

Multiple Agency Fiscal Note Summary

Bill Number: 5135 SB	Title: Solitary confinement
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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
Criminal Justice Training Commission	.0	135,000	135,000	135,000	.0	0	0	0	.0	0	0	0
Department of Corrections	280.2	75,800,000	75,800,000	75,800,000	361.8	96,426,000	96,426,000	96,426,000	361.8	96,426,000	96,426,000	96,426,000
Total \$	280.2	75,935,000	75,935,000	75,935,000	361.8	96,426,000	96,426,000	96,426,000	361.8	96,426,000	96,426,000	96,426,000

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			6,300,288						
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			6,300,288						

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Criminal Justice Training Commission	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	5,500,000	5,500,000	.0	2,000,000	2,000,000	.0	0	0
Total \$	0.0	5,500,000	5,500,000	0.0	2,000,000	2,000,000	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

NONE

Agency Name	2023-25	2025-27	2027-29
	Total	Total	Total
Construction	4,000,000	2,000,000	0
Pre-design/Design	1,500,000	0	0
Total \$	5,500,000	2,000,000	0

Prepared by: Cynthia Hollimon, OFM	Phone: (360) 810-1979	Date Published: Final
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Individual State Agency Fiscal Note

Bill Number: 5135 SB	Title: Solitary confinement	Agency: 227-Criminal Justice Training Commission
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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
Account					
General Fund-State 001-1	89,000	46,000	135,000	0	0
Total \$	89,000	46,000	135,000	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: Kelsey-anne Fung	Phone: 360-786-7479	Date: 01/09/2023
Agency Preparation: Brian Elliott	Phone: 206-835-7337	Date: 01/12/2023
Agency Approval: Brian Elliott	Phone: 206-835-7337	Date: 01/12/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/17/2023

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 11 (1) states, subject to the availability of amounts appropriated for this specific purpose, the Washington Association of Sheriffs and Police Chiefs shall collect, on a monthly basis, the information submitted under section 10 of this act. The collected information must be compiled in a report summarizing the information by county and type of facility. An initial report must be submitted, in compliance with RCW 43.01.036, to the governor and the appropriate committees of the legislature by December 1, 2023. A final report must be submitted, in compliance with RCW 43.01.036, to the governor and the appropriate committees of the legislature by December 1, 2024.

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.

This bill has no cash receipt impact on the Washington State Criminal Justice Training Commission.

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.

Expenses provided by the Washington Association of Sheriffs and Police Chiefs (WASPC) are as follows:

Part time program coordinator:

Fiscal year 2024 = \$72,597.

Fiscal year 2025 = \$37,255.

Equipment in fiscal year 2024 = \$5,000.

Supplies = \$1,000 in fiscal years 2024 and 2025.

Communications expense = \$1,620 in fiscal year 2024 and \$810 in fiscal year 2025.

Travel = \$5,000 in fiscal years 2024 and 2025.

WASPC administrative expense: 5% of office space, utilities, etc.

Fiscal year 2024 = \$4,261.

Fiscal year 2025 = \$2,203.

Totals rounded to nearest thousand:

Fiscal year 2024 = \$89,000

Fiscal year 2025 = \$46,000

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	89,000	46,000	135,000	0	0
Total \$			89,000	46,000	135,000	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					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	89,000	46,000	135,000		
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	89,000	46,000	135,000	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.

Individual State Agency Fiscal Note

Bill Number: 5135 SB	Title: Solitary confinement	Agency: 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
FTE Staff Years	198.5	361.8	280.2	361.8	361.8
Account					
General Fund-State 001-1	27,587,000	48,213,000	75,800,000	96,426,000	96,426,000
Total \$	27,587,000	48,213,000	75,800,000	96,426,000	96,426,000

Estimated Capital Budget Impact:

	2023-25		2025-27		2027-29	
	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Predesign/Design	1,500,000	0	0	0	0	0
Construction	2,000,000	2,000,000	2,000,000	0	0	0
Grants/Loans	0	0	0	0	0	0
Staff	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total \$	3,500,000	2,000,000	2,000,000	0	0	0

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: Kelsey-anne Fung	Phone: 360-786-7479	Date: 01/09/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 01/30/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 01/30/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/31/2023

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.

Effective July 1, 2024, an incarcerated or detained person in a state correctional facility or a private long-term detention facility may not be placed in solitary confinement except when necessary for emergency purposes, medical isolation, or when the person voluntarily requests solitary conditions. "Solitary confinement" means the confinement of an incarcerated person or detained person alone in a cell or similarly confined holding or living space for 20 hours or more per day under circumstances other than a partial or facility-wide lockdown. An incarcerated or detained person transferred to an out-of-state correctional facility may not be placed in solitary confinement unless it complies with these restrictions.

Section 3 The following definitions have been added:

(33) "Qualified medical provider" means a physician, physician assistant, advanced registered nurse practitioner, clinical nurse specialist, or other comparably credentialed employee or contractor employed to provide health care, or for mental health evaluations or decisions, a state licensed psychiatrist or psychologist, a registered nurse, or other comparably credentialed employee or contractor employed to provide mental health care.

(34) "Less restrictive intervention" means a placement or conditions of confinement, or both, in the current or an alternative correctional facility or detention facility, under conditions less restrictive of an incarcerated or detained person's movement, privileges, activities, or social interactions than solitary confinement.

(35) "Solitary confinement" means the confinement of an incarcerated person or detained person alone in a cell or similarly confined holding or living space for 20 hours or more per day under circumstances other than a partial or facility-wide lockdown.

(36) "Vulnerable person" means any incarcerated person or detained person who: (a) Has a mental disorder, as defined in RCW 71.05.020, or where there is evidence of a diagnosis of a serious mental illness, a history of psychiatric hospitalization, or a history of disruptive or self-injurious behavior including, but not limited to, serious and/or repeated self-harm, that may be the result of a mental disorder or condition; (b) Has a developmental disability, as defined in RCW 71A.10.020; (c) Has a serious medical condition that cannot effectively be treated in solitary confinement; (d) Is pregnant, in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; (e) Has needs related to a physical disability that cannot be accommodated in solitary confinement; (f) Has a significant auditory or visual impairment; or (g) Has a record of dementia, traumatic brain injury, or other cognitive condition that makes the person more vulnerable to the harms of isolation.

(37) "Long-term private detention facility" and "detention facility" mean a private detention facility as defined in RCW 70.395.020 where individuals may be confined for time periods greater than one year.

(38) "Detained person" means a person confined in a long-term private detention facility.

Section 4 (New section) restricts Solitary Confinement (SC) usage to only when necessary for emergency purposes, medical isolation, or voluntary isolation.

Section 5(1) (New section) Solitary Confinement for Emergency Purposes. Allows SC if the incarcerated individual has not been determined to be a vulnerable person, the superintendent has reasonable cause for safety concerns, and/or the superintendent concludes a less restrictive measure would be insufficient.

Section 5(2) Except as provided in(a)(ii) of this subsection, a qualified medical provider shall conduct a personal and comprehensive medical and mental health examination of the incarcerated or detained person within 24 hours of the person

being placed in solitary confinement under this section.

Section 5(2)(a)(ii) A person who has been involved in an altercation or use of force must be examined by a qualified medical provider prior to being placed in solitary confinement.

Section 5(2)(b) The comprehensive medical and mental health examination must include an assessment as to whether the person is a vulnerable person and whether the person's age or circumstance makes them particularly vulnerable to the harm of isolation, such that the person should be considered a vulnerable person. The examining qualified medical provider shall immediately report to the superintendent.

Section 5(2)(c) A report must be provided to the superintendent and secretary as soon as possible and no later than next business day.

Section 5(3)(a) 24-HOUR LIMIT. Except for extended solitary confinement as provided in (b) of this subsection, a person may not be held in solitary confinement for emergency purposes under this section for more than 24 consecutive hours and for more than 72 cumulative hours in any 30-day period.

Section 5(3)(b) requires extended SC to not exceed more than 15 consecutive days and for more than 45 cumulative days during a single fiscal year.

Section 5(3)(b)(i) A qualified medical provider shall, every seven days, conduct a mental health and physical health status examination of the person, in a confidential setting outside of the cell unless doing so would present a substantial threat to security or safety or the person refuses to leave the cell. These examinations must be more frequent if indicated by the person's documented clinical needs pertaining to his or her identified health or health care concerns

Section 5(3)(b)(ii) The DOC shall provide the incarcerated or with timely, fair, and meaningful opportunities to contest the extended solitary confinement, including: An initial hearing within 72 hours of placement, unless emergency circumstances require a continuance which may be up to an additional 48 hours; the right to appear at the hearing; the right to request assistance at the hearing by a lay advisor or other person of the incarcerated or detained person's choosing, including but not limited to other incarcerated or detained individuals when such individuals do not present an individualized and specific risk if permitted to participate, outside advocates, or retained counsel; an independent hearing officer; a written statement of reasons for the decision made at the hearing; and a written statement on how to appeal a hearing determination

Section 5(4) states that if an incarcerated individual is deemed of the vulnerable population, as defined in this bill, they must be removed from SC and can be transferred to another appropriate specialized unit deemed by the secretary. If an incarcerated individual meets the criteria for a mental disorder or developmental disability under RCW 72.09.015, they have additional transfer options.

Section 6 (New Section) defines criteria for medical isolation SC. SC for medical isolation is only permitted when a qualified medical provider determines it is necessary for responding to a medical or mental health emergency or preventing the spread of communicable disease and requires the following:

- In-person clinical assessment by a qualified medical provider no less frequently than every 12 hours.
- Must be placed in a residential treatment unit, close observation unit, or medical unit, designated by the secretary; and
- No more than 15 consecutive days and for more than 45 days during a single fiscal year unless a medical provider determines it necessary to prevent spread of disease, facilitate treatment, or for other stated medical reasons. Extended SC past the limit must be documented with reasoning and approved by the facility medical director and superintendent.

Section 7 (New Section) allows voluntary SC if the person is not of a vulnerable population, has the capacity to make such decision, and there is reason to believe it's necessary to prevent foreseeable harm. Voluntary SC requires:

- The informed consent, preferably in writing.
- The burden of refusing voluntary SC falls on the facility and the facility must present basis of refusal in a timely manner

that allows for the incarcerated individual to contest.

- The incarcerated individual may revoke his or her request in which case the correctional facility must document the request.
- DOC shall make less restrictive intervention available to any incarcerated individual requesting voluntary SC and provide this upon receiving any request under Section 9(1). The DOC shall formulate an individualized intervention plan to help move the individual to less restrictive intervention; and
- A qualified medical provider assessment every 90 days.

Section 8 (New Section) requires the conditions of SC meet the following:

- The DOC shall maximize amount of time the incarcerated individual spends outside their cell by providing outdoor and indoor recreation, education, clinically appropriate therapies, and skill-building activities.
- SC spaces must be properly ventilated, appropriately lit according to the time of day, temperature monitored, clean, and equipped with functioning sanitary fixtures.
- The DOC may not deny an incarcerated person in SC access to food, water, any other basic necessity, or access to appropriate medical care.
- The DOC may not deny an incarcerated person access to the telephone, personal communication or media devices, reading materials, or personal hygiene items unless an individualized assessment deems it necessary for safety concerns; and
- The DOC may not directly release an incarcerated individual from SC to the community unless there is a superseding safety concern or in circumstances in which the person requires an immediate release due to resentencing.

Section 9(1) (New Section) By April 1, 2024, the DOC shall review the status of each incarcerated in solitary confinement. The DOC shall develop a plan to transition those incarcerated or detained persons to less restrictive interventions or other appropriate settings. Any person who has been in solitary confinement for longer than 120 days in the prior 12 months as of July 1, 2024, must have a trauma informed, culturally appropriate individualized intervention plan to facilitate a transition to a less restrictive intervention, which may include an evaluation for possible single cell placement, access to and treatment by medical and mental health providers, peer supports, substance abuse programming, restorative justice programming, behavioral programming, or other individualized interventions or accommodations

Section 9(2) By January 1, 2024 the secretary shall adopt any rules or policies necessary to implement sections 4 through 8 of this bill, including:

- Establishing less restrictive interventions to SC.
- Establishing certain restrictions may only be imposed after an individualized assessment deems it necessary for safety.
- Requiring training of staff working with incarcerated persons in SC, to include assistance from appropriate professionals.
- Requiring documentation of all SC decisions, procedures, and reviews.
- Requiring compliance and monitoring with all rules and policies regarding SC.
- Establishing procedures for hearings under Section 5(3)(b); and
- Posting monthly SC reports, beginning July 1, 2024, on DOC's website to include all statistics listed under Section 9(2) (g).

Section 12(1) (New Section) requires DOC to:

- Develop a staffing needs assessment for the implementation of this act.
- Develop a corrections capital facilities master plan that outlines the investments needed to comply with this act.
- Provide a profile of currently incarcerated persons who have been or are in restrictive housing during the 2023-2025 fiscal biennium along with certain details listed under section 12(1)(c).
- Provide documentation regarding any attempted suicides in the last 10 years in restrictive housing and reasons, if known.
- Provide inventory of current incarcerated individuals who are or have been in restrictive housing and who have been transferred or been considered for transfer to an out-of-state correctional facility.

Section 12(2) requires DOC to submit a report with required components in Section 12(1) to the governor and appropriate committees of the legislature by December 1, 2023.

Section 12(3) This section expires December 31, 2024.

Sections 1 through 8 of this act take effect July 1, 2024.

Sections 9 through 13 - Effective date is assumed 90 days after adjournment of session in which this bill is passed.

Section 10 - 12 These sections expire December 31, 2024.

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.

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

This bill establishes guidelines for use of solitary confinement and elaborates on classification of the types, limits, and requirements to justly use solitary confinement. This bill expands on the definition of “solitary confinement” by classifying it as any sort of close confinement for more than 20 hours per day. Due to requirements of using solitary confinement in this bill, most of the 600 to 800 individuals on average in solitary confinement would need to be escorted to other programming, recreation, or requirements listed in the bill for at least four hours per day to comply as a majority of individuals will not qualify for solitary confinement supervision under this bill. The bill would greatly restrict how solitary confinement is used in our prison system. The major financial impacts to DOC are summarized in the following list:

- Incarcerated individuals must receive medical/mental health evaluations before solitary confinement unless it is unsafe. If it is unsafe, an evaluation must be done within 24 hours of moving to solitary confinement (health services staffing).
- The DOC staff must provide daily mental and physical health examinations by qualified medical providers for each incarcerated individual in solitary confinement in a confidential setting outside of cell whenever possible (health services and custody staffing and Capital impacts).
- The DOC must maximize amount of time an individual held in solitary confinement spends outside of the cell by providing, as appropriate, indoor and outdoor recreation, education, treatment therapies, skill-building, and social interaction (Capital impacts for renovating cells and recreation yards, as well as custody and programming staff).
- The DOC must provide cells or holding spaces used for solitary confinement to be properly ventilated, appropriately lit, temperature-monitored, clean, and equipped with functioning sanitary fixtures (Capital impacts for renovating cells).
- The DOC must perform an in-person clinical review no less frequently than every 12 hours and as clinically indicated for individuals in medical isolation. They must be placed in a unit designed for this purpose, designated by the secretary (health services staffing and Capital impacts for renovation of designated spaces).
- The secretary must adopt regulations to effectuate the provisions listed in the subsections of this bill. Along with listed regulations, the bill requires mandatory training for all staff working with incarcerated individuals in solitary confinement to include assistance from appropriate professionals:
 - o Standards for solitary confinement.
 - o Identification of incarcerated persons in need of physical accommodations who have been referred to solitary confinement.

The DOC currently has 642 Segregation (SEG) beds and 394 Intensive Management Unit (IMU) beds system wide. On any given day, the number of beds occupied can range significantly. On average, 600-800, or 58-77% of the beds are filled. For DOC to comply with the requirements of this bill, DOC must be able to adhere to such requirements if all those beds were filled on any given day. The impacts of such adherence are listed in the following sections:

Custody Staffing Impact

Due to language in the bill, DOC would need additional staffing to facilitate escorts between medical evaluation, recreation, programming, and other requirements listed. The DOC does not have additional capacity to take on this added requirement as the escort staff needs to be available 24 hours a day, 7 days a week (24/7). Based on DOC's Custody staffing models, we would need additional shift posts to comply with requirements. We have considered current staffing levels and current out of cell time. Often these staff are responding to emergent situations which need to be triaged and unfortunately escorting incarcerated in and out of their cells becomes a lower priority due to health and safety concerns. With the unique nature of these units and the incarcerated housed in these units incidents are common. Additional staffing, we are requesting would ensure there are adequate resources to comply with the four hours out of cell each day as required in this bill.

To meet the required four hours of out-of-cell time, DOC would need 176 custody FTEs (16/7 escort teams) to facilitate all the movement, as well as security during programming. This is assuming no refusal rates as it is not permitted under the bill. If the bill was to permit refusal by incarcerated individual as it is quite common, the number of posts needed to comply with requirements would be closer to 101 FTE's. To ensure DOC complies with 4 hours of out of cell time we are assuming that it requires 120 minutes per day to escort/provide security to an incarcerated individual who is in solitary confinement it requires two escort staff to take an incarcerated individual out of cell to medical appointments, programming, and yard time

House bill 1087 assumes that DOC would be able to meet the need for 4 additional hours of out of cell time for a population of 700 it will require additional staffing to provide out of cell time by escorting to medical appointments, programming, and yard time. To receive 4 hours out of cell time, the assumption is that DOC would require 2 additional hours per Incarcerated population consisting of a team of 2 correctional staff for the 700 ADP equals an additional 1,400 hours coverage daily. This equates to 45 additional 16/7 post, which requires 3.9 FTEs per shift (including OT) to equal 179 FTE's

The post calculations are based off the following assumptions:

- 700 incarcerated individuals impacted,
- 8 hour shifts per custody FTE.
- Each team is assumed to be comprised of two Correctional Officer 2 (CO2s) requiring 3.7 FTEs and an additional 0.2 FTE for overtime (DOC standard for 16/7 post).
- Medical assessments require 30 minutes of movement and 30 minutes on average for the assessments.
- Daily programming requires 30 minutes of movement and 90 minutes on average for the session.
- Trips to recreation yards require 30 minutes of movement and 90 minutes on average for the duration of stay.
- DOC assumes incarcerated individuals would need one medical trip, one programming trip and two trips to the recreation yard to meet the 4 hour out-of-cell minimum.
- Escort custody staff must be present the entirety of the medical appointment, but not during the duration of stays in the recreation yard and programming

For illustration purposes 2 hours of out of cell time x 700 ADP = 1,400 hours/ 8 hours per shift equals = 45 additional posts = 166.5 regular FTEs including relief.

In addition to the regular FTE's there is a standard factor per of 0.2 FTE for overtime (DOC 16/7 post), which equates to

9.0 overtime FTEs.

Anticipated costs in FY2024: 87.8 FTEs and \$8,753,000 inclusive of all FTE costs.

Anticipated costs in FY2025 and each fiscal year thereafter: 175.5 FTEs and \$17,498,000 per year, inclusive of all FTE costs.

Note: The DOC is assuming a six-month phase-in for custody staff in FY2024 for hiring and training.

Health Services Staffing Impact

Currently, DOC employs Health Services staff capable of the required evaluations of the bill, but due to the time constraints of the different evaluations, Health Services staff would need to expand as they are only available during normal business hours (Monday – Friday, 8am-5pm). Given the short time frames Health Services staff would need to complete these required evaluations and monitoring of individuals, Health Services would need to expand staffing significantly. Health Services would require the following minimums:

- One 24/7 Psychiatric Advanced Registered Nurse Practitioner (ARNP) at each location; two at the Washington State Penitentiary (WSP) and Monroe Correctional Complex (MCC). These dedicated FTEs will be responsible for the different physical and medical health evaluations required. Each facility must have these 24/7 posts to complete the required assessments in the time limit amended by the bill. WSP and MCC require two posts of ARNPS as each facility has more than 200 SEG/IMU beds per facility. It is assumed DOC will be able to meet the need of the required evaluations in the mandated time constraint with these resources as the Psychiatric Advanced Registered Nurse Practitioner meets the criteria for “Qualified Medical Provider” under Section 3(33).
- One Psychology Associate at the six major facilities with the highest usage of SEG/IMU beds. These FTEs would satisfy the requirements under Section 5(4) and Section 9 to offer mental health treatment and programming for individuals.

To have 24/7 coverage of ARNPs, it would require 8,770 FTE hours, or approximately 4.0 FTEs, which equates to 58.8 FTEs for straight time. Relief for the aforementioned employees will be approximately 15.9 FTEs (calculated at .27 relief factor). This would total approximately 74.7 Advanced Registered Nurse Practitioner FTEs yearly. Calculations can be seen below.

$8,770 \text{ working hours for 24/7 coverage} / 2,088 \text{ annual hours per FTE} = 4.2 \text{ FTEs}$

$4.2 \text{ FTEs per job class} \times (12 \text{ facilities} + 2 \text{ for additional staff at WSP and MCC}) = 58.8 \text{ FTEs per job class per year}$

$58.8 \text{ FTEs} \times .27 \text{ relief factor} = 15.9 \text{ ARNP FTEs for relief}$

$58.8 \text{ FTEs} + 15.9 \text{ relief FTEs} = 74.7 \text{ total ARNP FTEs.}$

$74.7 + 6.0 \text{ Psychology Associates} = 80.7 \text{ Health Service FTEs.}$

Anticipated costs in FY2024: 40.4 FTEs and \$8,847,865 inclusive of all FTE costs.

Anticipated costs in FY2025 and each fiscal year thereafter: 80.7 FTEs and \$16,725,000 per year, inclusive of all FTE costs.

Note: The DOC is assuming a six-month phase-in for Health Care staff in FY2024 for hiring and training.

Programming/Transition Impact

This bill requires DOC to maximize available programming, recreation, education, and therapy along with other amended activities for incarcerated individuals in solitary confinement, which expands on the need for FTEs to facilitate such

activities. The DOC does not possess the incremental staff to provide the additional activities stated in the amendments for the 600 to 800 individuals currently in solitary confinement. At a minimum, DOC would need Correctional Specialist 3's, 2.0 FTEs per facility to assist in such required programming, plus an additional Correctional Specialist 3 FTE at Washington State Penitentiary due to the larger population. The DOC did not have a matrix to quantify/calculate the requested staffing. This bill requires DOC to maximize available programming, recreation, education, and therapy along with other amended activities for incarcerated individuals in solitary confinement, which expands on the need for FTEs to facilitate such activities. The DOC does not possess the incremental staff to provide the additional activities stated in the amendments for the 600 to 800 individuals currently in solitary confinement. At a minimum, DOC would need Correctional Specialist 3's, 2.0 FTEs per facility to assist in such required programming, plus an additional Correctional Specialist 3 FTE at Washington State Penitentiary due to the larger population. These positions will complete evaluations of incarcerated individuals related to cognitive behavior intervention, social interaction, increased education, skill building small pod socialization, or programming for substance abuse, restorative justice, or behavioral needs training. These positions will be responsible to implement and coordinate programming treatment to maintain expected levels of safety for staff and incarcerated individuals. Lastly ensure compliance with policies created to comply with this bill, as well as prepare analysis of data.

Correctional Specialist 3's, 2.0 FTEs X 12 facilities, plus one additional Correctional Specialist 3 at Washington State Penitentiary = 25.0 total Correctional Specialist 3 FTEs.

The DOC would also need additional Transition Specialists to manage the investigative and intelligence work, manage the transition housing network or placement of individuals, and to facilitate the incremental work with moving more individuals from max custody to lower levels of confinement. The DOC would need two FTEs per major facility due to the size and population that would be subject to the requirements in this bill at those locations.

Correctional Specialist 3's, 1.0 FTEs x 6 Major facilities with IMU, plus one additional Correctional Specialist 3 at Washington State Penitentiary due to their larger population = additional 7.0 Correctional Specialist 3 FTEs.

Anticipated costs in FY2024: 16.0 FTES and \$1,888,246, inclusive of all FTE costs.

Anticipated costs in FY2025 and each fiscal year thereafter: 32.0 FTEs and \$3,776,000 per year, inclusive of all FTE costs.

Note: The DOC is assuming a six-month phase-in for programing staff in FY2024 for hiring and training.

Training Impact

The mandated training in section 9(2)(c) requires cross training from professionals, such as DSHS. The training will expand on the CO's ability to accommodate and identify members of vulnerable populations as defined in Section 3. This training is assumed to necessitate a contract between DOC and DSHS that will demand in-service training to recur on a regular basis. The DOC does not have any current estimates as this would be a specialized contract with DSHS, but it is anticipated to be more than \$50,000 annually. DOC will be utilizing the Mental Health First Aid is an established curriculum for law enforcement personnel. It is a two-day training, DSHS was not consulted. For illustrative purposes, if DOC implemented an annual in-service training of 16 hours, the impact can be calculated as the following:

16 hours of in-service training X (3,346 current custody DOC employees + 176.0 requested custody FTEs = 56,352 hours of training

56,352 training hours / 2,088 hours = 27.0 FTEs for in-service training relief

Anticipated costs in FY2024 and each fiscal year thereafter: 27.0 FTEs or \$3,290,408 (assumed at CO2 overtime rate).

Headquarters Quality Assurance/Data Management

Due to the complexity of the bill and the requirements set forth in Section 12, DOC will need additional staff consolidated at Headquarters to facilitate the following requirements:

- Coordination of mental health programming.
- Coordination of operations and classifications of incarcerated individuals.
- Quality assurance.
- Auditing processes and policies.
- Regulation revisions.
- Data analysis
- Capital studies; and
- To be in accordance with the effective dates listed in Sections 14 and 15.

Currently, DOC does not have the capacity to dedicate employees to such projects as it will be an expansive and lengthy process to adhere to all mandated changes in sections 1 through 8. The DOC is requesting a team at headquarters to consist of the following for this purpose:

- 1.0 Exempt to coordinate the mental health portion;
- 1.0 WMS band 2 to coordinate operations and classification;
- 1.0 WMS band 2 to coordinate the quality assurance/audits;
- 3.0 Administrative Assistant 3 FTEs to support the above staff; and
- 1.0 Management Analyst 4 to support data analysis needs.

Funding is requested for these staff effective July 1, 2023, in order to hire and train, and then manage the requirements in Sections 8, 9 and 12.

Anticipated costs for FY2024 and ongoing: 7.0 FTEs and recurring \$808,000 inclusive of all FTE costs.

Funding is requested to purchase a data management software system to comply with required reporting and data gathering of this bill.

Estimated FY2024 cost: \$400,000

Estimated FY2025 cost and each fiscal year thereafter: \$109,000

Indirect FTE impact

The DOC requests funding for the indirect costs of agency administration, for the purpose of implementing this legislation. Based on the size and FTE impact of this bill, indirect FTEs will be greatly impacted by the additional human resources, payroll, administrative work, managing of establishing and hiring the positions, and such. With hiring hundreds of employees to fill such specialized roles, it would necessitate every bit of the approved indirect rate that DOC is requesting, as seen below.

The approved agency indirect rate and associated cost of administration are calculated based on the salaries and benefits of staff conducting back office administrative functions, divided by all remaining salaries and benefits.

The DOC requests funding for the indirect costs of agency administration which includes 20.3 FTEs and \$1,933,000 in FY2024, 39.6 FTEs and \$3,760,000 in FY2025, and ongoing, for the purpose of implementing this legislation. The approved agency indirect rate and associated cost of administration are calculated based on the salaries and benefits of staff conducting back office administrative functions, divided by all remaining salaries and benefits.

Total Agency impact

Agency total cost FY2024: \$ \$27,587,000 and 198.5 FTEs, inclusive of \$2,0485,000 one-time cost.

Agency total cost FY2025: \$ \$48,213,000 and 361.8 FTEs

Agency total cost FY2026 and each fiscal year thereafter: \$ \$48,213,000 and 361.8 FTEs.

Assumptions:

1. Due to complexity of this bill, the previously mentioned costs are by no means an all-encompassing inclusive list of costs. The DOC is likely to experience additional costs related to this bill that have not been identified in preliminary analysis and 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	27,587,000	48,213,000	75,800,000	96,426,000	96,426,000
Total \$			27,587,000	48,213,000	75,800,000	96,426,000	96,426,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	198.5	361.8	280.2	361.8	361.8
A-Salaries and Wages	16,684,000	32,690,000	49,374,000	65,380,000	65,380,000
B-Employee Benefits	5,692,000	10,618,000	16,310,000	21,236,000	21,236,000
C-Professional Service Contracts					
E-Goods and Other Services	1,195,000	757,000	1,952,000	1,514,000	1,514,000
G-Travel	158,000	201,000	359,000	402,000	402,000
J-Capital Outlays	1,925,000	187,000	2,112,000	374,000	374,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	1,933,000	3,760,000	5,693,000	7,520,000	7,520,000
9-					
Total \$	27,587,000	48,213,000	75,800,000	96,426,000	96,426,000

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 3	50,588	3.0	3.0	3.0	3.0	3.0
Advanced Registered Nurse Practitioner	164,461	37.4	74.7	56.1	74.7	74.7
Correctional & Custody Officer 2	68,603	114.8	202.5	158.7	202.5	202.5
Correctional Specialist 3	70,267	16.0	32.0	24.0	32.0	32.0
Director - Mental Health	160,000	1.0	1.0	1.0	1.0	1.0
Management Analyst 4	82,091	1.0	1.0	1.0	1.0	1.0
Management Analyst 5	91,525	20.3	39.6	30.0	39.6	39.6
Operations and Classification Manager	103,428	2.0	2.0	2.0	2.0	2.0
Psychology Associate - Teamsters	104,358	3.0	6.0	4.5	6.0	6.0
Total FTEs		198.5	361.8	280.2	361.8	361.8

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative & Support Services (100)	1,933,000	3,760,000	5,693,000	7,520,000	7,520,000
Correctional Operations (200)	15,760,000	25,819,000	41,579,000	51,638,000	51,638,000
Health Services (500)	9,472,000	18,212,000	27,684,000	36,424,000	36,424,000
Interagency Payments (600)	422,000	422,000	844,000	844,000	844,000
Total \$	27,587,000	48,213,000	75,800,000	96,426,000	96,426,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
057-1	State Building Construction Account	State	3,500,000	2,000,000	5,500,000	2,000,000	0
Total \$			3,500,000	2,000,000	5,500,000	2,000,000	0

IV. 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					
G-Travel					
J-Capital Outlays	3,500,000	2,000,000	5,500,000	2,000,000	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	3,500,000	2,000,000	5,500,000	2,000,000	0

IV. C - Capital Budget Breakout

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

Construction Estimate	FY 2024	FY 2025	2023-25	2025-27	2027-29
Predesign/Design	1,500,000		1,500,000		
Construction	2,000,000	2,000,000	4,000,000	2,000,000	
Grants/Loans					
Staff					
Other					
Total \$	3,500,000	2,000,000	5,500,000	2,000,000	

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

NONE

There are numerous Capital impacts brought forth in this bill. Potential capital impacts can be listed as the following:

- Section 8(1) would require increasing yard and recreational capacities at all DOC prisons. DOC currently has a funded Capital project at the Monroe Correctional Complex (MCC) and Washington State Penitentiary (WSP) Intensive Management Unit (IMU) recreation yards to meet the requirements determined by the 9th circuit of the Supreme Court. Additional funding would be needed to renovate the recreation yards at remaining IMU facilities
- Section 8(1) also would require DOC to provide cells or holding spaces used for solitary confinement to be properly ventilated, appropriately lit, temperature-monitored, clean, and equipped with functioning sanitary fixtures. This shall require certain cells to be renovated as not all cells have these features. This section would require DOC to provide access to programming and health care service space as well.

Recreation Yard Renovations

The DOC has a capital project in its ten-year plan to renovate recreation yards at its IMU facilities. The DOC was

Solitary confinement

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FNS063 Individual State Agency Fiscal Note

310-Department of Corrections

Request # -3

Bill # 5135 SB

appropriated \$1,500,000 by the legislature in the 2017-19 enacted capital budget to renovate the recreation yards at MCC and was appropriated \$1,500,000 in the Governor's proposed 2021-23 capital budget to renovate the recreation yards at WSP (total of \$3,000,000 for these two facilities). The DOC is planning to initiate the renovations of recreation yards at additional facilities in future biennia pending a future appropriation for that work.

There are currently five prisons that house incarcerated males in IMU facilities, and there are no IMU beds at female facilities. The remaining three facilities with IMU beds for males would most likely have to be renovated to meet the requirements of this bill if passed. To accurately determine the scope and costs to renovate the remaining IMU recreation yards, DOC would need to select a consultant to conduct site assessments and a project design before contracting out the construction phase. These costs are indeterminate at this moment, but for illustrative purposes, if DOC was to apply the facility average from the first two facilities being renovated to the remaining three facilities, it would cost approximately \$6,000,000 to retrofit the yards at the remaining facilities: Clallam Bay Corrections Center (CBCC), Stafford Creek Correction Center (SCCC), and Washington Correction Center (WCC). We assume that design and construction could be completed over a two-year period.

$\$3,000,000 \text{ funding} / 2 \text{ facilities} = \$1,500,000 \text{ per facility}$ (\$1,500,000 funded in 2017-19 (MCC) and \$1,500,000 requested in 2021-23 (WSP))

$\$2,000,000 \times 3 \text{ remaining facilities (CBCC, SCC and WCC)} = \$6,000,000$

*Note: this estimate does not account for escalation costs as compared to current construction costs.

Additionally, every prison facility has segregation beds that would meet the solitary confinement definition, and all seven remaining facilities would need to be evaluated and costs estimated by conducting a review to determine what renovations to recreation space would be needed.

Retrofitting Cells

There would be significant additional capital costs associated with renovating IMU and Segregation cells and units used for solitary confinement, but DOC does not have sufficient information to provide an estimate at this time. In order to determine the scope of this work and accurately estimate the cost of the required improvements, DOC would recommend hiring a consultant to perform a predesign study. This would be a major project that includes all 12 prison facilities statewide that operate IMU and/or segregation housing cells. The bill only has operating impacts at eight prison facilities because the minimum-security camps have sufficient staffing to cover the rare occurrences they would be affected by the requirements of the bill. If this bill is enacted, DOC would need to submit true capital budget requests in future budget cycles to address these requirements.

Health Services Reviews

There would be significant additional capital costs associated with renovations required for mental health assessment areas and for medical evaluations, but DOC does not have sufficient information to provide an estimate at this time. In order to determine the scope of this work and accurately estimate the cost of the required improvements, DOC would recommend hiring a consultant to perform a predesign study. This would be a major project that includes all 12 prison facilities statewide that operate IMU and/or segregation housing cells. The bill only has operating impacts at eight prison facilities because the minimum-security camps have sufficient staffing to cover the rare occurrences they would be affected by the requirements of the bill. If this bill is enacted, DOC would need to submit true capital budget requests in future budget cycles to address these requirements.

Programming Areas

There would be significant additional capital costs associated with renovations and possible expansions required for programming space, but DOC does not have sufficient information to provide an estimate at this time. In order to determine the scope of this work and accurately estimate the cost of the required improvements, DOC would recommend hiring a consultant to perform a predesign study. This would be a major project that includes all 12 prison facilities statewide that

operate IMU and/or segregation housing cells. The bill only has operating impacts at eight prison facilities because the minimum-security camps have sufficient staffing to cover the rare occurrences they would be affected by the requirements of the bill. If this bill is enacted, DOC would need to submit true capital budget requests in future budget cycles to address these requirements.

Statewide Predesign Study to Determine Costs of Retrofitting Cells, Health Service Evaluation Space and Programming Space

As stated above, in-order to better understand the scope and scale of improvements required if this bill passes, DOC recommends hiring a consultant to conduct a statewide predesign that would include all 12 prison facilities that operate IMU and/or segregation beds that meet the definition of solitary confinement. Similar predesign studies of this magnitude that DOC has conducted over the years have been in the cost range of \$500,000 to \$1,500,000. For the purposes of this fiscal note, we estimate the cost of a statewide predesign to be \$1,000,000.

We recognize that every prison facility is different, and that while some facilities will require extensive study and significant renovations, other facilities such as minimum-security work camps may require only minimal improvements. The costs for facility renovations of cells, health service evaluation areas and programming areas will vary significantly and could range from \$1 to 2 million for each camp and up to \$15 million or more for each major close custody prison. For illustrative purposes only, the total costs to complete all of these statewide projects is estimated to range from \$80M to \$120M or more. If this bill passed, we anticipate very expensive Capital budget requests taking place over multiple biennia to complete.

Assumptions:

1. For the purposes of this fiscal note, we are not assuming any changes to current sentencing laws or future caseload forecasts. These estimates and analyses are independent of any potential impacts that could change the average daily population of incarcerated individuals in the DOC prison system.
2. The costs of current funded projects referenced in this section include design studies, construction and other soft costs. Future costs references are shown in today's dollars and do not include the cost of future escalation.
3. The DOC does not assume the current requested funding will be appropriated, nor that the requested funding will cover the entirety of the renovations of the yards. Using the facility average is a gross estimate, but it is the most current information we can use, as scope assessments have not been done at the remaining sites. Each recreation yard poses unique features and challenges that may cost more or less than the assumed \$2,000,000 per facility and this will be identified in the design phase of each recreation yard.
4. Completing a predesign study to conduct site assessments, determine scope of work and calculate the costs of design and construction is estimated to be \$1,000,000. While the total capital costs related to this bill are indeterminate, we can safely assume that it will be a major capital project.
5. The IMU Recreation Yard Renovation project at MCC was completed in the 2019-21 biennium. For the purposes of this fiscal note, WSP yards have been designed and construction should be complete in the second quarter of FY24. We assume that phase 3 of this project will be completed in the 2023-25 biennium. The DOC is requesting design and construction funding in 2023-25 to provide design and construction for the IMU Recreation Yard improvements at the Washington Corrections Center (WCC). Phase 4 is the final phase of this project and will be completed in the 2025-27 biennium. The DOC will be requesting design and construction funding in 2025-27 that will provide design and construction for the IMU Recreation Yard
6. For the purposes of this fiscal note, we assume that a statewide predesign would be conducted to determine the scope of renovations needed to meet the requirements of this bill. We assume the predesign would be conducted in the first

biennium that funds are available, or in 2023-25 for illustrative purposes (\$1,000,000 or \$500,000 per fiscal year).

7. We are not attempting to estimate what future construction costs might be as they will be determined in a predesign study.

Part V: New Rule Making Required

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

Section 9 mandates the secretary develop policies and procedures for review of incarcerated individuals placed in solitary confinement and a plan for providing step-down and transitional units, program, and staffing patterns to accommodate persons in solitary confinement and those receiving intermediate sanction in lieu. Due to the provisions in the bill, there will likely be extensive restructuring of policy and procedures for not only dealing with solitary confinement, but also less restrictive alternatives and methods of enactment.

Section 13 grants the Secretary the ability to make the necessary rule changes to effectuate the requirements in the bill.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5135 SB

Title: Solitary confinement

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

Legislation Impacts:

Cities: Costs for city jails to train staff and collect information.

Counties: Same as above but for county jails.

Special Districts:

Specific jurisdictions only:

Variance occurs due to:

Part II: Estimates

No fiscal impacts.

Expenditures represent one-time costs: Costs for training and solitary confinement reporting at city and county jails

Legislation provides local option:

Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	1,581,517	143,669	1,725,186		
Special District	4,194,066	381,036	4,575,102		
TOTAL \$	5,775,583	524,705	6,300,288		
GRAND TOTAL \$					6,300,288

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

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 01/13/2023
Leg. Committee Contact: Kelsey-anne Fung	Phone: 360-786-7479	Date: 01/09/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/13/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/17/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 3 would amend RCW 72.09.015. Solitary confinement is defined as confinement of an incarcerated person in a cell or similarly confined holding space for 20 hours or more per day under circumstances other than a facility-wide lockdown.

Section 10 would add a new section.

Subsection 10 (1) would require a governing unit operating one or more jails to compile a monthly report from August 1, 2023 until July 31, 2024 that includes the following information with respect to each jail they operate:

- i. Number of times solitary confinement was used.
- ii. Circumstances leading to each use of solitary confinement.
- iii. For each instance of solitary confinement:
 - a. Whether the imposition of solitary confinement was the result of a disciplinary segregation, administrative segregation, or protective custody.
 - b. Length of time individual remained in solitary confinement.
 - c. Whether or not a review of the following occurred and if it was documented:
 - d. Supervisory review of the solitary confinement.
 - e. For disciplinary segregation, a due process hearing.
 - f. Medical assessment or review and a mental health assessment or review.
 - g. Whether the affected person was afforded full access to education, programming, and ordinary necessities such as medication, meals, and reading material during the term of solitary confinement.

Subsection 10 (2) would require information collected and compiled into a report under subsection 10 (1) to be submitted to the Washington Association of Sheriffs and Police Chiefs (WASPC).

Subsection 10 (3) would define “solitary confinement” as confinement of an incarcerated person in a cell or similarly confined holding space for 20 hours or more per day under circumstances other than a facility-wide lockdown.

Subsection 10 (4) states section 10 would expire on December 31, 2024.

Subsection 11 (1) would require, “subject to availability of amounts appropriated for this specific purpose,” that WASPC collect the information submitted under section 10 of this act.

Section 15 states that sections 1 through 8 of the bill would take effect on July 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.

This legislation would have significant determinate and indeterminate expenditure impacts on city, county and regional jails due to the legislation’s new definition of solitary confinement, new training required, and new staff needed to comply with reporting requirements.

Cities would incur one-time costs totaling approximately \$1,725,186. County jails would incur one-time costs totaling approximately \$4,575,102 as a result of this legislation. These cost estimates are based on the Washington Association of Sheriff and Police Chiefs’ (WASPC) estimates for training time and additional FTEs required to comply with the reporting requirements in section 10 of the proposed legislation, however it should be noted that King County (KC) anticipates a significantly higher cost impact. KC has a significantly higher jail population than other counties, with an average daily population of nearly 1,500 people in 2022, according to the county's December 2022 Detention and Alternatives Report.

Since KC would be required to produce a significantly higher volume of solitary confinement reports, the county anticipates their costs will be significantly higher than in counties with smaller jail populations. A discussion of KC's expenditure impacts as well as costs which can be estimated are described below. For the purposes of this fiscal note, costs based on WASPC's training and FTE estimates are reflected in the expenditure grid.

Cities and counties would have one-time costs for training, totaling \$3,816. According to WASPC, training on the new reporting protocols will require an hour of time for a sergeant. According to the 2023 Local Government Fiscal Note Program Criminal Justice Cost Model, the average hourly salary plus benefits and overhead for a sergeant is approximately \$72, resulting in total training costs of \$3,816 ($\$72 \times (16 \text{ city jails} + 37 \text{ county jails}) \times 1 \text{ hour of training time}$).

WASPC estimates that for jails with more than 50 beds, one FTE would be required to comply with the reporting requirements of the bill from August 1, 2023 to July 31, 2024 (31 facilities). Jails with fewer than 50 beds would require less staff time to comply with the new reporting requirements. WASPC estimates that these facilities would require 0.5 FTE for the one-year reporting period (22 facilities).

Seven municipal jails and 24 county jails have more than 50 beds. According to the 2023 Local Government Fiscal Note Program Criminal Justice Cost Model, the average annual salary, including benefits and overhead, for a sergeant is approximately \$149,916. Therefore, total costs for these facilities would be \$4,647,396 ($\$149,916 \times (7 \text{ city jails} + 24 \text{ county jails}) \times 1 \text{ FTE}$). Nine city jails and 13 county jails have fewer than 50 beds. Total costs for these facilities would equal \$1,649,076 ($\$149,916 \times (9 \text{ city jails} + 13 \text{ county jails}) \times 0.5 \text{ FTE}$).

TOTAL LOCAL GOVERNMENT COSTS:

Cities would have one-time costs for training (\$1,152) and reporting (\$1,724,034), totaling \$1,725,186.

Counties would have one-time costs for training (\$2,664) and reporting (\$4,572,438), totaling \$4,575,102.

Since the reporting period specified by the bill would cover 11 months of fiscal year 2024 and one month of fiscal year 2025, eleven-twelfths (about 92%) of the reporting costs would be incurred in fiscal year 2024, with the remainder incurred in fiscal year 2025. This distribution of reporting costs is reflected in the expenditure grid on the first page of this fiscal note.

KING COUNTY'S COSTS:

King County (KC) notes the definition of solitary confinement that the bill would establish of 20 hours of confinement or more per day would be the source of significant expenditure increases. KC's systems are designed to track all persons for whom a deliberate decision has been made to place into restrictive housing. KC's IT systems use the federal standard of 22 hours or more as the threshold for restrictive housing. As a result of defining solitary confinement with a 20-hour threshold, KC will be required to report on many more persons for whom there has not been a deliberate decision made to place this person in restrictive housing, but rather, on a given day, they have been in their cell for 20 hours or more.

In order to correctly report based on this standard, KC will have to track out of cell time for each person, and report each time that the 20 hour maximum is exceeded. In 2022, KC had an average daily jail population of over 1,500 people. Manually reporting all of the data elements that are required in this bill is not possible, so the Jail Management System will be required to track time out of cell at the individual level. A manual step will still be needed to add the data elements associated with each instance of solitary confinement. The medical reporting requirements in particular would create additional medical support costs. In addition, complying with the reporting requirements with an instance of solitary confinement as the unit of analysis could require additional staff time. For example, a person with a deliberate placement into restrictive housing for 10 days would be reported as one instance, but a person with three intermittent days of only 6.5 hours out of confinement in a 10-day period would be reported as three separate instances. Consequently, KC anticipates that the county would incur significant indeterminate expenditure impacts, which could exceed \$250,000, according to the Washington State Association of Counties.

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 for 2SHB 1756, 2022

Local Government Fiscal Note Program Criminal Justice Cost Model, 2023

King County Department of Adult and Juvenile Detention

King County Detention and Alternatives Report, December 2022

Washington Association of Sheriffs and Police Chiefs

Washington State Association of Counties