

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements
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## Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	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	2023-25				2025-27				2027-29			
	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											
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Caseload Forecast Council	.0	6,000	6,000	6,000	.0	0	0	0	.0	0	0	0
Office of Financial Management	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Children, Youth, and Families	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Corrections	.0	(42,000)	(42,000)	(42,000)	.0	(370,000)	(370,000)	(370,000)	.0	(970,000)	(970,000)	(970,000)
<b>Total \$</b>	<b>0.0</b>	<b>(36,000)</b>	<b>(36,000)</b>	<b>(36,000)</b>	<b>0.0</b>	<b>(370,000)</b>	<b>(370,000)</b>	<b>(370,000)</b>	<b>0.0</b>	<b>(970,000)</b>	<b>(970,000)</b>	<b>(970,000)</b>

Agency Name	2023-25			2025-27			2027-29		
	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									
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Office of Financial Management	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	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									
Local Gov. Total									

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Cynthia Hollimon, OFM	<b>Phone:</b> (360) 810-1979	<b>Date Published:</b> Preliminary
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements	<b>Agency:</b> 100-Office of Attorney General
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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: Martha Wehling	Phone: 360-786-7067	Date: 01/17/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 01/19/2023
Agency Approval: Merdan Bazarov	Phone: 360-586-9346	Date: 01/19/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/19/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The enactment of this bill will not impact the provision of legal services by the Attorney General's Office (AGO) Children, Youth and Families (CYF) Division to the Department of Children, Youths, and Families (DCYF). This bill pertains to the Department of Corrections, the Intermediate Sentence Review Board, and the legal authority of the court hearing the sentencing enhancements, none of which are under DCYF's purview. Any change in youth's overall sentence will not impact legal services to DCYF. CYF assumes any advice requests pertaining to this bill could be handled within existing legal resources. Therefore, new legal services are nominal and costs are not included in this request.

The AGO Corrections (COR) Division has reviewed this bill and determined it will not significantly increase or decrease the division's workload. This bill proposes revisions to statutes that define how courts are to impose certain sentencing enhancements. Among other things, the revisions give sentencing courts discretion in deciding whether to order multiple enhancements to be served consecutively, eliminate requirements that certain enhancements be served in total confinement, and eliminate the prohibition that certain enhancements receive earned early release time. COR anticipates these changes could prompt new advice requests. However, responding to any such requests would take 20 – 30 hours in the first FY and could be handled within existing legal resources. Therefore, new legal services are nominal and costs are not included in this request.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	6,000	0	6,000	0	0
<b>Total \$</b>	6,000	0	6,000	0	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: Martha Wehling	Phone: 360-786-7067	Date: 01/17/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 01/19/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 01/19/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/20/2023

## Part II: Narrative Explanation

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

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

The provisions of this bill will require modifications to the Caseload Forecast Council's adult felony sentencing database. This will require work from a contractor of an estimated 50 hours at a rate of \$120 per hour for a total cost to the Caseload Forecast Council of \$6,000.

### II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

### II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	6,000	0	6,000	0	0
<b>Total \$</b>			6,000	0	6,000	0	0

### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts	6,000		6,000		
E-Goods and Other Services					
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-					
<b>Total \$</b>	6,000	0	6,000	0	0

**III. C - Operating FTE Detail:** FTEs listed by classification and corresponding annual compensation. Totals 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*



# HB 1268

## SENTENCING ENHANCEMENTS

### 101 – Caseload Forecast Council

### January 19, 2023

#### SUMMARY

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

- Section 1 Amends the definition of “Pattern of Criminal Street Gang Activity” in RCW 9.94A.030 by removing the felony convictions by a person 18 or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833.
- Section 2 Amends RCW 9.94A.533 by removing the requirements that firearm and other deadly weapon enhancements must be served in total confinement and must run consecutively. Additionally adds language allowing the courts discretion to run multiple firearm and other deadly weapon enhancements consecutively. Additionally removes language stating the portion of a sentence that is reduced with the combination of the enhancement and base sentence exceed the statutory maximum for the offense.
- Section 2 Additionally amends RCW 9.94A.533 by eliminating the sentencing enhancement for violations of a ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of 69.50.435 (protected zones).
- Section 2 Additionally amends RCW 9.94A.533 by removing the requirements that enhancements must be served in total confinement for Vehicular Homicide while under the Influence offense, unless the offender has three or more prior offenses (as defined in RCW 46.61.5055), in which case all enhancements must be served in total confinement.
- Section 2 Additionally amends RCW 9.94A.533 by removing the requirements that sexual motivation enhancements must be served in total confinement and by removing the restriction of the ability to earn good time credits for time imposed for a sexual motivation enhancement.
- Section 2 Additionally amends RCW 9.94A.533 by eliminating the Criminal Street Gang-related Felony enhancement.
- Section 2 Additionally amends RCW 9.94A.533 by removing the requirements that enhancements for minor child present in vehicle must be served in total confinement, unless the offender has three or more prior offenses (as defined in RCW 46.61.5055), in which case all enhancements must be served in total confinement.
- Section 3 Amends RCW 9.94A.599 by removing language stating the portion of a sentence that is reduced with the combination of the enhancement and base sentence exceed the statutory maximum for the offense.
- Section 4 Amends RCW 9.94A.729 by removing the restriction of the ability to earn good time credits for time imposed for a firearm or other deadly weapon enhancement, or impaired driving or minor child, or both.
- Section 5 Amends RCW 10.01.210, Offender Notification Warning, by eliminating language regarding the removal of good time for any and all deadly weapon enhancements.

Section 6 Amends RCW 72.01.410, making a technical correction to a reference to a subsection in RCW 9.94A.729.

Section 7 Repeals the following:

- RCW 9.94A.833 – Special allegations involving a minor in a felony offense.
- RCW 69.50.435 – Violations committed in or on certain public places or facilities.

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

Given the above provisions:

Prospective impacts (apply to individuals committing the offense on or after the effective date of the act):

- Individuals are eligible to serve a term of partial confinement during the period of enhancement for most enhancements.
- Earned time is allowed during the enhancement portion of the sentence for firearm or other deadly weapons, sexual motivation, or impaired driving enhancements.
- Individuals with multiple firearm or other deadly weapon enhancements may serve less time in prison as the enhancement terms are presumptively concurrent to one another, rather than consecutive.
- The protected zone enhancement is eliminated, resulting in less time in confinement.
- The Criminal Street Gang-related Felony enhancement is eliminated. There are no impacts associated with the elimination of Criminal Street Gang-related Felony enhancement as there has not been any sentences with the enhancement within the last 10 years.

**EXPENDITURES**

**Assumptions.**

- CFC = Caseload Forecast Council
- DOC = Department of Corrections
- DOSA = Drug Offender Sentencing Alternative
- FOSA = Family and Offender Sentencing Alternative
- FY = Fiscal Year
- DOSA = Drug Offender Sentencing Alternative
- Sentences are based on CFC Fiscal Year 2022 data and assume no changes in crime rates, filings, plea agreement practices or sentencing volumes, etc. (i.e., there will be an identical number of sentences each year).
- Sentences are distributed evenly by month.
- Exceptional sentences are included.
- Residential DOSA, Mentally Ill Offender Sentencing Alternative, and FOSA sentences, which have zero correctional confinement under the current policy, have no impact to confinement capacity and were excluded.
- Sex offenses sentenced under RCW 9.94A.507 were excluded.
- Life sentences were excluded.
- For prison (non-DOSA) sentences with weapon enhancement(s), the estimated length of stay in prison for the enhancement portion of the sentence under the proposed policy is calculated assuming courts impose concurrent terms for all multiple weapon enhancements and changes associated with allowance of earned time is based on the average percentage

of earned time received from the maximum allowed (92%), based on DOC FY22 release data provided by DOC.

- For prison (non-DOSA) sentences with sexual motivation enhancement(s), the estimated length of stay in prison for the enhancement portion of the sentence associated with allowance of earned time under the proposed policy is calculated on the average percentage of earned time received from the maximum allowed (92%), based on DOC FY22 release data provided by DOC.
- For prison (non-DOSA) sentences with protected zone enhancement(s), the proposed length of stay in prison is calculated based on the same relative point in the current range as applied to the standard range without the enhancement, using figures for average percentage of sentence served in prison, which is based on DOC FY22 data, for non-DOSA offenders.
- No impacts are assumed for jail bed savings associated with the change of earned time allowed on enhancements. Earned time for confinement in non-prison facilities is governed by RCW 9.92.151.
- Impacts associated with allowing earned time credits on Impaired Driving enhancements are not included as the prohibition of such credits has an effective date of January 1, 2022.
- Bed impacts are calculated with a phase-in factor.

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

The provisions of this bill will require modifications to the Caseload Forecast Council's adult felony sentencing database. This will require work from a contractor of an estimated 50 hours at a rate of \$120 per hour for a total cost to the Caseload Forecast Council of \$6,000.

#### **Prison Impact (Prospective).**

This bill:

- May shorten confinement time for sentences with the following enhancements: Firearm, Other Deadly Weapon, Sexual Motivation, or Impaired Driving enhancements, by allowing earned release time for enhancements. Additionally modifies the structure of multiple Firearm and Other Deadly Weapons enhancements to be presumptively concurrent; and eliminates the Criminal Street Gang-related Felony and Protected Zone enhancements.

The Average Daily Population (ADP) estimate is indeterminate, as under the provisions of the bill, the courts are allowed to run multiple weapon enhancements consecutively. The Caseload Forecast Council does not have the necessary information to know when the terms will be concurrent or consecutive. The information below is provided to illustrate the impact if multiple weapon enhancements **were all to be run concurrently**.

The bill may result in a maximum Prison Non-DOSA bed impact of -390 beds, reached at 240 months after implementation.

**Potential Maximum Impacts – Assumes All Multiple Enhancements Run Concurrent**

**Average Monthly Population Jail and Prison Impacts  
HB 1268 Sentencing Enhancements  
Caseload Forecast Council  
January 18, 2023**

	Fiscal Year									
	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33
<b>Jail AMP</b>	0	0	-1	-1	-1	-1	-1	-1	-1	-1
<b>Prison AMP (DOSA)</b>	0	0	0	0	0	0	0	0	0	0
<b>Prison AMP (Non-DOSA)</b>	0	-6	-18	-35	-57	-82	-110	-136	-160	-184
<b>Prison AMP (Total)</b>	0	-6	-18	-35	-57	-82	-110	-136	-160	-184

*Note:* The estimated Average Daily Population (ADP) savings associated with this legislative change is based on sentences imposed in FY 2022, and may be underestimating the ADP savings due to delayed sentencing associated with Covid.

**Juvenile Rehabilitation Impacts**

Current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve to their confinement at a JR facility until age 25, or until release if occurring prior to age 25. As less than 1% of all sentences in the adult system are committed by those less than age 18 and sentences with enhancements, it assumed any impacts to JR would be minimal.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements	<b>Agency:</b> 105-Office of Financial Management
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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: Martha Wehling	Phone: 360-786-7067	Date: 01/17/2023
Agency Preparation: Keith Thunstedt	Phone: 360-810-1271	Date: 01/20/2023
Agency Approval: Jamie Langford	Phone: 360-902-0422	Date: 01/20/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/20/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

This bill makes several enhancements and updates to sentencing guidelines. These changes would have a de minimis workload for OFM, and therefore does not have a fiscal impact.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements	<b>Agency:</b> 307-Department of Children, Youth, and Families
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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: Martha Wehling	Phone: 360-786-7067	Date: 01/17/2023
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 01/20/2023
Agency Approval: James Smith	Phone: 360-764-9492	Date: 01/20/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/22/2023



## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Section one removes any felony conviction by a person 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833 from the "pattern of criminal street gang activity" will have an impact by those effected.

Section two amends RCS 9.94A.533 by removing the requirement that firearm and other deadly weapon enhancements must be served in total confinement and must run consecutively.

Section two removes language that if the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

Section two allows the offender to have three or more prior offenses before all impaired driving enhancement must be served in total confinement.

Section two allows the offender to have three or more prior offenses before all vehicular assaults committed under the influence enhancements must be served in total confinement.

Section two removes the provision that a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced. Also, the portion of the total confinement sentence which the offender must serve under shall be calculated before any earned early release time is credited to the offender.

Section two eliminates the Criminal Street Gang related felony enhancement.

Section two removes the requirements that enhancements for minor child present in vehicle must be served in total confinement, unless the offender has three or more prior offences in which case all enhancement must be served in total confinement and shall run consecutively.

Section three amends RCW 9.94A.599 by removing language stating if the addition of a firearm or deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

Section four amends RCW 9.94A.729 by removing the restriction of the ability to earn good time credits for time imposed for a deadly weapon enhancement, impaired driving or minor child enhancement, or both.

Section five amends RCW 10.01.210 by eliminating language regarding removal of good time for any and all deadly weapon enhancements.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None

### II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Fiscal impact is indeterminate.

The changes in statute could potentially impact Juvenile Rehabilitation (JR) beds.

Current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve their confinement at a JR facility until age 25, or until release if occurring prior to age 25. Per the Caseload Forecast Council (CFC), the CFC does not have the necessary information to know when the terms of confinement will be concurrent or consecutive, therefore, the CFC cannot estimate the bed impact of the bill. Impacts to JR would be minimal since less than 1% of all sentences in the adult system are committed by youth less than age 18.

The bill may potentially result in a change in Average Daily Population (ADP) and indeterminate costs to DCYF. It is unknown at this time how many youth will be impacted; therefore the caseload forecast and per capita adjustments are unknown at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into 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: *FTEs listed by classification and corresponding annual compensation. Totals 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

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

None

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1268 HB	<b>Title:</b> Sentencing enhancements	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	0	(42,000)	(42,000)	(370,000)	(970,000)
<b>Total \$</b>	0	(42,000)	(42,000)	(370,000)	(970,000)

### 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.

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## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

AN ACT Relating to sentencing enhancements; amending RCW 9.94A.030, 9.94A.599, 9.94A.729, 10.01.210, and 72.01.410; reenacting and amending RCW 9.94A.533; and repealing RCW 9.94A.833 and 69.50.435.

Section 1(36)(a)(x) amends the definition of “Pattern of Criminal Street Gang Activity” in RCW 9.94A.030 by removing the felony convictions by a person 18 or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833.

Section 2(3)(e)(i) amended RCW 9.94A.533 to include any person sentenced to multiple firearm enhancements on or after the effective date of this section (July 23, 1995) the court may order the enhancements to run consecutively.

Section 2(3)(g) removes language stating that if a firearm enhancement increases sentence to exceed the statutory maximum for the offense, that the portion of the sentence regarding the enhancement may not be reduced.

Section 2(4)(e)(i) amended RCW 9.94A.010 to include any person sentenced to multiple firearm enhancements on or after the effective date of this section the court may order the enhancements to run consecutively.

Section 2(4)(g) removed the stipulation from RCW 9A.28.020 that should the addition of a firearm enhancement increase the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

Section 2(6) removed from RCW 9.94A.827 all enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

Section 2(7) removed from RCW 46.61.502 and RCW 46.61.5055 that impaired driving enhancements shall be served in total confinement. Also states if offender has three or more prior offenses as defined in RCW 46.61.5005, all enhancements in this subsection must be served in total confinement.

Section 2(8)(b) removed from RCW 9.94A.030 that sexual motivation enhancements shall be served in total confinement.

Section 2(8)(e) removed portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender.

Section 2(10) eliminates the Criminal Street Gang-related Felony enhancement.

Section 2(12) Section 2(12) removed from RCW that vehicular homicide under the influence enhancements shall be served in total confinement. Add language defining if the offender has three or more prior offenses as defined in RCW 46.61.5005, all enhancements in this subsection must be served in total confinement.

Section 3 removed the stipulation from RCW 9.9A.599 that should the addition of a firearm enhancement increase the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

Section 4(2) amended RCW 9.94A.533 to state that an offender who has been convicted of a felony committed after July 23, 1995, involving a deadly weapon enhancement can now receive good time credits or earned release time for offense.

Section 4(2)(b) amends RCW 9.94A.729 by removing the restriction of the ability to earn good time credits for time

imposed for a firearm or other deadly weapon enhancement, or impaired driving or minor child, or both.

Section 5 amends RCW 10.01.210 and 2002 c 290 s 23 a, Offender Notification Warning, by eliminating language regarding the removal of good time for all deadly weapon enhancements.

Section 7 is a new section in which it repeals the following:

- RCW 9.94A.833 – Special allegations involving a minor in a felony offense.
- RCW 69.50.435 – Violations committed in or on certain public places or facilities.

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

## II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

## II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

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

This bill may shorten confinement time for sentences with the following enhancements: Firearm, Other Deadly Weapon, Sexual Motivation, or Impaired Driving enhancements, by allowing earned release time for enhancements. Additionally modifies the structure of multiple Firearm and Other Deadly Weapons enhancements to be presumptively concurrent; and eliminates the Criminal Street Gang-related Felony and Protected Zone enhancements.

Prospectively, The Average Daily Population (ADP) estimate is indeterminate, as under the provisions of the bill the courts are allowed to run multiple weapon enhancements consecutively. The Caseload Forecast Council does not have the necessary information to know when the terms will be concurrent or consecutive. The information below is provided to illustrate the impact if multiple weapon enhancements were all to be run concurrently.

The bill may result in a maximum Prison Non-DOSA bed impact of -390 beds, reached at 240 months after implementation

- FY2023: 0 ADP X \$6,980 DVC = 0
- FY2024: 0 ADP X \$6,980 DVC = 0
- FY2025: -6 ADP X \$6,980 DVC = -\$42,000
- FY2026: -18 ADP X \$6,980 DVC = -\$126,000
- FY2027: -35 ADP X \$6,980 DVC = -\$244,000
- FY2028: -57 ADP X \$6,980 DVC = -\$398,000
- FY2029: -82 ADP X \$6,980 DVC = -\$572,000

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

### 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 \$6,980 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.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	(42,000)	(42,000)	(370,000)	(970,000)
<b>Total \$</b>			0	(42,000)	(42,000)	(370,000)	(970,000)

**III. B - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services		(31,000)	(31,000)	(277,000)	(726,000)
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services		(11,000)	(11,000)	(93,000)	(244,000)
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	(42,000)	(42,000)	(370,000)	(970,000)

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

**III. D - Expenditures By Program (optional)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Correctional Operations (200)		(22,000)	(22,000)	(194,000)	(510,000)
Healthcare Services (500)		(20,000)	(20,000)	(176,000)	(460,000)
<b>Total \$</b>		(42,000)	(42,000)	(370,000)	(970,000)

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*