

Multiple Agency Fiscal Note Summary

Bill Number: 5046 S SB	Title: Postconviction counsel
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Estimated Cash Receipts

NONE

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	4.5	1,527,900	1,527,900	1,527,900	6.0	1,998,800	1,998,800	1,998,800	6.0	1,998,800	1,998,800	1,998,800
Office of Public Defense	3.0	10,270,920	10,270,920	10,270,920	3.0	13,487,513	13,487,513	13,487,513	.0	13,490,864	13,490,864	13,490,864
Total \$	7.5	11,798,820	11,798,820	11,798,820	9.0	15,486,313	15,486,313	15,486,313	6.0	15,489,664	15,489,664	15,489,664

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	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
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Gaius Horton, OFM	Phone: (360) 819-3112	Date Published: Final
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Judicial Impact Fiscal Note

Bill Number: 5046 S SB	Title: Postconviction counsel	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 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years	3.0	6.0	4.5	6.0	6.0
Account					
General Fund-State 001-1	528,500	999,400	1,527,900	1,998,800	1,998,800
State Subtotal \$	528,500	999,400	1,527,900	1,998,800	1,998,800
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					

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: Mahnur Khan	Phone: 360-786-7437	Date: 01/20/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 01/27/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/27/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

179,880.00

Form FN (Rev 1/00)

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Request # 083-1

Bill # 5046 S SB

Part II: Narrative Explanation

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

THIS JUDICIAL IMPACT NOTE IS FOR THE COURT OF APPEALS – AGENCY 048

- * Makes changes in the criteria to determine when indigent individuals (adults and juveniles) who are convicted of crimes/offenses are appointed state-funded public defense counsel to file and prosecute one, timely personal restraint petition (PRP).
- * Adds two new provisions for eligibility for petitioning a sentencing court if the legislature creates an opportunity to do so and challenging a conviction or sentence if a final decision of an appellate court creates an opportunity to do so.

Sections 2:

This bill provides authority for the director of the Office of Public Defense (OPD) to administer state-funded services for appellate indigent defense under RCW 10.73.150 and for postconviction indigent defense to file and prosecute a first, timely personal restraint petition under certain sections of RCW 10.73.150.

Section 3:

Counsel shall be provided at state expense to an indigent adult/juvenile offender who has been convicted of a crime/offense under statutorily-designated circumstances. This bill changes the circumstances that such a person receives counsel at state expense when not under a sentence of death:

- *counsel at state expense must be provided upon a request for counsel to file and prosecute a first, timely personal restraint petition (PRP) for an indigent adult/juvenile offender.
- * the court may appoint counsel at public expense to file or prosecute a second or subsequent person restraint petition on the same judgment and sentence, if the court determines the matter is not barred by RCW 10.73.090 or 10.73.140.
- * counsel at state expense must be provided upon a request for counsel to prosecute a motion for collateral attack other than a PRP, after the court has determined that the issues raised by the petition establish grounds for relief.
- * counsel at state expense must be provided upon a request to petition the sentencing court if the legislature creates an ability to petition the sentencing court.
- * counsel at state expense must be provided upon a request to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence.

II. B - Cash Receipts Impact

None

II. C - Expenditures

COURT OF APPEALS IMPACT

IMPACT TO THE NUMBER OF HEARINGS OR TRIALS AND JUDICIAL OFFICER WORKLOAD - INDETERMINATE

The Court of Appeals cannot estimate at this stage the exact number of additional PRPs this will generate, but it is reasonable to predict that there will be a substantial increase in timely, non-frivolous, PRPs.

This bill could result in an increase to a total of 700 timely PRPs per year, in addition to the existing rate of untimely PRPs. About 15 percent of PRPs are currently set for panel consideration. That percentage may go up, but the Court of Appeals is unable to determine how much.

REASON FOR THE CHANGE

* If defense attorneys strategically split arguments between their direct appeal and their one timely PRP, then the Court of Appeals will likely have a very high rate of timely PRPs filed where convictions/sentences have been affirmed. The Court of Appeals estimates this could be as many as 90% of direct appeals where the conviction and sentence were affirmed.

* The Court of Appeals already receives a comparable number of criminal appeals and PRPs filed statewide in a year (about 1,000 each). But many PRPs are successive and even more are untimely.

* It would not be unreasonable to predict that the Court of Appeals will likely receive about 300 additional total PRPs filed statewide if 5046 is adopted.

179,880.00

Form FN (Rev 1/00)

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Request # 083-1

Bill # 5046 S SB

* The percentage of total PRPs that are timely and nonfrivolous is likely to increase. The total number of timely PRPs could increase to 700 per year.

* Currently about 15% of the PRP cases end up going to 3-judge panels. That percentage would likely increase.

This bill would increase the workload for judges. However, the Court of Appeals is unable to estimate at this time whether the increase will create backlogs necessitating additional judicial officers.

IMPACT TO COURT OF APPEALS STAFF

This bill would increase the impact to Court of Appeals Staffing as follows.

Beginning January 1, 2024 and ongoing, the Court of Appeals would require salary, benefits, and associated standard costs for:

* Case Managers. Case Managers handle about 60-75 PRPs each per year. The Court of Appeals need 3.0 FTE additional case managers statewide when there is an expected return to pre-Covid levels of PRP filings, which will likely occur by the January 1, 2024 effective date.

* Staff Attorneys. Because there may be more timely PRPs, and many more will be non-frivolous, the Court of Appeals anticipates that staff attorneys would need to spend more time per PRP. Conservatively, there is a need to add at least 1.0 Staff Attorney per Court of Appeals division, for a total of 3.0 FTE.

STAFF IMPACTS INCLUDE STANDARD COSTS

Explanation of standard costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

Part III: Expenditure Detail

Part III: Expenditure Detail

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

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	6.0	4.5	6.0	6.0
Salaries and Wages	289,300	578,700	868,000	1,157,400	1,157,400
Employee Benefits	92,300	184,500	276,800	369,000	369,000
Professional Service Contracts					
Goods and Other Services	11,400	22,800	34,200	45,600	45,600
Travel	7,600	15,000	22,600	30,000	30,000
Capital Outlays	33,600	9,600	43,200	19,200	19,200
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements	94,300	188,800	283,100	377,600	377,600
Total \$	528,500	999,400	1,527,900	1,998,800	1,998,800

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

NONE

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

NONE

III. D - FTE Detail

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Case Manager	69,759	1.5	3.0	2.3	3.0	3.0
Staff Attorney	123,120	1.5	3.0	2.3	3.0	3.0
Total FTEs		3.0	6.0	4.5	6.0	6.0

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

IV. C - Capital Budget Breakout

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

NONE

None

Individual State Agency Fiscal Note

Bill Number: 5046 S SB	Title: Postconviction counsel	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 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	3.0	3.0	3.0	0.0
Account					
General Fund-State 001-1	3,532,173	6,738,747	10,270,920	13,487,513	13,490,864
Total \$	3,532,173	6,738,747	10,270,920	13,487,513	13,490,864

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: Mahnur Khan	Phone: 360-786-7437	Date: 01/20/2023
Agency Preparation: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/30/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/30/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

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.

SSB 5046 would provide indigent persons with access to counsel at state expense for certain post-conviction legal actions, and would require a report.

Section 2 amends RCW 2.70.020 to require the Washington State Office of Public Defense (OPD) to administer certain state-funded post-conviction indigent defense as provided in RCW 10.73.150.

Section 3 amends RCW 10.73.150(4) to require the Office of Public Defense to provide counsel for indigent adults and youth convicted of crimes or offenses when they request counsel to file and prosecute a first, timely personal restraint petition as authorized in RCW 10.73.090. Section 3 also amends RCW 10.73.150 to add new subsection (5) that clarifies how a court will provide counsel for collateral attacks other than a personal restraint petition. Section 3 further amends RCW 10.73.150 to add new subsections (9) and (10) to require the Office of Public Defense to provide counsel for indigent adults and youth convicted of crimes or offenses when they request counsel to petition the sentencing court if the legislature creates an ability to do so, or when they request counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence.

Section 4 adds a new section requiring the Office of Public Defense to examine barriers to providing postconviction counsel and report to the Legislature.

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 Office of Public Defense (OPD) assumes the following impacts from SSB 5046 Section 3(4) (providing counsel for indigent persons to file a first, timely personal restraint petition):

1. In order to be prepared for the January 1, 2024 effective date, OPD would hire three FTE agency staff positions (managing attorney, paralegal, legal assistant) in July 2023. In addition to staff salaries and benefits, OPD also would have one time start-up costs of \$5,000 for each position to cover office equipment, furnishings, subscriptions, software licensing, etc. OPD staff salaries and benefits are identified at Expenditure Object A (salaries) & B (benefits), and reflect step increases as currently provided in the state salary schedule. One-time new employee start-up costs are included among other costs in Expenditure Object E (goods & services).

2. Because of the January 1, 2024 effective date, OPD assumes only 6 months of client services contracts for Fiscal Year 2024.

3. OPD assumes the maximum number of personal restraint petitions that would be eligible for public defense representation would be roughly equal to the number of indigent criminal appeals for which OPD already provides counsel. Therefore, OPD assumes that client services contracts for personal restraint petitions would cost the agency approximately the same amount it currently spends on client services contracts for indigent criminal appeals. Client services contract costs are identified at Expenditure Object N (grants, benefits, & client services).

4. OPD assumes that providing legal representation for indigent personal restraint petitions would involve litigation costs for expert and investigative services in most cases and interpreter and translation costs in some cases. OPD assumes that trial court transcripts and other files would already have been made part of the appellate record and would not need to be re-created or re-translated. Litigation costs and interpreter/translation costs represent the bulk of costs identified at Expenditure Object E (goods & services).

5. OPD assumes travel expenses associated with indigent personal restraint petitions would be roughly equivalent to travel expenses associated with indigent criminal appeals. OPD pays travel costs for contracted attorneys to visit incarcerated clients and for in-person appearances at distant court locations. Travel costs are identified at Expenditure Object G (travel).

OPD assumes the following impacts from SSB 5046 Section 3(9) (providing counsel if the legislature creates an ability to petition the sentencing court):

1. Section 3(9) is prospective and is conditioned upon potential future action of the legislature. Costs associated with such future actions would be dependent on the nature and scope of the potential legislative action. As such, costs associated with this Section 3(9) are indeterminate at this time.

2. OPD assumes that future legislation, as contemplated in Section 3(9), would include a fiscal note request specific to the legislation. OPD assumes the agency would estimate fiscal impacts specific to the new legislation at that time.

OPD assumes the following impacts from SSB 5046 Section 3(10) (providing counsel if a final decision of an appellate court creates an ability to challenge a conviction or sentence):

1. It is not possible to anticipate how many convictions or sentences might be invalidated by final appellate court action in the future, thus costs for Section 3(10) are at least partially indeterminate. OPD assumes that the present moment in time represents a high water mark for void convictions and sentences, with *State v. Blake* invalidating many thousands of convictions and sentences, and that future void convictions and sentences likely would impact smaller numbers at any one time.

2. Section 3(10) overlaps somewhat with Section 3(4). OPD assumes that many void convictions and sentences for which counsel would be appointed under Section 3(10) would be challenged as personal restraint petitions, and as such are already included in the assumptions and cost estimates above for Section 3(4).

3. OPD assumes that some portion of future void convictions and sentences for which counsel would be appointed under Section 3(10) would not be handled as personal restraint petitions and rather would be handled most efficiently by motion in Superior Court, under Criminal Rule 7.8 (motions for relief from judgment). In these instances, OPD assumes it would contract with counties that have public defender agencies to represent clients whose cases originated in those counties, and that OPD would directly administer client services contracts with nonprofits and individual criminal defense attorneys and firms to represent clients whose cases originated in counties without public defender agencies. This is similar to the approach for which OPD is currently funded to provide counsel in resentencing and vacating cases under *State v. Blake*.

4. OPD assumes that if future appellate court actions invalidate convictions and sentences in such large numbers that they exceed OPD's ability to absorb the costs, OPD would develop budget decision packages and seek funding specifically to address the number of indigent cases involved. OPD assumes that it could be able to absorb the costs of some future court actions, depending on the scope.

OPD assumes the following impacts from SSB 5046 Section 4 (directing OPD to examine and report on barriers to providing counsel to prosecute a timely collateral attack other than a personal restraint petition):

1. OPD assumes that OPD’s existing staff can conduct the required study using publicly available data and cost-effective tools such as online surveys and virtual platforms for stakeholder meetings. OPD therefore assumes it will be able to absorb the costs of Section 4 within existing resources.

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	3,532,173	6,738,747	10,270,920	13,487,513	13,490,864
Total \$			3,532,173	6,738,747	10,270,920	13,487,513	13,490,864

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	3.0	3.0	3.0	
A-Salaries and Wages	239,160	242,112	481,272	493,368	496,440
B-Employee Benefits	59,663	59,936	119,599	120,747	121,026
C-Professional Service Contracts					
E-Goods and Other Services	775,480	1,520,960	2,296,440	3,041,920	3,041,920
G-Travel	1,960	3,920	5,880	7,840	7,840
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	2,455,910	4,911,819	7,367,729	9,823,638	9,823,638
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	3,532,173	6,738,747	10,270,920	13,487,513	13,490,864

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Assistant	49,404	1.0	1.0	1.0	1.0	
Managing Attorney	120,000	1.0	1.0	1.0	1.0	
Paralegal	69,756	1.0	1.0	1.0	1.0	
Total FTEs		3.0	3.0	3.0	3.0	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

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5046 S SB

Title: Postconviction counsel

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

Legislation Impacts:

- Cities:
- Counties: Indeterminate increased expenditures for offices of county prosecuting attorneys to respond to additional personal restraint petitions
- 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: Amount of prosecuting attorney time required per additional personal restraint petition

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 01/30/2023
Leg. Committee Contact: Mahnur Khan	Phone: 360-786-7437	Date: 01/20/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/30/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The proposed substitute bill would add additional circumstances under which a defender shall be provided at state expense to a person who is indigent or indigent and able to contribute who has been convicted of a crime.

SUMMARY OF CURRENT BILL:

The proposed legislation would amend several RCWs related to public defense.

Section 2 would amend RCW 2.70.020, adding “postconviction indigent defense to file or prosecute a first, timely personal restraint petition,” as well as other postconviction proceedings, to the areas the director of the Office of Public Defense shall administer.

Section 3 would amend RCW 10.73.150, adding the following to the list of cases in which a defender shall be provided at state expense to a person who is indigent or indigent and able to contribute who has been convicted of a crime:

1. Such person requests counsel be appointed to file or prosecute a first, timely personal restraint petition.
2. Such person requests counsel be appointed to file or prosecute a second or subsequent personal restraint petition on the same judgment and sentence if the court determines the petition is not barred by RCW 10.73.090 or RCW 10.73.140.
3. Such person requests counsel be appointed to file or prosecute a motion for collateral attack other than a personal restraint petition, after the court has determined that the issues raised by the petition establish grounds for relief.
4. Such person request counsel be appointed to file or prosecute a second or subsequent collateral attack other than a personal restraint petition on the same judgment and sentence if the court determines the collateral attack is not barred by RCW 10.73.090 or 10.73.14.
5. Such person requests counsel be appointed to petition the sentencing court if the legislature creates an ability to petition the sentencing court.
6. Such person requests counsel be appointed to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence.

Section 5 states that the bill would take effect on January 1, 2024.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES IN EXPENDITURE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

According to the Washington Association of Prosecuting Attorneys (WAPA), the additional circumstances under which eligible people who have been convicted of a crime would be able to request counsel at state expense would likely increase the number of appeals prosecutor's offices would need to participate in. It is unknown however, how many additional appeals the changes the proposed substitute would make may result in, or how much prosecutor time each appeal may require, so the additional local government expenditure impact of the proposed substitute bill is indeterminate.

EXPENDITURE IMPACT OF CURRENT BILL:

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

The increased access to postconviction defense counsel to file and prosecute personal restraint petitions that this bill would provide could increase the number of these petitions that are filed and prosecuted. While the bill specifies that defense counsel in these cases shall be provided at state expense, an increase in the number of personal restraint petitions filed and prosecuted would require additional staff hours from prosecuting attorneys, who also participate in personal restraint proceedings.

WAPA indicates that the length of these proceedings can vary from one to two days, to several weeks, depending on the length of case transcripts. According to the 2023 Local Government Fiscal Note Program Unit Cost Model, the average hourly salary plus benefits and overhead for a county prosecuting attorney is \$82.

According to the Administrative Office of the Courts (AOC), the state Court of Appeals currently receives an average of approximately 1,000 criminal appeals and 1,000 personal relief petitions annually. Per AOC, the Court of Appeals estimates that the increased access to postconviction defense counsel to file and prosecute personal restraint petitions that this bill would provide could lead to an additional 300 such petitions being filed each year.

While, according to WAPA, the amount of attorney time that each of these additional proceedings may require can vary widely, resulting in an indeterminate expenditure impact on the offices of county prosecuting attorneys, the following is an illustrative range of potential cost scenarios based on hypothetical average amounts of prosecutor time required per additional petition.

Average of one day of prosecutor time per additional personal relief petition:

8 hours prosecutor time per petition X \$82 average hourly salary plus benefits and overhead X 300 additional petitions = \$196,800

Half of petitions require an average of one day of prosecutor time, half require an average of two weeks of prosecutor time:

(8 hours prosecutor time per petition X \$82 average hourly salary plus benefits and overhead X 150 additional petitions) + (80 hours prosecutor time per petition X \$82 average hourly salary plus benefits and overhead X 150 additional petitions) = \$98,400 + \$984,000 = \$1,082,400

Average of two weeks of prosecutor time per additional petition:

80 hours of prosecutor time per petition X \$82 average hourly salary plus benefits and overhead X 300 additional petitions = \$1,968,000

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

The proposed legislation would have no impact on local government revenues.

SOURCES:

Local Government Fiscal Note Program Unit Cost Model, 2023

Washington Association of Prosecuting Attorneys

Washington State Administrative Office of the Courts