

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances
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## Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Fiscal note not available											
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	Fiscal note not available											
Washington State Health Care Authority	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Health	Fiscal note not available											
Department of Children, Youth, and Families	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Corrections	.0	2,760	2,760	2,760	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>2,760</b>	<b>2,760</b>	<b>2,760</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other			3,839,760			1,407,500			
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			3,839,760			1,407,500			

## Estimated Capital Budget Expenditures

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

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Breakout

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

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 01/31/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 01/31/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/03/2023

## 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.*

See attached.

### 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.*

See attached.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**III. C - Operating FTE Detail:** *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.*

# **SB 5536**

## **CONCERNING POSSESSION OF CONTROLLED AND COUNTERFEIT SUBSTANCES AND LEGEND DRUGS**

**101 – Caseload Forecast Council  
January 27, 2023**

### **SUMMARY**

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

- Section 1 Amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Counterfeit Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.
- Section 2 Amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Controlled Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.
- Section 3 Amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of 40 grams or less of Cannabis. Additionally, states the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.
- Section 4 Amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” for possession in the offense of Sell, Deliver, or Possess any Legend Drug. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.
- Section 5 Amends RCW 69.50.4121 by contracting the definition of a class I civil infraction regarding drug paraphernalia.
- Section 8 Adds a new section to chapter 69.50 RCW requiring the court to advise the defendant and his/her attorney of the pretrial diversion program for certain drug offenses.
- Section 9 Amends RCW 9.96.060, adding a new subsection that states for individuals convicted of certain drug offenses who subsequently complete an approved substance use disorder treatment program, they may apply to the court for vacation of the conviction(s). Upon verification of successful completion, the court must vacate.

Section 14 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.

## **EXPENDITURES**

### **Assumptions**

None.

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

None.

### **Background Information**

In February 2021, the Washington State Supreme Court ruled in *State v. Blake* that the state's felony drug possession statute was unconstitutional. Prior to the Blake decision, Drug Possession was a felony offense ranked at Seriousness Level I on the Adult Felony Drug Grid and a Category C on the Juvenile Offender Sentencing Grid.

As a result of the court decision in February 2021, simple drug possession became non-criminal.

The 2021 Legislature addressed the issue and made changes to the statutes ruled unconstitutional by adding the term "knowingly" – effective as of May 13, 2021 (ESB 5476). The bill also lowered the prior felony possession offenses to misdemeanor offenses and encouraged prosecutors to divert cases for assessment, treatment, or other services. The possession offenses were removed from the Adult felony Drug Grid, and lowered to a Category E on the Juvenile Offender Grid.

ESB 5476 contained a sunset clause, making the changes expire as of July 1, 2023, at which time without any changes, simple possession would once again be unconstitutional and no longer a crime.

This bill reintroduces the term "knowingly" to the drug possession statutes and classifies simple possession of a controlled or counterfeit substance as a gross misdemeanor. Additionally reintroduces the term "knowingly" to the sale, possession or delivery of a legend drug. The sale, delivery, or possession with intent to sell or deliver a legend drug remains a Class B felony. Knowingly possessing a legend drug remains a misdemeanor offense.

### **Impact on prison and jail beds and community corrections population:**

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364

days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only.

However, the bill also adds a new punishment section for such offenses to allow for suspended sentences so it is unknown if confinement time will increase or decrease from current practice as individuals who do not successfully complete their term of probation may be sanctioned or the suspended sentenced may be revoked. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court.

The provisions of the bill have no impact to DOC supervision caseload.

### **Impact on Juvenile Rehabilitation and local beds**

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) By adding the term “knowingly” to possession offenses, the offenses conform with the issue raised in the Blake decision, and will remain criminal offenses as of July 1, 2023. However, the juvenile offense grid was not amended by the bill, and as such, Possession of a Controlled Substance will be a Category C offense as of July 1, 2023.

The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, the offense of Possession of a Controlled Substance would be punishable by a standard range term of between Local Sanctions (0-30 days in local juvenile detention) and 52 weeks (assumed as maximum punishment for a gross misdemeanor is 364 days) in Juvenile Rehabilitation (depending on the number of prior adjudications) for juveniles adjudicated for the offense. Therefore, incidences of this offense would likely impact both local juvenile detention and Juvenile Rehabilitation beds.

However, the bill also adds a new punishment section for such offenses to allow for suspended sentences so it is unknown if confinement time will increase or decrease from current practice as individuals who do not successfully complete their term of probation may be sanctioned or the suspended sentenced may be revoked. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court.



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 107-Washington State Health Care Authority
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: Marcia Boyle	Phone: 360-725-0850	Date: 01/31/2023
Agency Approval: Cliff Hicks	Phone: 360-725-0875	Date: 01/31/2023
OFM Review: Robyn Williams	Phone: (360) 704-0525	Date: 02/02/2023

## 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.*

See attached narrative.

### 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.*

See attached narrative.

### 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.*

See attached narrative.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# HCA Fiscal Note

Bill Number: 5536 Controlled Substances

HCA Request #: 23-07

## **Part II: Narrative Explanation**

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

This bill amends various statutes related to controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

Section 1 - Amends RCW 69.50.4011 to add 'knowingly' to possession of counterfeit substances. It makes the violation a gross misdemeanor and encourages prosecutors to divert cases for assessment, treatment, or other services identified in RCW 10.31.110 or 71.24.115. Courts are instructed to advise defendants of the pretrial diversion program.

Section 2 - Amends RCW 69.50.4013 to add 'knowingly' to possession of a controlled substances. It makes the violation a gross misdemeanor and encourages prosecutors to divert cases for assessment, treatment, or other services identified in RCW 10.31.110 or 71.24.115. Courts are instructed to advise defendants of the pretrial diversion program.

Section 3 - Amends RCW 69.50.4014 to add 'knowingly' to cannabis possession of 40 grams or less. Prosecutors are encouraged to divert cases for assessment, treatment, or other services identified in RCW 10.31.110 or 71.24.115. Courts are instructed to advise defendants of the pretrial diversion program.

Section 4 - Amends RCW 69.41.030 to add 'knowingly' to possession of legend drugs. Prosecutors are encouraged to divert cases for assessment, treatment, or other services identified in RCW 10.31.110 or 71.24.115. Courts are instructed to advise defendants of the pretrial diversion program.

Section 8 - Adds a new section to chapter 69.50 RCW, outlining pretrial diversion options and process. Requires the treatment program to make a written report on findings and recommendation. Report to be filed with the court and copies to the prosecutor, defendant, and defendant's counsel. Treatment costs to be waived for indigent defendants if funds are available. Outlines the admissibility of statements made during the treatment program. States that participation in pretrial diversion is not an admission of guilt. Outlines the requirements under which a hearing would be held to enter into pretrial diversion, exoneration of any bail bond if so granted, and the time frame and potential for extension of the time frame if needed to complete a treatment program. Outlines the circumstances by which a pretrial diversion could be revoked due to unsatisfactory participation or other factors, the hearings required if so identified, and the dismissal of criminal charges upon successful completion of a treatment program.

Section 9 - Amends RCW 9.96.060 to add language regarding vacating a conviction. Language is provided on how an individual may petition for a vacation of a conviction upon verification of completing the substance use treatment program.

Section 10 - Adds a new section to chapter 71.24 RCW requiring the Washington State Department of Health to adopt new rules and soliciting public input by December 31, 2023.

Section 11 - Amends RCW 36.70A.200 to enhance definitions of essential public facilities to include substance use disorder treatment programs, recovery residences, and harm reduction sites for planning purposes and specifically excludes safe injection sites from that definition.

Section 12 - Amends RCW 71.24.590 to clarify language around licensing and certification of an opioid treatment program by requiring parity in how Opioid Treatment Programs are permitted in comparison

# HCA Fiscal Note

Bill Number: 5536 Controlled Substances

HCA Request #: 23-07

with other essential public facilities, strikes language requiring a public hearing, and removes the imposition of a maximum capacity. Adds language to the definition of an opioid treatment program to allow for being either a mobile or fixed-site medication unit.

Section 13 - Adds a new section to chapter 43.330 RCW instructing the Department of Commerce to construct and provide start-up funds, if available, for substance use disorder treatment programs in underserved areas of the state.

Section 14 - Repeals RCW 10.31.115, which directs law enforcement to offer services identified in RCW 10.31.110 and 71.24.115.

As the recovery navigator program, established in RCW 71.24.115, is overseen by the Washington State Health Care Authority (HCA) any changes to statutes that impact this program may have an impact to HCA.

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## **II. B - Cash Receipts Impact**

No fiscal impact.

## **II. C – Expenditures**

No fiscal impact.

HCA anticipates that there will be no administrative impacts to implement this bill.

HCA further assumes that any service impact from the repeal of RCW 10.31.115 and the modifications to chapter 69 will be offsetting and captured through the caseload forecast process.

## **Part IV: Capital Budget Impact**

None

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

None

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 307-Department of Children, Youth, and Families
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

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

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

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- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: Kevin Keogh	Phone: 360-628-2652	Date: 02/01/2023
Agency Approval: James Smith	Phone: 360-764-9492	Date: 02/01/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/03/2023

## 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 1 amends the RCW on counterfeit substances to include the term “knowingly” for counterfeit substance possession. This language was set to expire on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 2 amends the RCW on controlled substances to include to include the term “knowingly” for controlled substances possession. This language was set to expire on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 3 amends the RCW on possession of 40 grams or less of marijuana to include to include the term “knowingly”. This language was set to expire on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 4 amends the RCW on legend drugs to include to include the term “knowingly” for legend drug possession. This language was set to expire on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 5 amends the RCW on drug paraphernalia to decriminalize “giving” drug paraphernalia to another person.

Section 8 requires the court to inform defendants of pretrial diversion programs for the drug possession crimes being amended in the previous sections of this bill.

Section 9 allows individuals with the drug possession charges amended in this bill to petition the court for vacation of their conviction upon completion of a substance use disorder treatment program.

Section 14 repeals the RCW that requires law enforcement officers to offer a referral to assessment services for individuals with the drug possession charges amended above. Much of this language is included in the amendments above, but law enforcement officers are encouraged rather than required to offer referrals.

### 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.*

Indeterminate fiscal impact.

The amendments to the drug possession RCWs, which effectively maintain drug possession as a prosecutable crime would

likely result in an increase in Average Daily Population (ADP). The bill also allows for individuals to complete a substance use disorder treatment program and have their sentences vacated which could result in a reduction in ADP. It is unknown at this time how many youth will be impacted; therefore the caseload forecast and per capita adjustments are not known at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into law.

### **Part III: Expenditure Detail**

#### **III. A - Operating Budget Expenditures**

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

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

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

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

NONE

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

NONE

### **Part IV: Capital Budget Impact**

#### **IV. A - Capital Budget Expenditures**

NONE

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

NONE

#### **IV. C - Capital Budget Breakout**

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

NONE

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

NONE

None

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

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



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	2,760	0	2,760	0	0
<b>Total \$</b>	2,760	0	2,760	0	0

### Estimated Capital Budget Impact:

NONE

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Check applicable boxes and follow corresponding instructions:

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- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 01/31/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 01/31/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/05/2023

## 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.*

ESB 5476 (State v. Blake Decision) contained a sunset clause, making the changes expire as of July 1, 2023, at which time without any changes, simple possession would once again be unconstitutional and no longer a crime. This bill reintroduces the term “knowingly” to the drug possession statutes and classifies simple possession of a controlled or counterfeit substance as a gross misdemeanor. Additionally reintroduces the term “knowingly” to the sale, possession, or delivery of a legend drug. The sale, delivery, or possession with intent to sell or deliver a legend drug remains a Class B felony. Knowingly possessing a legend drug remains a misdemeanor offense.

Section 1 Amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Counterfeit Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.

Section 2 Amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Controlled Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.

Section 3 Amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of 40 grams or less of Cannabis. Additionally, states the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.

Section 4 Amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” for possession in the offense of Sell, Deliver, or Possess any Legend Drug. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services.

Section 5 Amends RCW 69.50.4121 by contracting the definition of a class I civil infraction regarding drug paraphernalia.

Section 8 Adds a new section to chapter 69.50 RCW requiring the court to advise the defendant and his/her attorney of the pretrial diversion program for certain drug offenses.

Section 9 Amends RCW 9.96.060, adding a new subsection that states for individuals convicted of certain drug offenses who subsequently complete an approved substance use disorder treatment program, they may apply to the court for vacation of the conviction(s). Upon verification of successful completion, the court must vacate.

Section 14 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.

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

### II. B - Cash receipts Impact

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

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.

We assume this bill will have a fiscal impact to DOC less than \$50,000 per Fiscal Year (FY).

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364 days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only.

However, the bill also adds a new punishment section for such offenses to allow for suspended sentences so it is unknown if confinement time will increase or decrease from current practice as individuals who do not successfully complete their term of probation may be sanctioned or the suspended sentenced may be revoked. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court.

The Caseload Forecast Council (CFC) has no information concerning how many incidents of knowingly possess a controlled substance may occur. As such, the CFC cannot reliably predict bed impacts resulting from the bill.

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

Customization of the Offender Management Network Information (OMNI) system is needed to meet the requirements of this legislation. Due to the complexity to complete the development, testing and implementation of the statutory changes, contracted services are necessary in FY2043.

To implement this legislation, OMNI data tables need to be updated to RCW for technical corrections.

Cost Calculation Estimate:

IT Application Developer| \$120 per hour x 10 hours = \$1,200

IT Quality Assurance| \$120 per hour x 8 hours = \$960

IT Business Analyst| \$120 per hour x 5 hours = \$600

Total One-Time Costs - FY2024 \$2,760

**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	2,760	0	2,760	0	0
<b>Total \$</b>			2,760	0	2,760	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	2,760		2,760		
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	2,760	0	2,760	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)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative & Support Services (100) (100)	2,760		2,760		
<b>Total \$</b>	2,760		2,760		

**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

<b>Bill Number:</b> 5536 SB	<b>Title:</b> Controlled substances
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**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities:** Approximately \$3,270,000 to update comprehensive plans; approximately \$442,860 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on local law enforcement due to processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact due to change in demand for jail beds
- Counties:** Approximately \$1,400,000 to update comprehensive plans; approximately \$134,400 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on law enforcement, prosecutors, and public defenders as a result of processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact on prosecutors and public defenders as a result of new sentencing requirements; indeterminate expenditure impact due to change in demand for jail, juvenile detention beds
- Special Districts:**
- Specific jurisdictions only:**
- Variance occurs due to:**

**Part II: Estimates**

- No fiscal impacts.
- Expenditures represent one-time costs:** Approximately \$4,670,000 to update comprehensive plans; approximately \$577,200 to train local law enforcement officers on modified criminal offenses, referral requirements and other procedures
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:** Number of incidents of upgraded gross misdemeanor offense that may occur; net change in demand for prosecutor, public defender time that may result from diversion language in section 8

**Estimated revenue impacts to:**

None

**Estimated expenditure impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	1,725,360	1,080,000	2,805,360	907,500	
County	534,400	500,000	1,034,400	500,000	
<b>TOTAL \$</b>	2,259,760	1,580,000	3,839,760	1,407,500	
<b>GRAND TOTAL \$</b>					<b>5,247,260</b>

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: 02/03/2023
Leg. Committee Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/03/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/03/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

The proposed legislation would amend several RCW sections related to drug possession and prescribe penalties, among other changes.

Section 1 would amend RCW 69.50.4011, specifying that knowing possession of a counterfeit substance is a gross misdemeanor.

Section 2 would amend RCW 69.50.4013, specifying that knowing possession of a controlled substance under certain circumstances, or knowing possession of “cannabis, cannabis-infused products, or cannabis concentrates” by someone under 21 is a gross misdemeanor.

Section 3 would amend RCW 69.50.4014, specifying that “any person found guilty of knowing possession of 40 grams or less of cannabis is guilty of a misdemeanor.”

Section 4 would amend RCW 69.41.030, specifying that knowing possession of a legend drug under certain circumstances is a misdemeanor.

Sections 1 through 4 would specify that “law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement,” and that “upon arraignment for a violation of this section involving knowing possession, the court shall advise the defendant of the availability of the pretrial diversion program as indicated in section 8(1) of this act.” Prosecutors would also be “encouraged to divert such cases for assessment, treatment, or other services.”

Section 5 would amend RCW 69.50.4121, removing giving or allowing drug paraphernalia to be given from the definition of actions that constitute a class I civil infraction, and adding smoking equipment to the list of items that may be legally distributed “through public health and community-based HIV prevention programs, and pharmacies.”

Section 6 would add a new section to chapter 69.50 RCW, specifying that the state of Washington “fully occupies and preempts the entire field of drug paraphernalia regulation within the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia.”

Section 7 amend RCW 69.50.509, specifying that judges shall authorize warrants for search and seizure based on a sworn complaint of knowing possession of any controlled substance in violation of chapter 69.50 RCW.

Section 8 would add a new section to chapter 69.50 RCW, requiring courts to advise individuals charged with violations of RCW 69.50.4011(1)(b), 69.50.4013, 14 69.50.4014, or 69.41.030 of the pretrial diversion program. This section would define certain required criteria for such notification.

This section would also specify that if an individual agrees “to waive his or her right to a speedy trial and trial by jury if granted pretrial diversion, the court may grant the motion and continue the hearing and refer the defendant for a diagnostic investigation and evaluation to an approved substance use disorder treatment program as designated in chapter 71.24 RCW.” Subject to the availability of appropriated funds, this investigation and evaluation would be required to be provided at no cost to an individual deemed to be indigent.

Finally, this section would describe requirements related to the above diversion program and any violations of its conditions, and would require that individuals who successfully complete this program have their charges dismissed.

Section 9 would amend RCW 9.96.060, requiring that a court vacate the conviction or convictions of “an individual who is convicted of a violation of RCW 28 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030 who subsequently completes

an approved substance use disorder treatment program” if the court verifies the individual’s proof of completion.

Section 11 would amend RCW 36.70A.200, adding substance use disorder treatment programs, that include “both mobile and fixed-site medication units, recovery residences, harm reduction programs, excluding safe injection sites, that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other health care services” under the definition of essential public facilities. The comprehensive plans of certain cities and counties are required to include a process for identifying and siting such facilities.

Section 12 would amend RCW 71.24.590, specifying that “Counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings.” This section would also specify that “no city or county legislative authority may impose a maximum capacity for an opioid treatment program.”

Section 14 would repeal RCW 10.31.115.

## **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.*

The proposed legislation would have both determinate and indeterminate impacts on local government expenditures.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), all local law enforcement officers would need to go through training regarding the modifications this bill would make to existing criminal offenses, and the changes it would make to referral requirements and other current procedures. WASPC estimates that approximately one hour of training would be required per law enforcement officer. This training would require a one-time cost of \$442,860 for cities and \$134,400 for counties, for a total one-time cost to local governments of \$577,260.

The 2021 Crime in Washington Report conducted by WASPC states that there are 6,710 commissioned officers in police departments and 2,240 commissioned officers in sheriff’s departments, for a total of 8,950 commissioned law enforcement employees that would require training. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates the average hourly salary (including benefits and overhead) for an officer employed by a city to be \$66, and the same figure for an officer employed by a county to be \$60. If every officer in Washington had to complete approximately one hour of training, the cost to local governments would be:

Cities:

6,710 officers X 1 hour X \$66 = \$442,860

Counties:

2,240 officers X 1 hour X \$60 = \$134,400

Total:

\$442,860 + \$134,400 = \$577,260

Training materials and time required may differ among different departments, however.

According to the Washington State Caseload Forecast Council’s (CFC) fiscal note on this bill, raising knowing possession of a counterfeit or controlled substance from a misdemeanor to a gross misdemeanor could increase demand for jail beds. Gross misdemeanors are punishable by a term of confinement of 0-364 days in jail, while misdemeanors are punishable by a term of confinement of 0-90 days in jail.

However, since CFC does not collect data on misdemeanor and gross misdemeanor offenses, it cannot predict the jail bed

impacts resulting from this bill. In addition, section 8 would require courts to advise people charged with violations of sections 1 through 4 of the option to enter a pre-trial diversion program, which could decrease demand for jail beds. People who violate the conditions of this program could have their case proceed to trial and face a sentence of a term of confinement in jail. Accordingly, the associated expenditure impact on local governments stemming from a change in demand for jail beds as a result of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost of occupying a jail bed is \$145.

According to the CFC fiscal note for this bill, continuing to classify knowing possession of a counterfeit or controlled substance as criminal offenses could also increase demand for county juvenile detention beds. The proposed legislation would not amend the juvenile sentencing grid, so possession of a controlled substance would be a category C offense, punishable by between 0-30 days in juvenile detention and 52 weeks in juvenile rehabilitation, beginning July 1, 2023. The Local Government Fiscal Note Program does not have detailed information on the costs of juvenile detention, however the average daily rate for juvenile detention beds is generally higher than the same figure for a jail bed. Additionally, it is unknown how many future juvenile incidents of knowing possession of a counterfeit or controlled substance may occur as a result of this bill's provisions, or how many juveniles may enter pre-trial diversion per section 8, so the resulting impact on county juvenile detention expenditures is indeterminate.

In addition to bed impacts, upgrading knowing possession of a counterfeit or controlled substance could also increase law enforcement, prosecution and public defense expenditures as a result of processing incidents of the upgraded offenses. According to the 2023 Local Government Fiscal Note Program Criminal Justice Cost Model, the combined law enforcement, prosecution and public defense costs to process an incident of a misdemeanor, and a gross misdemeanor are as follows:

Misdemeanor: \$2,073

Gross misdemeanor: \$5,660

However, given that it is unknown how many incidents of the upgraded offenses may occur, the magnitude of the expenditure impacts on local governments from processing incidents of these offenses is indeterminate.

The Washington Association of Prosecuting Attorneys (WAPA) indicates that the new sentencing requirements that section 8 of the proposed legislation would create could require additional prosecutor time. While it is unknown what the implementation details of the pre-trial diversion program this section references might be, WAPA indicates that it could be structured in a similar way to existing county drug courts. According to WAPA, diversion supervision typically requires time from a prosecutor, a probation officer or other court staffer, a defender, and in some cases, a judge. These supervision cases often require regular meetings, however the total time required of participating parties in a given case can vary. It is reasonable to assume such cases would require a similar amount of time from both prosecutors and public defenders.

If a person who entered a pre-trial diversion program under section 8 of the bill were to be found "performing unsatisfactorily in the assigned program," or if they were convicted of an offense that reflects a propensity for violence, or a felony, that person would face trial, requiring additional prosecutor and public defender time.

It is unknown, however, how many people may choose to enter the pre-trial diversion program under section 8 of the proposed legislation, and how many of those people may violate the conditions of the program and require a subsequent trial. It is also unknown how the time required for a diversion case would compare with the time that would not be required for a trial. Finally, under the requirements of Chapter 311, Laws of 2021, prosecutors are already "encouraged to divert" cases concerning knowing drug possession "for assessment, treatment, or other services," and the proposed legislation would keep that language. It is unknown if or how section 8 of the proposed legislation may change the number



of people who enter pre-trial diversion compared to the present.

Accordingly, the local government expenditure impact resulting from any changes in demand for prosecutor and public defender time related to section 8 of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Unit Cost Model estimates that the average hourly salary plus benefits and overhead for a prosecuting attorney is \$82.

Section 11 of the proposed legislation would require Growth Management Act fully planning cities and counties to update their comprehensive plans to “include a process for identifying and siting” substance use disorder treatment programs. This requirement would result in one-time costs of approximately \$3,270,000 for cities and \$1,400,000 for counties, for a total one-time cost to local governments of approximately \$4,670,000.

It is assumed that qualifying cities and counties would incur the costs of this required update during the next scheduled periodic comprehensive update specified by RCW 36.70A.130 (5). In a fiscal note for a bill that required a similar update to comprehensive plans, the Washington State Association of Counties estimated that each update would cost a qualifying county approximately \$50,000. The Association of Washington Cities estimates that the same figure for cities would be approximately \$15,000.

The following lists the numbers of cities and counties with planning deadlines at the end of calendar years 2024-2027, and the total local planning costs to update comprehensive plans in accordance with section 11 of the proposed legislation in each year:

Calendar year 2024:

$(82 \text{ cities} \times \$15,000 \text{ per update}) + (4 \text{ counties} \times \$50,000 \text{ per update}) = \$1,430,000$

Calendar year 2025:

$(48 \text{ cities} \times \$15,000 \text{ per update}) + (10 \text{ counties} \times \$50,000 \text{ per update}) = \$1,220,000$

Calendar year 2026:

$(55 \text{ cities} \times \$15,000 \text{ per update}) + (8 \text{ counties} \times \$50,000 \text{ per update}) = \$1,225,000$

Calendar year 2027:

$(33 \text{ cities} \times \$15,000 \text{ per update}) + (6 \times \$50,000 \text{ per update}) = \$795,000$

Total: \$4,670,000

These following approximate fiscal year spending estimates are based on planning work occurring two years before the submission date of a periodic update as per RCW 36.70A.130(5). These figures also assume work on the development regulations would begin 90 days after the effective date of the bill and all planning jurisdictions with 2024 and 2025 due dates would begin in fiscal year 2024.

Fiscal year 2024:

City: \$1,282,500

County: \$400,000

Combined: \$1,682,500

Fiscal year 2025:

City: \$1,080,000

County: \$500,000  
Combined: \$1,580,000

Fiscal year 2026:  
City: \$660,000  
County: \$350,000  
Combined: \$1,010,000

Fiscal year 2027:  
City: \$247,500  
County: \$150,000  
Combined: \$397,500

Total: \$4,670,000

### **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:**

Association of Washington Cities  
Crime in Washington Report, 2021  
Local government fiscal note for HB 1799, 2022  
Local Government Fiscal Note Program Criminal Justice Cost Model, 2023  
Local Government Fiscal Note Program Unit Cost Model, 2023  
Washington Association of Prosecuting Attorneys  
Washington Association of Sheriffs and Police Chiefs  
Washington State Caseload Forecast Council