

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5035 SB	<b>Title:</b> Controlled sub. possession
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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	No fiscal impact					
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	.0	0	0	0	.0	0	0	0	.0	0	0	0
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Children, Youth, and Families	Fiscal note not available											
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.											
<b>Total \$</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>	<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	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other			288,630						
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			288,630						

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	Fiscal note not available								
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	No fiscal impact								
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> Final
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5035 SB	<b>Title:</b> Controlled sub. possession	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 01/27/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/27/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

180,598.00

Request # 112-1

Form FN (Rev 1/00)

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Bill # 5035 SB

## Part II: Narrative Explanation

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

The bill would amend RCW 69.50.4011 (Counterfeit substances—Penalties) so that the violation by any person who knowingly possesses a counterfeit substance is a class C felony. This would reclassify the violation from a misdemeanor.

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

No fiscal impact expected to the Administrative Office of the Courts and the courts because the bill would reclassify an existing crime.

## Part III: Expenditure Detail

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

NONE

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

NONE

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

NONE

### III. D - FTE Detail

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

None

180,598.00

Form FN (Rev 1/00)

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5035 SB	<b>Title:</b> Controlled sub. possession	<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: 02/02/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/02/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	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.

### 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 5035**

## **CONCERNING CONTROLLED SUBSTANCES**

### **101 – Caseload Forecast Council**

### **February 2, 2023**

#### **SUMMARY**

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

Section 1 Amends RCW 69.50.4011 by raising the crime of Knowingly Possess a Counterfeit Substance from a misdemeanor to a Class C felony. Additionally limits the prosecutor’s encouragement for diversion to the person’s first two violations under this subsection.

Section 2 Repeals the following:  
RCW 10.31.115, Drug possession-Referral to assessment and services;  
2021 c 311 s 13;  
2021 c 311 s 16; and  
2021 c 311 s 29 (uncodified).

#### **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 Sentencing 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 reintroduced the term “knowingly” to the drug possession statutes and classified simple possession of a controlled or counterfeit substance as a gross misdemeanor. Additionally reintroduced 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 remained a Class B felony. Knowingly possessing a legend drug remained a misdemeanor offense.

### **Impact Summary**

This bill retains the sentencing changes made to drug offenses passed on ESB 5476 in 2021, with the exception of Possession of a Counterfeit Substance (RCW 69.50.4011) and the categorization of the offenses on the Adult and Juvenile Offense Grids.

The bill repeals sections of ESB 5476 from 2021. One of the sections repealed is the one that expired sections 8-10, 12, 15, and 16, on July 1, 2023. By repealing the expiration date, the term “knowingly” is retained in the statutes of Possession of a Counterfeit Substance (RCW 69.50.4011), Possession of a Controlled Substance (RCW 69.50.4013), and Possession of less than 40 grams of Cannabis (RCW 69.50.4014).

The bill additionally repeals changes made in Section 15 (Adult Felony Sentencing Drug Grid) and Section 16 (Juvenile Offender Sentencing Grid), reverting the Seriousness Levels and Categories back to pre-ESB 5476. This results in Possession of a Controlled Substance at Seriousness Level II on the adult grid, and a Category C on juvenile grid. As the offense is not a felony offense, it should not be included on the adult grid. For juveniles, the offense will be categorized as Category C offense (which is equivalent to a Class Felony) under the provisions of the bill.

### **Impact on Prison and Jail beds**

This bill results in the Possession of a Counterfeit Substance remaining a criminal offense. However, the bill raises the punishment for Possession of a Counterfeit Substance to a Class C felony. Because the bill repeals the change of removing “Possess” from the crime of “Create, Deliver, or Possess a Counterfeit Controlled Substance” ranked at Seriousness Level II on the Adult Felony Drug Sentencing Grid, the offense would be punishable by a standard range term of confinement of between 12.03-20 months and 60.03-120 months (maximum of 60 months for Class C felony offenses) in prison, depending on the person’s criminal history score. As a misdemeanor, the offense is punishable to up to 90 days in jail. Therefore, any incidences of this offense would result in an increased need for prison beds and decreased need for jail beds. Additionally, limits the encouragement of prosecutors to divert such cases to assessment and treatment to a person’s first two violations under this subsection.

Under the provisions of the bill, penalties for Possession of a Controlled Substance would be the same as current practice (changes passed in ESB 5476).

### **Impact on Department of Corrections (DOC) Supervision Caseload**

The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate impacts resulting from the bill. However, the offense of Possession of a Counterfeit Substance is currently a misdemeanor and the bill raises the offense to a Class C felony. Individuals assessed as high risk to reoffend in the community would be required to be supervised by DOC upon release under the provisions of the bill. For individuals releasing from a non-prison sentence, the community custody term may be up to one year; and for those releasing from prison, one year is required. Individuals on community custody may earn

supervision compliance credit under 9.94A.717, and may serve less time than the community custody term imposed.

While CFC has no information about how many convictions for the felony offense may occur, any convictions of individuals assessed as high risk would result in an increased need for DOC community supervision resources.

The following is provided for informational purposes. In FY 2019 (prior to the Blake decision and changes in ESB 5476), there 2 sentences imposed for the offense of Create, Deliver, or Possess a Counterfeit Substance. It is unknown how many of those sentences were for simple possession.

### **Impact on Juvenile Rehabilitation (JR) and local beds**

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

Possession of a Counterfeit Substance is currently a misdemeanor offense that is being raised to a Class C felony offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) As a misdemeanor offense, punishment is limited to 90 days (regardless of the category of the offense). The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However:

- As a felony offense at Category C, the offense is punishable by a standard range term of between Local Sanctions (0-30 days in local juvenile detention) and 15-36 weeks in Juvenile Rehabilitation (depending on the number of prior adjudications) for juveniles adjudicated for the offense.
- As a felony offense at Category B, the offense is punishable by a standard range term of between Local Sanctions (0-30 days in local juvenile detention) and 52-65 weeks 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. Any confinement time exceeding 90 days would result in an increased need over current practice.

Possession of a Controlled Substance would remain a misdemeanor offense under the provisions of the bill, however, by repealing the changes to the grid made by ESB 5476, the Juvenile Offender Sentencing Grid would revert to the category classifications prior to ESB 5476. This results in the offense of Possession of a Controlled Substance being classified as a Category C.

As a result, the offense is punishable by a standard range term of between Local Sanctions (0-30 days in local juvenile detention) and 15-36 weeks in Juvenile Rehabilitation for juveniles adjudicated for the offense but confinement would be limited to a little less than 13 weeks (90 days).

Therefore, incidences of this offense would likely impact both local juvenile detention and Juvenile Rehabilitation beds.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5035 SB	<b>Title:</b> Controlled sub. possession	<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:**

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

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 02/05/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 02/05/2023
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.*

Section 1 This bill raises the crime of Knowingly Possess a Counterfeit Substance from a misdemeanor to a Class C felony. Additionally limits the prosecutor's encouragement for diversion to the person's first two violations under this subsection.

Section 2 (New Section) Repeals the following:

RCW 10.31.115, Drug possession-Referral to assessment and services;  
2021 c 311 s 13;  
2021 c 311 s 16; and  
2021 c 311 s 29 (uncodified),, RCW 10.31.115, sections 13, 15, 16, and 29 which has not been codified.

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.*

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

The Caseload Forecast Council (CFC) does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate impacts resulting from the bill.

The bill raises the punishment for Possession of a Counterfeit Substance to a Class C felony. Because the bill repeals the change of removing "Possess" from the crime of "Create, Deliver, or Possess a Counterfeit Controlled Substance" ranked at Seriousness Level II on the Adult Felony Drug Sentencing Grid, the offense would be punishable by a standard range term of confinement of between 12.03-20 months and 60.03-120 months (maximum of 60 months for Class C felony offenses) in prison, depending on the person's criminal history score. As a misdemeanor, the offense is punishable to up to 90 days in jail. Therefore, any incidences of this offense would result in an increased need for prison beds and decreased need for jail beds.

The offense of Possession of a Counterfeit Substance is currently a misdemeanor, and the bill raises the offense to a Class C felony. Individuals assessed as high risk to reoffend in the community would be required to be supervised by DOC upon release under the provisions of the bill. For individuals releasing from a non-prison sentence, the community custody term may be up to one year; and for those releasing from prison, one year is required. Individuals on community custody may earn supervision compliance credit under 9.94A.717, and may serve less time than the community custody term imposed.

While CFC has no information about how many convictions for the felony offense may occur, any convictions of individuals assessed as high risk would result in an increased need for DOC community supervision resources.

The DOC assumes this bill would likely result in an Average Daily Population (ADP) increase, although the impact cannot be reliably estimate. Therefore, the fiscal impact of this bill is indeterminate, assumed to be greater than \$50,000 per Fiscal Year (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 FY2024.

To implement this legislation, Offender Management Network Information tables need to be updated to RCW for technical corrections.

**Cost Calculation Estimate:**

IT Application Developer| \$120 per hour x 20 hours = \$2,400

IT Quality Assurance| \$120 per hour x 20 hours = \$2,400

IT Business Analyst| \$120 per hour x 20 hours = \$2,400

Total One-Time Costs IN FY2024 \$7,200

**Assumptions:**

1. The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.

2. We assume Direct Variable Cost (DVC) of \$6,980 per incarcerated individual per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison and health services direct variable costs. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. The DVC is calculated by DOC and reviewed and approved with Office of Financial Management, Senate, and House staff each legislative session.

3. For illustration purposes only, the average annual, Community Supervision caseload model is \$5,318 per ADP (not including startup costs), regardless of supervised risk level based on the workload model. If ADP impacts are applicable to this fiscal note, the calculated rate per community supervision ADP includes direct supervision and ancillary units, such as Hearings, Records and Training that are directly affected by supervision population changes. The estimate will vary based on risk level of the supervised individuals, which requires different staffing levels. The population trend data used is based on the Risk Level Classification tool and provides a risk level of 42.8% high violent; 27.3% high non-violent; 21% moderate; 7.9% low; and 1.0% unclassified. (June – November 2017)

4. We assume additional impacts will result when ADP caseload changes in either prison or community, and resources will be necessary. The DOC will “true up” our fiscal impact in subsequent budget submittals should the legislation be enacted into session law.

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

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

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

**Part V: New Rule Making Required**

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

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5035 SB

Title: Controlled sub. possession

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

### Legislation Impacts:

Cities: Indeterminate costs for jails; costs for training for law enforcement officers

Counties: Same as above

Special Districts:

Specific jurisdictions only:

Variance occurs due to:

## Part II: Estimates

No fiscal impacts.

Expenditures represent one-time costs:

Legislation provides local option:

Key variables cannot be estimated with certainty at this time: Number of additional arrests for possession impacting city and county jails

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	221,430		221,430		
County	67,200		67,200		
<b>TOTAL \$</b>	288,630		288,630		
<b>GRAND TOTAL \$</b>					288,630

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: Alice Zillah	Phone: 360-725-5035	Date: 02/02/2023
Leg. Committee Contact: Joe McKittrick	Phone: 3607867287	Date: 01/26/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/02/2023
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.*

Sec. 1. RCW 69.50.4011. Any person who knowingly possesses a counterfeit substance is guilty of a class C felony. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services for a person's first two violations under this subsection.

Section 2 repeals RCW 10.31.115 which directed law enforcement to offer a referral to assessment and services for all individuals who otherwise would be subject to arrest for possession of a counterfeit substance, possession of a controlled substance, possession of 40 grams or less of marijuana, or possession of a legend drug.

### 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 legislation would have both known and indeterminate costs for local law enforcement agencies and jails.

The bill raises the punishment for Possession of a Counterfeit Substance to a Class C felony, with a sentencing range impacting prisons. By elevating the charge from a misdemeanor, the legislation might result in a decreased need for jail beds. However, Section 2 repeals RCW 10.31.115 which directed law enforcement to offer a referral to assessment and services for all individuals who otherwise would be subject to arrest for possession. This change would require that these individuals be arrested instead, resulting in increased demand for jail beds. The average cost for a jail bed is \$145 per night, according to the Local Government Fiscal Note jail costs survey.

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 the offense of Possession of a Counterfeit Substance, and the change to existing practices regarding referrals to services. WASPC estimates that approximately 30 minutes of training would be required per law enforcement officer. This training would require a one-time cost of \$221,430 for cities and \$67,200 for counties, for a total one-time cost to local governments of \$288,630.

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 30 minutes of training, the cost to local governments would be:

Cities:

6,710 officers X 0.5 hours X \$66 = \$221,430

Counties:

2,240 officers X 0.5 hours X \$60 = \$67,200

Total:

\$221,430 + \$67,200 = \$288,630

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



## **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 legislation would have no revenue impacts for local government.

### **SOURCES:**

Washington Association of Sheriffs and Police Chiefs

Caseload Forecast Council

Local Government Fiscal Note criminal justice and jails cost models, 2023