in a decreased need for both jail beds and prison beds.

Individual State Agency Fiscal Note

Bill Number: 5035 S SB	Title: Drug offender scoring	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: Kayla Hammer	Phone: 360-786-7400	Date: 02/25/2021
Agency Preparation: Greg Scott-Braaten	Phone: 360-725-8977	Date: 03/04/2021
Agency Approval: Michael Steenhout	Phone: 360-725-8270	Date: 03/04/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/04/2021

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.

This bill adds language to RCW 9.94A.525 that changes how a criminal history score is calculated.

Section 1(2)(e) is changed from the previous bill and now states that any conviction (i) Under RCW 69.50.4013 for the crime of simple possession or solicitation, conspiracy, or attempt to possess; or (ii) under RCW 9A.28.020 through 9A.28.040 for the crime of solicitation, conspiracy, or attempt to deliver may not be included in the offender score if it has been more than five years since the entry of judgement and sentence.

Effective date is assumed 90 days after adjournment of the session in which this bill is passed.

II. B - Cash receipts Impact

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

II. C - Expenditures

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

The Department of Corrections (DOC) assumes a potential indeterminate savings of \$50,000 or more.

The Caseload Forecast Council (CFC) is unable to determine the impacts, if any, of the bill. A recent Washington State Supreme Court decision (State v. Blake) has ruled that RCW 69.50.4013 is unconstitutional. As a result, it is possible that as of the date of the decision, simple possession offenses will no longer be included in the offender score. If so, then there are no impacts from the proposed legislation.

If it is determined that the prior convictions for simple possession offenses should still be included in the offender score, the CFC is unable to estimate the impacts of the bill. The CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, any reductions in offender scores will result in a decreased need for prison beds.

Assumptions

1) Of the 24,257 sentences imposed in Fiscal Year 2019, 22.3% of the offenses listed as criminal history, 22.3% were a Violation of the Uniform Controlled Substance Act. It is unknown how many of those offenses would meet the criteria of the bill.

2) We assume a Direct Variable Cost (DVC) of \$5,648 per incarcerated individual per FY to facilitate fiscal impact 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 by 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.

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: 5035 S SB	Title: Drug offender scoring
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Part I: Jurisdiction

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

Legislation Impacts:

- Cities:
- Counties: Indeterminate potential reduction in costs due to lower county jail bed demand due to lowering of offender scores via the provisions of this legislation
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to: Effects may be subject to final effects of the recent Washington Supreme Court decision in State v. Blake

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: Proportion of sentences in which criminal history reviewed would now omit 5-year-old drug offenses as determined by this legislation

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: David Rosen	Phone: 360-790-3274	Date: 03/01/2021
Leg. Committee Contact: Kayla Hammer	Phone: 360-786-7400	Date: 02/25/2021
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 03/01/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/02/2021

Part IV: Analysis

A. SUMMARY OF BILL

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

CHANGES FROM PRIOR BILL VERSION:

Change in Crimes Referenced and Overall Timeline

In the previous bill version the legislation dictated that violations of chapter 69.50 RCW (Uniformed Controlled Substances Act) except for the crimes of manufacturing, delivering, or possessing with intent to manufacture, a controlled substance or any comparable out-of-state conviction, any conviction for a violation of the uniform controlled substances act, or any out-of-state conviction for an offense that under the laws of this state would be a violation of the uniform controlled substances act could not be included in the offender score if it has been more than 10 years since the entry of judgment and sentence.

In the current bill version the offenses referenced are RCW 69.50.4013 (Simple possession) or solicitation, conspiracy, or attempt to possess and RCW 9A.28.020 through 9A.28.040 for the crime of solicitation, conspiracy, or attempt to deliver. These offenses cannot be included in the offender score if it has been more than 5 years since the entry of judgment and sentence instead of the previous 10.

SUMMARY OF CURRENT BILL:

This legislation would amend RCW 9.94A.525 (Offender score) by changing how a criminal history score is calculated for the purposes of determining an offender score for sentencing of potential confinement.

For violations of RCW 69.50.4013 (simple possession) including solicitation, conspiracy, or attempt to possess, such offenses are excluded from the offender score if it has been more than five years since the entry of the judgment and sentence.

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 reduction impacts on local governments.

At this time, the data necessary to reliably estimate the jail bed impacts this bill would have is unavailable. However, this bill's general effect would be that of reducing criminal history scores which would result in a decreased need for jail beds. Per the 2021 Local Government Fiscal Note Program Criminal Justice Cost Matrix, the cost of an occupied jail bed is \$114/day.

STATE V. BLAKE

A recent Washington State Supreme Court decision (State v. Blake) has ruled that RCW 69.50.4013 is unconstitutional. If it is determined that the prior convictions for simple possession offenses should still be included in the offender score, then the above analysis applies. However, it is also possible that as of the date of the decision, simple possession offenses will no longer be included in the offender score. If so, then there are no impacts from the proposed legislation as its provisions would instead be accomplished via the Supreme Court decision itself. This analysis assumes at this time, that the offender score of prior convictions of RCW 69.50.4013 will be included in offender scores and thus this legislation's effects are 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 impact on local government revenues.

SOURCES:

2021 Local Government Fiscal Note Program Criminal Justice Cost Matrix
Senate Bill Report – SSB 5035 (2021)
Washington Caseload Forecast Council