

Multiple Agency Fiscal Note Summary

Bill Number: 5663 SB	Title: Establishing streamlined procedures for compliance with the State v . Blake decision in order to improve criminal justice system coordination , create efficiencies, and reduce costs.
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Estimated Cash Receipts

NONE

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	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 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	3.0	1,035,309	1,035,309	1,035,309	6.0	1,778,398	1,778,398	1,778,398	6.0	1,778,398	1,778,398	1,778,398
Administrative Office of the Courts	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Office of Public Defense	3.0	490,765	490,765	490,765	6.0	3,893,848	3,893,848	3,893,848	.0	0	0	0
Department of Revenue	9.2	8,128,100	8,128,100	8,128,100	38.1	15,025,600	15,025,600	15,025,600	21.1	5,202,200	5,202,200	5,202,200
Washington State Patrol	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	15.2	9,654,174	9,654,174	9,654,174	50.1	20,697,846	20,697,846	20,697,846	27.1	6,980,598	6,980,598	6,980,598

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.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	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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: Steven Puvogel, OFM	Phone: (360) 701-6459	Date Published: Final 2/ 9/2022
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Judicial Impact Fiscal Note

Bill Number: 5663 SB	Title: Establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs.	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:

STATE	FY 2022	FY 2023	2021-23	2023-25	2025-27
State FTE Staff Years		6.0	3.0	6.0	6.0
Account					
General Fund-State 001-1		1,035,309	1,035,309	1,778,398	1,778,398
State Subtotal \$		1,035,309	1,035,309	1,778,398	1,778,398
COUNTY	FY 2022	FY 2023	2021-23	2023-25	2025-27
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2022	FY 2023	2021-23	2023-25	2025-27
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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 for 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: Joe McKittrick	Phone: 3607867287	Date: 01/06/2022
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 02/01/2022
Agency Approval: Stanley Chris	Phone: 360-704-4020	Date: 02/01/2022
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/01/2022

170,626.00

Request # 5663 SB-1

Form FN (Rev 1/00)

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Bill # 5663 SB

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)

State	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		6.0	3.0	6.0	6.0
Salaries and Wages		581,972	581,972	1,163,944	1,163,944
Employee Benefits		195,737	195,737	391,474	391,474
Professional Service Contracts		89,110	89,110		
Goods and Other Services		30,719	30,719	61,438	61,438
Travel					
Capital Outlays		60,000	60,000	6,000	6,000
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements		77,771	77,771	155,542	155,542
Total \$		1,035,309	1,035,309	1,778,398	1,778,398

In addition to the estimates above, there are additional indeterminate costs and/or savings . Please see discussion.

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

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

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

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

III. D - FTE Detail

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Contracts Specialist	76,416		1.0	0.5	1.0	1.0
Court Program Analyst	88,644		2.0	1.0	2.0	2.0
Data Quality Analyst	97,872		2.0	1.0	2.0	2.0
Financial Analyst	70,956		1.0	0.5	1.0	1.0
Total FTEs			6.0	3.0	6.0	6.0

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

170,626.00

Form FN (Rev 1/00)

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

170,626.00

Form FN (Rev 1/00)

Request # 5663 SB-1

Bill # 5663 SB

Part II: Narrative Explanation

This bill would require the Administrative Office of the Courts (AOC) to prepare a report of all individuals convicted of simple drug possession since 1971.

The bill would provide rules for vacating convictions pursuant to *State v. Blake*, resentencing persons if necessary, and for refunding legal financial obligations.

The bill would establish a refund bureau under the Department of Revenue for processing refunded legal financial obligations.

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

Sections 3 and 4 - Would provide that the AOC coordinate with superior, municipal, and district courts statewide to create a comprehensive report of all simple drug possession convictions since 1971. Specific criteria for the report is detailed. Priority of the cases is outlined, and the bill provides that this report must be completed by January 3, 2023. The bill would provide that, upon availability, the AOC shall provide installments of the report to during the time given to county prosecutors and court personal. The bill would provide that a conviction that has been determined to be vacated under *State v. Blake* that is affecting a person's immigration status shall be given priority and the county prosecutor shall file an ex-parte motion "notice of Blake disposition."

Section 5 – Would provide that the Department of Revenue (DOR) is directed to establish a "refund bureau" that will coordinate refund of LFO's related to simple drug possession.

Section 6 – Would provide for procedures in which vacation of conviction or LFO refund may be proven for unavailable court records.

Section 7 – Would direct the Washington State Patrol (WSP) to remove convictions from their information systems when presented with a vacating order.

Section 9 – Would provide an emergency clause for this bill, providing for an effective date immediate upon passage.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Courts and Counties Costs

Costs in courts and counties statewide are indeterminate, but expected to be very significant. Court processes, court staff and judicial time impacts are all expected to be significantly impacted by the provisions of this bill. However, there is no readily available data to estimate the caseload and administrative impact that would result from this bill.

AOC Costs

The AOC would require two Senior Court Program Analysts to provide centralized coordination and support for the superior courts and courts of limited jurisdiction. It is assumed this effort would be ongoing. Salaries, benefits, and standard costs are included.

Provisions of Sections 3(8) and 4(8) would require the AOC to enter into contracts with courts and counties statewide. The AOC would require a contracts specialist and accounts payable financial analyst to develop and monitor these contracts. Salaries, benefits, and standard costs are included.

Preparation of the report required by this bill would require 1,156 hours of AOC Information Services Division report development time. This would include report requirements, analysis, design, development, and testing. This one-time cost would be \$98,020. In addition, the AOC would require 2.0 FTE data quality analysts ongoing to work with courts and counties statewide to ensure data quality and data standards across a wide array of information systems. Salaries, benefits, and standard costs are included.

Section 9 of this bill provides for an emergency clause, making the bill effective immediate upon passage. The AOC does not have existing funds to provide for the immediate implementation of the provisions of this bill.

Part III: Expenditure Detail

III.A – Expenditures by Object or Purpose

	FY 2022	FY 2023	2021-2023	2023-2025	2025-2027
FTE - Staff Years		6.0	3.0	6.0	6.0
A - Salaries & Wages		581,972	581,972	1,163,944	1,163,944
B - Employee Benefits		195,737	195,737	391,475	391,475
C - Professional Service Contracts		89,110	89,110		
E - Goods & Services		30,719	30,719	61,438	61,438
G - Travel			-		
J - Capital Outlays		60,000	60,000	6,000	6,000
T - Intra-Agency Costs		77,771	77,771	155,542	155,542
Total	-	1,035,309	1,035,309	1,778,399	1,778,399

III.B – Detail:

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Court Program Analyst	88,644		2.0	2.0	2.0	2.0
Contracts Specialist	76,416		1.0	1.0	1.0	1.0
Financial Analyst	70,956		1.0	1.0	1.0	1.0
Data Quality Analyst	97,872		2.0	2.0	2.0	2.0
Total FTE's			6.0	6.0	6.0	6.0

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 5663 SB	Title: Establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs.	Agency: 056-Office of Public Defense
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.0	3.0	3.0	6.0	0.0
Account					
General Fund-State 001-1	79,109	411,656	490,765	3,893,848	0
Total \$	79,109	411,656	490,765	3,893,848	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: Joe McKittrick	Phone: 3607867287	Date: 01/06/2022
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 01/20/2022
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/20/2022
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/20/2022

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.

Senate Bill 5663 establishes streamlined procedures for compliance with the State v. Blake decision. SB 5663 creates a fiscal impact on the Washington State Office of Public Defense as follows :

Section 3(3): Using data provided by the Administrative Office of the Courts, county prosecutors will identify which convictions are properly subject to vacation under the Blake decision, and move to vacate those convictions. County prosecutors will provide Washington State Office of Public Defense a “Notice of Blake Dispositions” which lists those who are not subject to vacation and were convicted in counties that lack a local office of public defense. Defense counsel shall be appointed to those who were precluded from vacation.

Section 3(6): Where it is necessary to resentence a person or amend an existing sentence due to State v. Blake, defense counsel shall be appointed where required by law. In counties that lack local public defense offices, the court shall contact the Washington State Office of Public Defense.

Section 3(9): When individuals file motions to vacate or be resentenced pursuant to Blake, defense counsel shall be appointed where required by law. In counties that lack local public defense offices, the court shall contact the Washington State Office of Public Defense.

Section 9: An emergency clause would require implementation to begin immediately, likely within the current Fiscal Year 2022.

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.

To implement SB 5663 the Office of Public Defense (OPD) makes the following assumptions:

1. OPD assumes it would employ a Blake Triage Team of 2.0 FTE Attorneys and 1.0 FTE Paralegal in the final two months of FY 2022, and all of FY 2023, FY 2024, and FY2025. The Blake Triage Team will provide support and coordination for counties that lack a local public defense office. Support and coordination will include reviewing individuals' sentencing information and criminal histories to determine eligibility for Blake relief, recommending tier level designations to prioritize individuals in most need of immediate sentencing relief, and tracking progress in Blake cases.
2. OPD assumes it would spend \$15,000 in FY 2022 for start-up expenses for the 3.0 FTE members of the Blake Triage Team. Start-up costs include necessary equipment, technology, software and supplies.
3. OPD assumes that it will continue to employ in FY 2023, FY 2024, and FY 2025 the current Blake Administration Team consisting of 1.0 FTE Managing Attorney, 1.0 FTE Paralegal, and 1.0 FTE Administrative Assistant. These positions are currently funded in OPD's 2022 - 2023 biennial budget. The Blake Administration Team oversees the distribution of state public defense Blake funds to counties, provides data analysis and dissemination on pending Blake cases, coordinates the commutation process in collaboration with DOC and the Office of the Governor, and engages in other interagency collaborations to streamline Blake efforts. OPD assumes that these positions will continue to be funded in FY 2024 and FY

2025 to carry out ongoing responsibilities under SB 5663.

4. OPD assumes it would spend \$22,000 per year in FY 2023, FY 2024, and FY 2025 for the three employees of the Blake Triage Team to have access to court records and documents (via Odyssey and other courts' case management tools) necessary to evaluate individuals' sentencing information and criminal histories to determine eligibility for Blake relief. OPD assumes the amount would be \$3,667 for two months of FY 2022.

5. OPD assumes that it will continue its existing process to disburse \$5,100,000 in FY 2023 to counties statewide as provided for in OPD's biennial budget, to support ongoing defense work in Blake resentencing cases.

6. OPD assumes that the process described in SB 5663 includes vacating convictions for possession of 40 grams or less of marijuana, including attempted possession.

7. SB 5663 gives OPD a role in counties that lack public defense offices. Those counties include: Adams, Asotin, Chelan, Clallam, Columbia, Douglas, Ferry, Garfield, Island, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Okanogan, Pacific, Pend Oreille, Skamania, Stevens, Wahkiakum, Walla Walla, and Whitman.

8. In counties that lack public defense offices, there are currently approximately 2,714 individuals currently serving DOC sentences whose sentences are potentially impacted by the Blake decision. It is assumed that that funds in OPD's FY 2022-2023 biennial budget will be sufficient to allocate funds to counties to complete these Blake resentencing cases by June 30, 2023.

9. OPD assumes that in FY 2024 and FY 2025 it will focus on supporting efforts to vacate convictions for people with qualifying offenses in their criminal history in counties that lack public defense agencies. Vacating convictions includes the reimbursement of paid legal financial obligations. OPD estimates a total agency cost of \$2,426,400 in FY 2024 and FY 2025 to support these efforts. This includes \$1,879,920 for vacating Felony Possession of Controlled Substance convictions, and \$546,480 for vacating 40 Grams or Less Marijuana Possession in county district courts. The per-year amount is \$1,213,200. Details for these calculations are as follows:

Vacating Felony Possession of Controlled Substance Convictions: The Washington State Patrol reports 262,767 convictions since the inception of the statute in 1971. Of that amount, OPD estimates that 13.25% of the convictions were entered in counties that lack public defense offices, totaling 34,817. It is assumed that 85% of those convictions will be vacated by prosecutors through the ex parte process described in Section 3 of SB 5663. It is assumed that the remaining 15 %, or 5,222, will be reported by prosecutors to the Washington State Office of Public Defense, as required by Section 3(3) of the bill and OPD will coordinate appointment of defense counsel for those who were precluded from vacation. It is assumed that attorneys will spend an average of four hours per case, which includes time for client communication, prosecution negotiation, document preparation, and court time, and that attorneys will be paid \$90 per hour. $\$90 / \text{hr} \times 4 \text{ hrs/case} \times 5,222 = \$1,879,920$

Vacating Convictions for Possession of 40 Grams or Less of Marijuana in County District Courts: Using data provided by the Administrative Office of the Courts, OPD estimates that county district courts have entered into 20,240 convictions for possession of marijuana since 1971 in counties that lack public defense offices. It is assumed that 90% of those convictions will be vacated by prosecutors through the ex parte process described in Section 3 of SB 5663, and that the remaining 10 %, or 2,024, will be reported by prosecutors to the Washington State Office of Public Defense and OPD will coordinate appointment of defense counsel. It is assumed that attorneys will spend an average of three hours per case, which includes time for client communication, prosecution negotiation, document preparation, and court time, and that attorneys will be paid \$90 per hour. $\$90 / \text{hr} \times 3 \text{ hrs/case} \times 2,024 = \$546,480$

10. OPD assumes that under SB 5663 it would have no role in public defense services in municipal courts, as Section 4 makes no mention of OPD assisting with cases in municipal courts.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	79,109	411,656	490,765	3,893,848	0
Total \$			79,109	411,656	490,765	3,893,848	0

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.0	3.0	3.0	6.0	
A-Salaries and Wages	50,000	300,000	350,000	1,081,436	
B-Employee Benefits	14,109	84,656	98,765	332,012	
C-Professional Service Contracts				2,426,400	
E-Goods and Other Services	15,000	27,000	42,000	54,000	
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	79,109	411,656	490,765	3,893,848	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 2022	FY 2023	2021-23	2023-25	2025-27
Administrative Assistant	44,768				1.0	
Managing Attorney	120,000				1.0	
Paralegal	70,000	1.0	1.0	1.0	2.0	
Triage Attorney	115,000	2.0	2.0	2.0	2.0	
Total FTEs		3.0	3.0	3.0	6.0	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

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

Department of Revenue Fiscal Note

Bill Number: 5663 SB	Title: Establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs.	Agency: 140-Department of Revenue
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.0	17.4	9.2	38.1	21.1
Account					
GF-STATE-State 001-1	126,200	8,001,900	8,128,100	15,025,600	5,202,200
Total \$	126,200	8,001,900	8,128,100	15,025,600	5,202,200

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: Joe McKittrick	Phone: 607-867-287	Date: 01/06/2022
Agency Preparation: Beth Leech	Phone: 607-534-1513	Date: 02/01/2022
Agency Approval: Valerie Torres	Phone: 607-534-1521	Date: 02/01/2022
OFM Review: Cheri Keller	Phone: (607) 584-2207	Date: 02/02/2022

Request # 5663-1-1

Part II: Narrative Explanation

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

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

In 2021 the Washington supreme court determined in State v. Blake that all convictions for simple drug possession since 1971 are constitutionally void. The Blake decision requires that tens of thousands of convictions entered in the superior, district, and municipal courts be vacated. Convictions vacated due to the Blake decision require a refund of any legal financial obligations and collection costs paid pursuant to that conviction.

This bill requires the administrator of the Administrative Office of the Courts (AOC) to work with superior, district, and municipal courts within each county and city to develop a comprehensive report of all persons convicted of simple drug possession since 1971. Within six months of the effective date of the legislation, the prosecutors involved in vacating the convictions is required to certify to the Department of Revenue (Department) that all applicable warrants have been submitted to a judicial officer for action quashing the warrant.

The Department is directed to contract with each county and city to ensure availability of clerks, prosecutors, defenders, judicial officers, and courtroom space necessary to complete the requirements of the Blake decision. All cases contained in the comprehensive report developed by the AOC must be dismissed, vacated, resentenced, or otherwise addressed through a "Notice of Blake Disposition" within three years of the effective date of this bill.

The Department is directed to establish a refund bureau to refund legal financial obligations and collection costs paid by persons that arise from the vacation of convictions as described above. Prior to the creation of the refund bureau, superior court clerks, district court administrators, or municipal court administrators may initiate payment of the refund out of funds appropriated by the state for this purpose.

This bill requires the Department to publicize the availability of refunds and provide specific notice to persons still living that have been certified as due refunds of legal financial obligations and collection costs. This notification is required to be by first-class mail to the person's last known address. Any person seeking a refund has 10 years from the effective date of this bill to complete his or her application to the refund bureau. All refunds not claimed within this 10-year period will be returned to the state. The refund bureau will terminate operation 10 years and one month after the effective date of this bill.

This bill contains an emergency clause and takes effect immediately upon the Governor's approval. However, the Department will be unable to implement this legislation before January 1, 2024.

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.

ASSUMPTIONS:

- The Department receives an appropriation sufficient to fully implement and administer this legislation; therefore, this legislation results in no revenue impact to taxes administered by the Department.
- If the Department were required to implement and administer this legislation within existing resources, then the primary mission of the Department to collect tax revenues would be impacted due to a redirecting of resources from revenue-producing positions. This would have a significant, but indeterminate impact to taxes administered by the Department.

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

ASSUMPTIONS:

Please note that the below expenditures represent the Department's best estimate at what it will cost to implement this legislation. We do not have the resources to do this within existing funding. These expenditures assume that the Department is provided with an appropriation sufficient to cover these costs. If the Department were required to perform these activities within existing resources, then the primary mission of the Department to collect tax revenues would be impacted due to a redirecting of resources from revenue-producing positions.

It is estimated that this legislation will affect 150,000 persons who have had or will have convictions for simple drug possession vacated by the courts due to the Blake decision. Testimony has indicated that the refunds due to these individuals can range greatly. If we assume the average refund amount is \$500, then the Department would need an appropriation of \$75 million to cover those refunds. However, the timing of the refunds is unknown.

- Expenditures assume that the courts will act within the time period set in the legislation for the vacation process. If the time needed is increased, the Department's expenditures may be lower through Fiscal Year 2027.
- The Department will contract with counties and cities to reimburse their court's allowable administrative costs and legal financial obligation refunds made in vacation of convictions under the Blake decision.
- Expenditures assume that the counties and cities will provide quarterly reports of cases and costs incurred in the vacation process.
- The expenditure estimate does not include costs cities or counties will incur based on their court's administration of the legislation.
- The Department will organize a group within one of its divisions to receive and process applications received from individuals whose case has gone through the court's vacation process.
- The Department will publicize the availability of refunds and the process for obtaining a refund. The Department will use other means as directed to contact those identified by the courts as entitled to a refund.
- The Department assumes that it will be able to receive applications either electronically or on paper.
- The legislation does not provide authority for the Department to recover funds that are later determined to be miscalculated by the courts. Expenditures do not include the cost of compliance or administrative hearings.
- The Department will require 18 months for implementation and development of electronic systems. Expenditures assume an effective date of January 1, 2024.

FIRST YEAR COSTS:

The Department will incur total costs of \$126,200 in Fiscal Year 2022. These costs include :

- Labor Costs - Time and effort equates to 1.0 FTE.
- Implementation, system design planning, and outreach to county and city courts.

SECOND YEAR COSTS:

The Department will incur total costs of \$8,001,900 in Fiscal Year 2023. These costs include :

- Labor Costs - Time and effort equates to 17.38 FTEs.
- Provide technical advice, interpretation, and analysis of new laws for internal use during the implementation process.
- Work with contract consultants on an implementation plan for working with counties and cities, and creation of the refund bureau to process and make refunds to individuals.
- Contract with counties and cities for reimbursement of their court's administrative costs in vacating convictions.
- Create a web-based application to interface with counties and cities to receive their court information.

- Create a web-based system to receive applications. This would include, but not be limited to, providing an application for processing refund claims, creating accounts, work queues, refund queues, auto-assisted application and court record matching, refund information transaction entry, and data entry /adjustments.
- Create paper applications, update, and test scanning program.
- Media outreach planning.
- Answer phone calls at the telephone information center concerning the application and refund process.
- Create a special notice and identify publications and information that need to be created or updated on the Department's website.
- Respond to correspondence, email inquiries, and more difficult call backs from the telephone information center.

Object Costs - \$5,770,000.

- Contract computer system programming.
- Contract project management services to provide oversight of a new program involving government jurisdictions and individuals over a multi-year implementation period with ongoing system modifications. This will involve the development of an overall strategy, including development of key expectations and deliverables, to ensure a successful implementation.
- Acquire additional server equipment.

THIRD YEAR COSTS:

The Department will incur total costs of \$10,574,500 in Fiscal Year 2024. These costs include :

Labor Costs - Time and effort equates to 34.25 FTEs.

- Provide technical advice, interpretation, and analysis of new laws for internal use.
- Continue to work with contract consultants on implementation of the refund bureau.
- Continued system programming, testing, and maintenance.
- Coordinate media outreach and translation services.
- Answer phone calls at the telephone information center concerning the application and refund process.
- Update publications and information on the Department's website.
- Respond to correspondence, email inquiries, and more difficult call backs from the telephone information center.
- Receive and process reimbursement requests from county and city municipal courts for certain operating costs and refunds made directly to those with vacated convictions.
- Receive and process court information for vacated convictions.
- Receive and process applications from those persons who have vacated convictions.

Object Costs - \$6,918,600.

- Contract computer system programming.
- Acquire additional server equipment.
- Contract consulting for project management, organizational change management and quality assurance.
- Contract media outreach including research and objective planning, creation and placement of print and media deliverables, and monitoring of results.
- Translation services.
- Print and mail initial contact and follow up correspondence to those individuals identified by the courts as having valid refund claims.
- Utilize locate and research services to verify name and address information.
- Issue refund warrants.

ONGOING COSTS:

Ongoing costs for Fiscal Year 2025 equal \$4,451,100 and include similar activities described in the third-year costs. Time and effort equates to 42.0 FTE

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.0	17.4	9.2	38.1	21.1
A-Salaries and Wages	78,400	1,394,300	1,472,700	4,511,300	2,465,200
B-Employee Benefits	28,200	502,100	530,300	1,624,200	887,400
C-Professional Service Contracts		5,730,000	5,730,000	6,480,000	1,000,000
E-Goods and Other Services	12,600	219,600	232,200	2,096,700	786,900
J-Capital Outlays	7,000	155,900	162,900	313,400	62,700
Total \$	\$126,200	\$8,001,900	\$8,128,100	\$15,025,600	\$5,202,200

III. B - Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
COMMUNICATIONS CNSLT 4	64,332		0.5	0.3	1.0	0.4
CONTRACTS SPECIALIST 3	69,264		3.0	1.5	3.0	3.0
EMS BAND 4	122,633		0.0	0.0		
EMS BAND 5	143,263		0.0	0.0		
FISCAL ANALYST 1	43,392				7.0	3.5
FISCAL ANALYST 2	47,844				7.0	3.5
FISCAL ANALYST 3	55,524				5.2	2.6
FISCAL ANALYST 5	64,332				1.0	1.0
FORMS AND RECORDS ANALYST 2	45,504				0.8	0.6
IT SYS ADM-JOURNEY	89,916		8.0	4.0	4.0	
MGMT ANALYST4	70,956		1.2	0.6	1.1	1.0
MGMT ANALYST5	78,408	1.0	2.0	1.5	0.7	0.2
OFF ASST 3	37,728				2.9	1.5
RECORDS MGMT SUPV	67,560				1.0	1.0
TAX INFO SPEC 1	43,392		0.5	0.3	0.5	0.5
TAX INFO SPEC 4	64,332		0.5	0.3	0.2	
TAX POLICY SP 3	82,344		1.6	0.8	1.0	0.4
TAX POLICY SP 4	88,644		0.0	0.0		
WMS BAND 2	91,689				2.0	2.0
WMS BAND 3	104,295		0.0	0.0		
Total FTEs		1.0	17.4	9.2	38.1	21.1

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

Request # 5663-1-1

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 .

Should this legislation become law, the Department will use the complex rule-making process to adopt one new rule under chapter 458-20 WAC. Persons affected by this rulemaking would include persons receiving a refund.

Individual State Agency Fiscal Note

Bill Number: 5663 SB	Title: Establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs.	Agency: 225-Washington State Patrol
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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: Joe McKittrick	Phone: 3607867287	Date: 01/06/2022
Agency Preparation: Shawn Eckhart	Phone: 360-596-4083	Date: 01/13/2022
Agency Approval: Walter Hamilton	Phone: 360-596-4046	Date: 01/13/2022
OFM Review: Ruth Roberson	Phone: (360) 995-3826	Date: 01/14/2022

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 legislation does not have a fiscal impact to the Washington State Patrol (WSP) for the reason provided in the Expenditures Section.

Section 7 requires us to remove from all criminal record information systems that we maintain, any convictions for simple drug possession when presented with an order to vacate them. We are also required to report the vacated convictions to the relevant federal authorities.

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.

Since the courts have already been ordering the removal of convictions as described in Section 7 of this bill, we have already been tasked with performing the work of removing the convictions from the state's criminal records information system. Therefore, this legislation does not create a greater workload for us. The Governor's 2022 Supplemental Budget request, codified in HB 1816, includes additional funding to address the tasks that we have taken on because of the court action.

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5663 SB

Title: Establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs.

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☒ Cities: Indeterminate expenditure impact resulting from standardized process for resentencing, vacating convictions and refunding LFOs; indeterminate revenue impact as a result of new source of state funds to cover legal costs

☒ Counties: Same as above

☐ 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: Current practices statewide, current statewide funding levels, details of future contracts

Estimated revenue impacts to:

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

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 02/08/2022
Leg. Committee Contact: Joe McKittrick	Phone: 3607867287	Date: 01/06/2022
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/08/2022
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/09/2022

Part IV: Analysis

A. SUMMARY OF BILL

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

The proposed legislation would establish a statewide process for vacating convictions and refunding legal financial obligations (LFOs) in compliance with the Washington Supreme Court decision in *State v. Blake*.

Section 3 would establish the process by which superior and district courts would vacate convictions for simple drug possession and address whether LFOs must be refunded in a given person's case.

County prosecutors would be required to review reports prepared by the Administrative Office of the Courts (AOC) of all people convicted of simple drug possession since 1971, determine whether a person's conviction is properly subject to vacation, and either file a motion with the court asking to vacate a person's conviction, or provide a written notice in cases improperly included on the AOC report.

In such cases, notice must also be provided to the local office of public defense and the individual whose conviction is deemed to be ineligible for vacation. If someone's conviction is deemed ineligible, at their request they shall be appointed defense counsel to assist them in challenging the decision.

Prosecutors would also be required to take action to quash judicial warrants based solely on underlying charges for simple drug possession or other offenses where a conviction for simple drug possession serves as an element of the crime within six months of the bill taking effect.

Section 4 would establish the process by which municipal courts would vacate convictions for simple drug possession and address whether LFOs must be refunded in a given person's case.

This process would be the same as that for superior and district courts, with the exception of cities with municipal courts being required to determine whether the Blake decision applies to any municipal convictions for simple drug possession since 1971. Cities would be required to complete these determinations within three months of the bill taking effect, and they could request the assistance of AOC in developing a report of all qualifying convictions.

Section 5 would create a refund bureau, to be administered by the Department of Revenue (DOR). The bureau would be the sole issuer of LFO refunds, in amounts certified by the court vacating a conviction. DOR would also be required to contract with cities and counties to ensure sufficient availability of clerks, prosecutors, defenders, judicial officers, and courtroom space to complete all required work within three years of this bill taking effect.

Section 9 states that the bill would take immediate effect.

Section 10 states that sections 1 through 9 of the bill would constitute a new chapter in Title 10 RCW.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments , identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

The proposed legislation would have an indeterminate impact on many local government entities statewide. These impacts are indeterminate in large part because of the current variation in how convictions for simple drug possession are vacated and how LFOs are refunded. The uniform conviction vacation process this bill would create is modeled on the process currently employed by King County and 12 other counties, but the differences between this process and the processes in the remaining 26 counties are unknown.

One of the most impactful parts of the bill would be the creation of a DOR-administered refund bureau. At present, the process of refunding LFOs can involve a combination of prosecutors, public defenders, clerks, auditors, treasurers and

county finance departments, depending on the jurisdiction.

As part of the state operating budget passed during the 2020-21 session, the legislature allocated \$23.5 million for FY 2022 toward an LFO aid pool to assist counties with the costs of these refunds. This aid pool is administered by AOC, and county clerks may apply for grants to cover refund costs.

The Washington Association of County Officials indicates, however, that because the funds in this aid pool may also be applied to legal costs and the administrative costs of clerks' offices that are related to LFO refunds, the current allocation of state funds is insufficient to completely cover county LFO refund costs. It is unknown, however, the specific costs that county auditors, treasurers, and finance departments are incurring statewide in the process of refunding LFOs.

The creation of a refund bureau administered by DOR would completely eliminate this administrative work and its associated costs for counties, as the bureau would become the exclusive means to obtain an LFO refund for an amount certified by the appropriate court. Given that the current costs to counties of refunding LFOs is unknown, however, the magnitude of the costs savings to counties that would result from the creation of a refund bureau is indeterminate.

In addition to the LFO aid pool, the state operating budget includes a \$44.5 million allocation to assist counties with the judicial, prosecution and defense costs of resentencing and vacating the convictions of people affected by the Blake decision for FY 2022. Like the aid pool, counties access these funds by applying with AOC for grants.

The Washington Association of Prosecuting Attorneys indicates that the current funding allocation could cover Blake-related prosecutorial costs through FY 2022 and at least part of the way into FY 2023. Given the variability in current local resentencing, conviction vacation and LFO refund practices, it is unknown what impact the standardized process this bill would create would have on prosecutor time statewide, so the expenditure impact to prosecutors is indeterminate.

In addition to the AOC grant moneys, current funding for public defenders in Blake-related cases also comes from the Office of Public Defense (OPD), which employs a dedicated Blake Administration Team to distribute these funds. The OPD fiscal note for this bill assumes that it will continue to employ the current Blake Administration team in FYs 2023-25, and that it will continue its existing process to disburse \$5.1 million in FY 2023 to counties in support of ongoing defense work in Blake cases.

It is unknown, however, whether the state funds administered through AOC and OPD have been sufficient to cover Blake defense costs statewide, as well as how much additional public defender time, if any, the provisions of this bill might require, given the variability in current practice between jurisdictions. As a result, while the 13 model counties would likely see little to no defense expenditure impacts, the statewide magnitude of these impacts is indeterminate.

This bill would have distinct fiscal impacts on cities as compared to counties. These differences are due in large part to the fact that cities do not currently have access to any of the \$68 million in state funds allocated in the state operating budget for assisting counties with the costs of resentencing, vacating convictions and refunding LFOs as a result of the Blake decision.

Given that fact, the provision in subsection 4 (8) that DOR shall contract with cities to ensure sufficient availability of clerks, prosecutors, defenders, judicial officers, and courtroom space could result in more significant cost savings for cities than DOR contracts could create for counties. The creation of a refund bureau would have a similar effect on cities and counties, as it would entirely eliminate costs related to refunding LFOs in both jurisdictions.

While the Association of Washington Cities indicates that some municipal courts have already begun vacating convictions and refunding LFOs, it does not have detailed information on statewide municipal caseloads or costs incurred to date. Given that uncertainty, the magnitude of the cost savings for cities that this bill could create 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.

The proposed legislation would have an indeterminate impact on local government revenues.

As noted in the expenditures discussion above, cities would see the largest change in revenues with the availability of an additional revenue stream in the form of contracts with DOR to cover the legal costs of resentencing and vacating convictions. The details of these contracts will vary by jurisdiction, however, and cannot be anticipated, so the magnitude of this revenue impact is indeterminate.

While counties would also have access to a new source of funding for the legal costs of resentencing and vacating convictions in the form of contracts with DOR, the current availability of state funds through AOC grants means that the most significant revenue impact of this bill is likely to be the process through which counties access state funding. It is unknown whether there will be any net impacts to the revenue that counties receive from the state to cover these costs, as the magnitude of this change depends on current AOC grant amounts, state appropriations to support DOR contracts, and the details of those contracts.

Current AOC grant amounts statewide are unknown, and neither state appropriations to support DOR contracts nor the details of those contracts can be anticipated, so the revenue impact of this provision to counties is indeterminate. It can be assumed, however, that given the stipulation in subsections 3 (8) and 4 (8) that DOR contracts must ensure the sufficient availability of legal resources to complete the work required by those sections within three years of the effective date of the bill, county revenues from state funds will be sufficient to cover relevant legal costs.

It is important to note that, per the DOR fiscal note for this bill, contracting with cities and counties would not begin until FY 2023, so any revenue impacts resulting from those contracts would be delayed until that time.

SOURCES:

Association of Washington Cities
Engrossed Substitute Senate Bill 5092, 2021
Washington Association of County Officials
Washington Association of Prosecuting Attorneys
Washington State Department of Revenue
Washington State Office of Public Defense