

Multiple Agency Fiscal Note Summary

| | |
|-------------------------------|--|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL |
|-------------------------------|--|

Estimated Cash Receipts

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|--|--|-------------|-------------------|----------|-------------|-------------------|----------|-------------|-------------------|
| | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total |
| Office of Attorney General | 0 | 0 | 13,946,000 | 0 | 0 | 11,158,000 | 0 | 0 | 11,158,000 |
| Department of Social and Health Services | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Total \$ | 0 | 0 | 13,946,000 | 0 | 0 | 11,158,000 | 0 | 0 | 11,158,000 |

| Agency Name | 2023-25 | | 2025-27 | | 2027-29 | |
|---------------------|---------------------------|-------|-----------|-------|-----------|-------|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Local Gov. Courts | | | | | | |
| Loc School dist-SPI | Fiscal note not available | | | | | |
| Local Gov. Other | Fiscal note not available | | | | | |
| 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 | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | | | | |
| Office of Attorney General | 35.6 | 0 | 0 | 13,946,000 | 28.5 | 0 | 0 | 11,158,000 | 28.5 | 0 | 0 | 11,158,000 |
| Department of Enterprise Services | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | | | | |
| Department of Social and Health Services | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | | | | |
| Department of Children, Youth, and Families | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | | | | |
| Total \$ | 35.6 | 0 | 0 | 13,946,000 | 28.5 | 0 | 0 | 11,158,000 | 28.5 | 0 | 0 | 11,158,000 |

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

Estimated Capital Budget Expenditures

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|---|------------|----------|----------|------------|----------|----------|------------|----------|----------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Administrative Office of the Courts | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Office of Attorney General | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Enterprise Services | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Social and Health Services | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Children, Youth, and Families | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

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

Estimated Capital Budget Breakout

| | | |
|---------------------------------------|---------------------------------|---|
| Prepared by: Cheri Keller, OFM | Phone: (360) 584-2207 | Date Published: Preliminary 2/14/2023 |
|---------------------------------------|---------------------------------|---|

Judicial Impact Fiscal Note

| | | |
|-------------------------------|--|--|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL | Agency: 055-Administrative Office of the Courts |
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

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

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: Jessica Van Horne | Phone: 360-786-7288 | Date: 02/07/2023 |
| Agency Preparation: Angie Wirkkala | Phone: 360-704-5528 | Date: 02/09/2023 |
| Agency Approval: Chris Stanley | Phone: 360-357-2406 | Date: 02/09/2023 |
| OFM Review: Cheri Keller | Phone: (360) 584-2207 | Date: 02/14/2023 |

182,645.00

Request # 153-2

Part II: Narrative Explanation

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

The substitute adds conditions to placing no time limit on the statute of limitations.

The bill would place no time limit to commence an action for recovery of damages for injury suffered as a result of childhood sexual abuse, nonsexual physical abuse by the same perpetrator occurring concurrently with childhood sexual abuse, and sexual abuse continuing beyond the age of 18 if the sexual abuse is part of a pattern or a series of childhood sexual abuse by the same perpetrator. This applies retroactively.

II. B - Cash Receipts Impact

None

II. C - Expenditures

INDETERMINATE

The fiscal impact to the courts would come from a potential increase in court filings and resources as there is no statute of limitations on when an action can be brought as well as being retroactive. There is no data to estimate impacts from the universe of possible cases.

There is no fiscal impact expected to the Administrative Office of the Courts. This bill would not impact court forms, judicial resources, or case management systems.

Part III: Expenditure Detail

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

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

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

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

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

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

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

182,645.00

Form FN (Rev 1/00)

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

NONE

IV. C - Capital Budget Breakout

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

NONE

None

Individual State Agency Fiscal Note

| | | |
|-------------------------------|--|---|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL | Agency: 100-Office of Attorney General |
|-------------------------------|--|---|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

| ACCOUNT | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|---|-----------|-----------|------------|------------|------------|
| Legal Services Revolving Account-State 405-1 | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |
| Total \$ | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |

Estimated Operating Expenditures from:

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|---|-----------|-----------|------------|------------|------------|
| FTE Staff Years | 42.8 | 28.5 | 35.6 | 28.5 | 28.5 |
| Account | | | | | |
| Legal Services Revolving Account-State 405-1 | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |
| Total \$ | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

| | | |
|--|-----------------------|------------------|
| Legislative Contact: Jessica Van Horne | Phone: 360-786-7288 | Date: 02/07/2023 |
| Agency Preparation: Cam Comfort | Phone: (360) 664-9429 | Date: 02/10/2023 |
| Agency Approval: Edd Giger | Phone: 360-586-2104 | Date: 02/10/2023 |
| OFM Review: Cheri Keller | Phone: (360) 584-2207 | Date: 02/10/2023 |

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 RCW 4.16.340 to remove all time limits to bring a cause of action for recovery of damages for injury suffered as a result of childhood sexual abuse, nonsexual abuse by the same perpetrator that occurs concurrently with childhood sexual abuse, or sexual abuse that continues beyond the date the child reaches the age of 18 if the sexual abuse is a part of a pattern or a series of childhood sexual abuse by the same perpetrator.

Section 2: New section providing act is remedial in nature and is to be broadly construed as a nonexclusive remedy for victims of childhood sexual abuse.

Section 3: New section stating act applies retroactively and prospectively.

This bill is assumed effective 90 days after the end of the 2023 legislative session.

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.

The Attorney General's Office (AGO) Torts Division assumptions:

Torts defense costs are billed through the LSRA to the Department of Enterprise Services (DES) Risk Management Division through an Interagency Agreement (IAA). The Torts client agency is assumed to be DES. These costs are over and above the current 2021-23 IAA amount.

The Torts client agency is assumed to be DES. These costs are over and above the current 2021-23 IAA amount.

The AGO will bill DES under the interagency agreement that funds the Torts Division for defense costs incurred as a result of the increase in lawsuits DCYF can expect to face as a result of enactment of this bill.

AGO AGENCY ASSUMPTIONS:

DES will be billed for non-Seattle rates:

FY 2024: \$8,367,000 for 15.0 Assistant Attorney General FTE (AAG), 7.5 Legal Assistant 3 FTE (LA), 6.0 Investigator FTE (INV), 10.5 Paralegal FTE (PL), and direct litigation costs of \$2,400,000.

FY 2025: \$5,579,000 for 10.0 AAG, 5.0 LA, 4.0 INV, 7.0 PL, and direct litigation costs of \$1,600,000 and each FY thereafter.

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.

Attorney General's Office (AGO) Agency Assumptions:

This bill is assumed effective 90 days after the end of the 2023 legislative session.

Location of staffing is assumed to be in a non-Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables, for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of a Management Analyst 5 (MA). The MA is used as a representative classification.

Costs estimates do not include potential increases in indemnity payouts by the Department of Enterprise Services (DES) from the Self Insurance Liability Account (SILA) on behalf of the Department of Children, Youth and Families (DCYF) or indemnity payouts by DCYF on amounts above the self-insurance limits.

Assumptions for the AGO Torts Division's (Torts) legal services for DES:

The AGO will bill DES for legal services based on the enactment of this bill.

This bill will entirely eliminate any barrier to pursuing a civil lawsuit against a childhood sexual abuser by removing the requirement that a lawsuit be filed within a specific time period. Under Washington State Supreme Court (WSSC) precedent (*CJC v. Corporation of Catholic Bishops*, 138 Wn.2d 699 (1999)), the statute of limitations at RCW 4.16.340 encompasses causes of action sounding in negligence against parties who did not perpetrate acts of childhood sexual abuse, but who failed to protect child victims. Therefore, child welfare and juvenile justice programs within DCYF are liable under current law, subject to a statute of limitations informed by the discovery rule (for example: three years from when the person realizes the impact of the harm caused by the abuse). DCYF assumes an increase in lawsuits if the statute of limitations is eliminated.

Currently, Torts is defending DCYF in 222 cases. Approximately 80 cases alleging failure to protect from childhood sexual abuse have an incident date prior to February 2002. These cases fall squarely outside a traditional three year statute of limitations (three years from when a child turns 18) because that incident date is exactly 21 years from present. This number assumes that every case with an incident date after February 2002 (142 cases) is brought by someone who was under 21 at the time their lawsuit was filed. This is the most conservative baseline from which to estimate how many more cases might be filed. Some number of current plaintiffs out of those 142 cases are adults who filed their lawsuits well after turning 21, relying on the childhood sexual abuse discovery rule to avoid dismissal of their claims.

In the last ten years, DCYF cases as a percentage of the Torts' caseload have risen from nine percent in FY 2013 to 44 percent in FY 2023.

DCYF expects an increase in cases filed against it. Torts assumes an increase of cases over the course of a biennium, based on an assumption that there will be an increase in the number of people who will file lawsuits with incident dates that fall outside the current statute of limitations because any barrier to filing has been eliminated. This does not include increases in staffing to account for the annually growing DCYF Torts caseload.

For FY 2024, Torts assumes an increase of 75 DCYF cases. Substitute House Bill 1618 would allow for recovery of damages for childhood sexual and nonsexual physical abuse claims that would have been previously dismissed in the original version of this bill. This change will require 15.0 AAG (five cases per 1.0 AAG per FY).

For FY 2025, Torts assumes no change from the original assumptions of 50 DCYF cases per FY and each FY thereafter. This will require 10.0 AAG (five cases per 1.0 AAG per FY).

Torts total FTE workload impact for non-Seattle rates:

FY 2024: \$5,967,000 for 15.0 AAG, 7.5 LA, 6.0 Investigator (INV), and 10.5 Paralegal (PL).

FY 2025: \$3,979,000 for 10.0 AAG, 5.0 LA, 4.0 INV and 7.0 PL, and each FY thereafter.

Torts direct litigation cost assumptions:

FY 2024: \$2,400,000 (75 cases x \$32,000 per case).

FY 2025: \$1,600,000 (50 cases x \$32,000 per case) and each FY thereafter.

Torts total FTE and direct litigation workload impact for non-Seattle rates:

FY 2024: \$8,367,000 for 15.0 AAG, 7.5 LA, 6.0 INV, 10.5 PL, and direct litigation costs of \$2,400,000.

FY 2025: \$5,579,000 for 10.0 AAG, 5.0 LA, 4.0 INV, 7.0 PL and direct litigation costs of \$1,600,000 and each FY thereafter.

The AGO Transportation and Public Construction Division (TPC) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing DES as the bill does not impact or affect DES operations. Therefore, costs are not included in this request.

The AGO Children, Youth and Families (CYF), Social & Health Services – Seattle (SHS), and Social & Health Services – Olympia (SHO) Divisions have reviewed this bill and determined it will not significantly increase or decrease the divisions’ workload in representing the Department of Children, Youth, and Families, the Health Care Authority, and the Department of Social and Health Services as legal services for claims related to childhood sexual assault do not impact CYF, SHS, and SHO. Therefore, costs are not included in this request.

The AGO Education Division (EDU) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Washington Office of Superintendent of Public Instruction (OSPI). Therefore, costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------|-------------------------------------|-------|-----------|-----------|------------|------------|------------|
| 405-1 | Legal Services Revolving Account | State | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |
| Total \$ | | | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |

III. B - Expenditures by Object Or Purpose

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|----------------------------------|-----------|-----------|------------|------------|------------|
| FTE Staff Years | 42.8 | 28.5 | 35.6 | 28.5 | 28.5 |
| A-Salaries and Wages | 3,862,000 | 2,576,000 | 6,438,000 | 5,152,000 | 5,152,000 |
| B-Employee Benefits | 1,302,000 | 868,000 | 2,170,000 | 1,736,000 | 1,736,000 |
| C-Professional Service Contracts | 2,400,000 | 1,600,000 | 4,000,000 | 3,200,000 | 3,200,000 |
| E-Goods and Other Services | 754,000 | 503,000 | 1,257,000 | 1,006,000 | 1,006,000 |
| G-Travel | 49,000 | 32,000 | 81,000 | 64,000 | 64,000 |
| Total \$ | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |

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 |
|----------------------------|---------|---------|---------|---------|---------|---------|
| Assistant Attorney General | 118,700 | 15.0 | 10.0 | 12.5 | 10.0 | 10.0 |
| Legal Assistant 3 | 55,872 | 7.5 | 5.0 | 6.3 | 5.0 | 5.0 |
| Management Analyst 5 | 91,524 | 3.8 | 2.5 | 3.1 | 2.5 | 2.5 |
| Paralegal 2 | 71,520 | 10.5 | 7.0 | 8.8 | 7.0 | 7.0 |
| Senior Investigator | 93,840 | 6.0 | 4.0 | 5.0 | 4.0 | 4.0 |
| Total FTEs | | 42.8 | 28.5 | 35.6 | 28.5 | 28.5 |

III. D - Expenditures By Program (optional)

| Program | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|----------------------|------------------|------------------|-------------------|-------------------|-------------------|
| Torts Division (TOR) | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |
| Total \$ | 8,367,000 | 5,579,000 | 13,946,000 | 11,158,000 | 11,158,000 |

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

| | | |
|-------------------------------|--|--|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL | Agency: 179-Department of Enterprise Services |
|-------------------------------|--|--|

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: Jessica Van Horne | Phone: 360-786-7288 | Date: 02/07/2023 |
| Agency Preparation: Julie McVey | Phone: (360) 407-9334 | Date: 02/09/2023 |
| Agency Approval: Ashley Howard | Phone: (360) 407-8159 | Date: 02/09/2023 |
| OFM Review: Cheri Keller | Phone: (360) 584-2207 | Date: 02/10/2023 |

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 RCW 4.16.340 and 1991 c 212 s 2 to remove the requirement that a lawsuit be filed within a specific period of time for recovery of damages for injury suffered as a result of: childhood sexual abuse, nonsexual abuse by the same perpetrator that occurred concurrently with the sexual abuse, or sexual abuse that continues beyond that date the child turns 18 if the abuse is part of a pattern of sexual abuse by the same person.

Section 1(2) defines "childhood sexual abuse" as any act committed by the defendant against a complainant who was less than eighteen years old at the time of the act.

Section 2 is a new section states that this act is remedial, and not does eliminate the common law discovery rule for victims of childhood sexual abuse, physical abuse, and exploitation.

Section 3 is a new section states that this act applies to all claims, causes of actions, and proceedings, regardless of when the claim or cause of action arose.

Indemnification and legal defense costs of lawsuits against the state are paid by the state's self-insurance liability account, which is managed by DES/Office of Risk Management. The state is currently defending 222 childhood sexual abuse lawsuits. Eighty (80) of those cases have an incident date prior to February 2002. These cases fall outside of the current statutory limitation which allows a plaintiff to file a lawsuit within 3 years of turning 18.

In reviewing the pending lawsuits, and the proportion of which suits fall outside of the current statute of limitations, the Attorney General's Office estimates that an additional 73 lawsuits will be filed against the state per year under HB 1618, and 130 lawsuits will have increased payouts.

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.

Claims payouts and defense costs are paid from the Self Insurance Liability Account (SILA). The account is funded from premiums paid by state agencies, boards and commissions.

The account does not have capacity to absorb these new costs and premiums would need to be increased to cover them.

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.

In reviewing the pending lawsuits, and the proportion of which suits fall outside of the current statute of limitations, the Attorney General's Office estimates that an additional 73 lawsuits would be eligible for payout per year. Additionally, an estimated 130 lawsuits would have higher payout due to the addition of the physical abuse as part of the injury/damages.

In FY22, the state paid 57 sexual abuse lawsuits with an average payout of \$1,244,592.63 per lawsuit.

Assuming this average pay-out continues into future years, the increased cost to the self-insurance liability account for the additional 73 lawsuits would be \$90,855,261.99. The amount of increased costs for the estimated 130 cases in indeterminate.

This does not include the costs of legal defense which are addressed in the AGO portion of the fiscal note.

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.

Individual State Agency Fiscal Note

| | | |
|-------------------------------|--|---|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL | Agency: 300-Department of Social and Health Services |
|-------------------------------|--|---|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

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

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: Jessica Van Horne | Phone: 360-786-7288 | Date: 02/07/2023 |
| Agency Preparation: Bill Jordan | Phone: 360-902-8183 | Date: 02/08/2023 |
| Agency Approval: Dan Winkley | Phone: 360-902-8236 | Date: 02/08/2023 |
| OFM Review: Jason Brown | Phone: (360) 742-7277 | Date: 02/10/2023 |

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 (1) of the bill eliminates the time limit to start an action for recovery of damages for an injury suffered as a result of:

- Childhood sexual abuse
- Nonsexual physical abuse by the same perpetrator that occurs concurrently with childhood sexual abuse; or
- Sexual abuse that continues beyond the date the child reaches the age of 18 years if sexual abuse is part of a pattern or a series of childhood sexual abuse by the same perpetrator.

Section 1 (2) of the bill defines “childhood sexual abuse” means any act committed by the defendant against a complainant who was under the age of eighteen at the time of the act.

Section 2 states that this act is remedial in nature and is to be broadly construed as a nonexclusive remedy for victims of childhood sexual abuse. This act does not eliminate the common law discovery rule for victims of childhood sexual abuse, physical abuse, and exploitation.

The Department of Social and Health Services (DSHS) has had and will have individuals in their care that are under the age of eighteen. Without the time limit, an individual that is or was in the care of DSHS could at any time allege childhood sexual abuse.

The number of individuals bringing lawsuit forward for recovery of damages is unknown. The costs associated with the individual lawsuits are also unknown. Therefore, the fiscal impact of this bill is indeterminate.

II. B - Cash receipts Impact

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

II. C - Expenditures

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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.

Individual State Agency Fiscal Note

| | | |
|-------------------------------|--|--|
| Bill Number: 1618 S HB | Title: Childhood sexual abuse/SOL | Agency: 307-Department of Children, Youth, and Families |
|-------------------------------|--|--|

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: Jessica Van Horne | Phone: 360-786-7288 | Date: 02/07/2023 |
| Agency Preparation: Jay Treat | Phone: 360-556-6313 | Date: 02/14/2023 |
| Agency Approval: James Smith | Phone: 360-764-9492 | Date: 02/14/2023 |
| OFM Review: Carly Kujath | Phone: (360) 790-7909 | Date: 02/14/2023 |

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.

Comparison of 1618 HB and 1618 SHB:

Section 1(1) expands the definitions of Childhood sexual abuse; Nonsexual physical abuse by the same perpetrator that occurs concurrently with childhood sexual abuse; or Sexual abuse that continues beyond the date the child reaches the age of 18 years if the sexual abuse is part of a pattern or a series of childhood sexual abuse by the same perpetrator.

New Section 2 provides that this act is remedial in nature and must be broadly construed as a nonexclusive remedy for victims of childhood sexual abuse. The substitute bill also provides that the bill does not eliminate the common law discovery rule for victims of childhood sexual abuse, physical abuse, and exploitation.

1618 SHB

No change to fiscal impact.

Section one amends RCW 4.16.340 by removing the statute of limitations for a victim to seek damages in a civil procedure related to sexual abuse.

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 removal of the childhood sexual abuse statute of limitations thereby removes the requirement that a lawsuit be filed against a childhood sexual abuser within a specified time period, which the juvenile rehabilitation and child welfare programs within the Department of Children, Youth, and Families (DCYF) are subject to. DCYF expects the removal of this statute of limitations will increase the number of individuals who file lawsuits against the department related to childhood sexual abuse. However, DCYF anticipates it will not affect the criminal procedures related to the Juvenile Rehabilitation program. The increase in lawsuits, if the statute of limitations is removed, will result in costs to DCYF in the form of increased legal services provided by the Attorney General's Office (AGO), which estimates are provided below, increases to the premium for the self-insurance liability account, which is an indeterminate cost, and potential increase in costs which DCYF is responsible for as associated with the gap between the self-insurance liability account and the point at which excess insurance is activated, which is also an indeterminate cost, as outlined below.

Based on the proportion of pending lawsuits that fall outside of the current statute of limitations, the AGO assumes an increase of 50 lawsuits will be filed against DCYF per state fiscal year. The AGO estimates costs of \$3,979,000 for staff and \$1,600,000 in total direct litigation costs, for a total cost impact of \$5,579,000 to the legal services revolving account.

The Department of Enterprise Services (DES) Office of Risk Management has estimated that there will be a large increase in costs to the self-insurance liability account, which pays for indemnification and legal defense costs of lawsuits against the state.

In FY22, the state paid 57 sexual abuse lawsuits with an average payout of \$1,244,592.63 per lawsuit. Assuming this average pay-out continues into future years, the increased cost to the self-insurance liability account for indemnity of these suits would range from \$24,891,853 to \$99,567,410 per year. DCYF pays a premium for costs paid out of the self-insurance liability account. The self-insurance liability premium amounts are determined after an actuarial analysis every two years, but most likely most of the increased costs to the liability account would be covered by an increase in DCYF premiums due to the fact that the vast amount of the liability applies to DCYF. Therefore, the increase in premium costs is indeterminate.

The self-insurance liability program is structured to pay up to \$10 million for each claim. In addition, the state also purchases excess insurance coverage which becomes available when a claim exceeds the self -insurance retention level. However, the self-insured retention is higher than the \$10 million covered under the self-insurance liability program and therefore, DCYF must cover the gap between the self-insurance liability account and the point at which the excess insurance policies can be accessed, which could result in a cost impact to DCYF but is indeterminate.

DCYF's retention level is currently \$21 million. The excess insurance coverage applies to the state as a whole, and is limited to the amount of the policy that is currently \$50 million per year. For example, if a \$30 million verdict was entered against DCYF, the self-insurance liability account would pay the first \$10 million, DCYF would pay the next \$11 million from its legislative appropriation for program funds and then excess insurance coverage would pay the final \$9 million, provided the excess insurance still has coverage available.

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.