

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief
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## 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	55,000	0	0	30,000	0	0	3,000
Department of Licensing	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>55,000</b>	<b>0</b>	<b>0</b>	<b>30,000</b>	<b>0</b>	<b>0</b>	<b>3,000</b>

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		5,100,000				
Local Gov. Total		5,100,000				

## 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											
Office of Public Defense	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Civil Legal Aid	1.0	225,420	225,420	225,420	1.0	243,814	243,814	243,814	1.0	263,711	263,711	263,711
Office of Attorney General	.2	0	0	55,000	.1	0	0	30,000	.0	0	0	3,000
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Enterprise Services	.0	0	0	0	.0	0	0	0	.0	0	0	0
Washington State Patrol	12.0	2,991,303	2,991,303	2,991,303	10.0	2,387,752	2,387,752	2,387,752	10.0	2,387,752	2,387,752	2,387,752
Department of Licensing	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Corrections	Fiscal note not available											
<b>Total \$</b>	<b>13.2</b>	<b>3,216,723</b>	<b>3,216,723</b>	<b>3,271,723</b>	<b>11.1</b>	<b>2,631,566</b>	<b>2,631,566</b>	<b>2,661,566</b>	<b>11.0</b>	<b>2,651,463</b>	<b>2,651,463</b>	<b>2,654,463</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			10,100,000						
Local Gov. Total			10,100,000						

## 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								
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Office of Civil Legal Aid	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Enterprise Services	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Licensing	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	Fiscal note not available								
<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									
Local Gov. Total									

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Gaius Horton, OFM	<b>Phone:</b> (360) 819-3112	<b>Date Published:</b> Preliminary 2/15/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 056-Office of Public Defense
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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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 01/26/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/26/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

HB 1492 outlines the procedures that will govern vacature of criminal convictions and refund of legal financial obligations (LFO) for individuals entitled to relief under State v. Blake.

The Washington State Office of Public Defense (OPD) currently administers legislatively appropriated funds to assist counties with Blake defense costs, as well as statewide attorney training, technical assistance, data analysis and reporting, and quality oversight. It is projected that the state expenditures for public defense services incurred under this bill would not exceed the grant amounts and costs of operations during the 2023-2025 biennium (\$11,945,200) as outlined in OPD's Decision Package "State v. Blake Public Defense Response" found at [https://www.courts.wa.gov/content/Financial%20Services/documents/2023\\_2025/Combined%20Branch%20PDF/72%20AE%20Blake%20Response%20Combined.pdf](https://www.courts.wa.gov/content/Financial%20Services/documents/2023_2025/Combined%20Branch%20PDF/72%20AE%20Blake%20Response%20Combined.pdf). This funding is included in the Governor's budget, HB 1140/SB 5187, Section 115(2).

The sections of HB 1492 that will have a fiscal impact on OPD and local public defense providers include:

Sec. 3(1)(a)(ii): Requires local county or municipal prosecutors, as applicable, to determine whether a person eligible for a vacation of a qualifying conviction is currently serving a sentence for any offense under the supervision of the department of corrections, and notify OPD that the person may be eligible for resentencing under section 6 of the bill.

Sec. 3(2)(ii): Requires the administrative office of the courts to share with OPD the status reports compiled by local prosecutors of all filed motions to vacate under the bill.

Sec. 4(2): Provides an affected person with the right to challenge the amount of LFO refund ordered by the court, and provides an affected person with the right to the assistance of counsel in reviewing the refund determination and in bringing a motion to amend the refund amount in the court that issued the order.

OPD assumes it will assist local jurisdictions in providing counsel, either through grant funding to the county or through direct OPD contracts with qualified counsel.

Sec. 6(1): Provides right to assistance of counsel for persons who may file a motion to be resentenced where the vacation of a qualifying conviction affects a sentence for separate conviction.

OPD assumes it will continue to provide aid and assistance to counties in continued resentencing work.

Sec. 9(3): Requires AOC to provide installment reports of qualifying convictions and nonconvictions to OPD. OPD may share these reports with local public defense providers or its contractors.

OPD assumes it will analyze and share these reports.

Sec. 10(3): Requires AOC to provide notice to individuals who have obtained a refund of their right to challenge refund amount with the assistance of counsel, and how to contact OPD.

OPD assumes it will establish a mechanism to receive and respond to communications from the public, and to provide timely referrals to counsel.

### 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.*

It is projected that the state expenditures for public defense services incurred under this bill will not exceed the grant amounts and costs of operations during FY 2024-25 (\$11,945,200) as outlined in OPD's Decision Package "State v. Blake P u b l i c D e f e n s e R e s p o n s e " f o u n d a t [https://www.courts.wa.gov/content/Financial%20Services/documents/2023\\_2025/Combined%20Branch%20PDF/72%20AE%20Blake%20Response%20Combined.pdf](https://www.courts.wa.gov/content/Financial%20Services/documents/2023_2025/Combined%20Branch%20PDF/72%20AE%20Blake%20Response%20Combined.pdf) and included in Sec. 115(2) of HB 1140.

### **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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 057-Office of Civil Legal Aid
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
<b>Account</b>					
General Fund-State      001-1	110,500	114,920	225,420	243,814	263,711
<b>Total \$</b>	110,500	114,920	225,420	243,814	263,711

### 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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Jim Bamberger	Phone: (360) 704-4135	Date: 01/25/2023
Agency Approval: Jim Bamberger	Phone: (360) 704-4135	Date: 01/25/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/25/2023

## 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.*

HB 1492 outlines the procedures that will govern vacature of criminal convictions and refund of legal financial obligations (LFOs) for individuals entitled to relief following the Supreme Court's ruling in *State v. Blake*. The Office of Civil Legal Aid (OCLA) administers legislatively appropriated funds and contracts with non-profit civil legal aid organizations that provide legal information, assistance, and representation to individuals seeking refund of LFOs and related civil relief to which they may be entitled.

The sections of the bill that will have fiscal impact on OCLA include:

Section 3(2) requires the Administrative Office of the Courts (AOC) to forward the initial and thereafter quarterly status reports on motions for civil LFO relief prepared by prosecuting attorneys and forwarded by court clerks to the Office of Public Defense (OPD) and OCLA.

Section 4(2) establishes a right to challenge the amount of any legal financial obligation refund by bringing a motion to amend the order's refund amount and a corresponding right to the assistance of counsel in reviewing the refund determination and in bringing a motion to amend the refund amount in the court that issued the order.

Section 4(3) requires AOC to develop pattern forms for applications for a pro se vacation of qualifying convictions, motion to amend a legal financial obligation refund amount, and applications for assistance of counsel in bringing the motion to amend the refund amount. As there is no express language requiring appointment of counsel at state expense, OCLA assumes that legal assistance and representation for those requesting assistance pursuant to Section 4(2) and 4(3) will be met with current levels of funding for Blake civil relief related legal assistance adjusted for increased costs of operations during FY 2024-25 (\$4,773,600) as outlined in OCLA Decision Package AB Civil Relief Under *State v. Blake* -- [https://www.courts.wa.gov/content/Financial%20Services/documents/2023\\_2025/Combined%20Branch%20PDF/90%20AB%20Civil%20Relief%20Under%20State%20v.%20Blake%20FINAL.pdf](https://www.courts.wa.gov/content/Financial%20Services/documents/2023_2025/Combined%20Branch%20PDF/90%20AB%20Civil%20Relief%20Under%20State%20v.%20Blake%20FINAL.pdf) -- and included in Sec. 116(5) of HB 1140.

Section 9(3) requires AOC to forward completed installments of reports for each court of all persons with qualifying convictions or qualifying nonconvictions as defined in sections 1(4) and 1(5) to OPD and OCLA. OCLA may provide the reports to its contractors providing legal representation to those impacted by *State v. Blake*.

Section 10(3) requires AOC to establish a LFO refund bureau. The bureau must notify all individuals entitled to a refund of legal financial obligations paid under a qualifying conviction or qualifying nonconviction of their right to the refund and the process for applying for the refund. The notice must advise recipients of their right to bring a motion to amend the refund amount if the person believes the refund amount is inaccurate and the right to counsel to assist in reviewing the determination, and bringing a nonfrivolous motion to amend the refund amount in the court that issued the order. The notice must provide information on the process to bring a motion to amend the refund amount and how to contact OPD and OCLA if the person wishes to obtain an attorney.

OCLA will be required to hire a full-time Blake LFO Relief Administrator to:

1. Receive, review, process, and forward as appropriate reports received from AOC under sections 3(2) and 9(3).
2. Receive, review, and refer individuals seeking legal assistance to OCLA-contracted civil legal aid providers
3. Coordinate day-to-day data analysis, allocation of functions, and referral systems with OPD's Blake team.

OCLA assumes that staffing will be required throughout the life of the Blake LFO relief program.

### 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.

Projections include only expenditures OCLA will incur beyond current levels of funding for Blake civil relief legal services adjusted for increased costs of operations during FY 2024-25 (\$4,773,600) as outlined in OCLA Decision Package AB Civil Relief Under State v. Blake - - [https://www.courts.wa.gov/content/Financial%20Services/documents/2023\\_2025/Combined%20Branch%20PDF/90%20AB%20Civil%20Relief%20Under%20State%20v.%20Blake%20FINAL.pdf](https://www.courts.wa.gov/content/Financial%20Services/documents/2023_2025/Combined%20Branch%20PDF/90%20AB%20Civil%20Relief%20Under%20State%20v.%20Blake%20FINAL.pdf) -- and included in Sec. 116(5) of HB 1140.

**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	110,500	114,920	225,420	243,814	263,711
<b>Total \$</b>			110,500	114,920	225,420	243,814	263,711

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
A-Salaries and Wages	75,000	78,000	153,000	165,485	178,988
B-Employee Benefits	24,000	24,960	48,960	52,955	57,277
C-Professional Service Contracts					
E-Goods and Other Services	9,000	9,360	18,360	19,858	21,479
G-Travel	2,500	2,600	5,100	5,516	5,967
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>	110,500	114,920	225,420	243,814	263,711

**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
Blake LFO Relief Administrator	70,000	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		1.0	1.0	1.0	1.0	1.0

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 100-Office of Attorney General
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## 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	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.1	0.0
<b>Account</b>					
Legal Services Revolving Account-State 405-1	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

### 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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 01/25/2023
Agency Approval: Merdan Bazarov	Phone: 360-586-9346	Date: 01/25/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/25/2023

## 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 is a new section providing definitions.

Section 2 is a new section declaring eligibility to have a qualifying conviction vacated as a result of State v. Blake, Supreme Court No. 96873-0.

Section 3 is a new section applying to prosecuting attorneys and court clerks.

Section 4 is a new section authorizing persons with a qualifying conviction to apply for a vacation of the conviction or a refund of non-conviction legal financial obligations. The Administrative Office of the Courts (AOC) must develop pattern forms for pro se applications to violate qualifying convictions.

Section 5 is a new section applying to the courts when they determine any valid motion to vacate any qualifying conviction under this chapter.

Section 6 is a new section vacation of a qualifying conviction that affects a sentence imposed for a separate conviction by altering the person's offender score under RCW 9.94A.525.

Section 7 is a new section applying to the courts when they determine any valid motion to refund legal obligations under this chapter.

Section 8 is a new section applying to legal financial obligations refunded as a result of vacated legal financial obligations.

Section 9 is a new section requiring AOC, in coordination with court clerks, to develop comprehensive reports for each court for all persons with qualifying convictions or qualifying non-convictions.

Section 10 is a new section requiring AOC to create and administer a refund bureau to provide refunds to qualified entitled persons. AOC must provide notice and create a searchable database to facilitate the refund process.

Section 11 adds a new section to RCW 42.56 to exempt from public disclosure the reports required by Section 9.

Section 12 amends RCW 9.94A.640 to provide an exception to the bar to an offender from having a record of conviction cleared, as provided in Section 1 and subsection (3) of this section.

Section 13 amends RCW 9.96.060 to add a reference to Section 1 and subsection (6) of this section.

Section 14 amends RCW 72.09.480 to provide that legal financial obligations reimbursed pursuant to State v. Blake are exempt from subsection (2) deductions requirement when the defendant is in custody in a correctional facility.

Section 15 provides that Sections 1 through 10 constitute a new chapter in Title 9 RCW.

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.*

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Administrative Office of the Courts (AOC). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's/agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

#### AGO AGENCY ASSUMPTIONS:

AOC will be billed for Seattle rates:

FY 2024: \$29,000 for 0.11 FTE Deputy Solicitor General (DSG) and 0.06 FTE Legal Assistant (LA).

FY 2025: \$26,000 for 0.10 FTE DSG and 0.05 FTE LA.

FY 2026: \$19,000 for 0.07 FTE DSG and 0.04 FTE LA.

FY 2027: \$11,000 for 0.04 FTE DSG and 0.02 FTE LA.

FY 2028: \$3,000 for 0.01 FTE DSG and 0.01 FTE LA.

## 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 Deputy Solicitor General FTE (DSG), 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.

Assumptions for the AGO Solicitor General's Office (SGO) Legal Services for the Administrative Office of the Courts (AOC):

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

This bill would require the SGO to provide additional advice to AOC on questions relating to the implementation of the new requirements in this bill, including creation and maintenance of a refund bureau and searchable database, and compliance with notice and reporting requirements.

SGO total FTE workload impact for non-Seattle rate:

FY 2024: \$29,000 for 0.11 FTE Deputy Solicitor General (DSG) and 0.06 FTE Legal Assistant (LA).

FY 2025: \$26,000 for 0.10 FTE DSG and 0.05 FTE LA.

FY 2026: \$19,000 for 0.07 FTE DSG and 0.04 FTE LA.

FY 2027: \$11,000 for 0.04 FTE DSG and 0.02 FTE LA.

FY 2028: \$3,000 for 0.01 FTE DSG and 0.01 FTE LA.

The AGO Torts Division (TOR) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Enterprise Services (DES). New legal services are nominal and costs are not included in this request. This bill will not impact the provision of legal services to DES because it appears the Legislature intends to provide only procedures for vacating certain convictions, non-convictions, pleas, sentences, legal financial obligations, and the like for drug-related offenses covered by the State v. Blake decision. DES is not involved with any of the procedures described in the bill. Therefore, costs are not included in this request.

The AGO Government Compliance and Enforcement Division (GCE) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing Washington State Patrol (WSP). GCE provides litigation support for a number of WSP programs, including asset forfeitures resulting from drug trafficking. The provisions of this bill, which relate to convictions for simple possession of drugs would not have an impact on any of GCE's administrative forfeiture work or other program work. Therefore, costs are not included in this request.

The AGO Criminal Justice Division (CRJ) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing WSP. This bill adds requirements for WSP regarding updates to criminal history records and about subsequent dissemination of information. CRJ assumes there may be legal advice needed regarding eligibility to possess firearms. If such requests arise, however, new legal services are nominal and 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	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>			29,000	26,000	55,000	30,000	3,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.1	0.0
A-Salaries and Wages	20,000	18,000	38,000	21,000	2,000
B-Employee Benefits	6,000	6,000	12,000	6,000	1,000
E-Goods and Other Services	3,000	2,000	5,000	3,000	
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

#### 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
Deputy Solicitor General AAG	138,000	0.1	0.1	0.1	0.1	0.0
Legal Assistant 3	55,872	0.1	0.1	0.1	0.0	0.0
Management Analyst 5	91,524	0.0	0.0	0.0	0.0	
<b>Total FTEs</b>		0.2	0.2	0.2	0.1	0.0

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Solicitor General Division (SGO)	29,000	26,000	55,000	30,000	3,000
<b>Total \$</b>	29,000	26,000	55,000	30,000	3,000

## **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

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/06/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/06/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/06/2023

## 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.*

**HB 1492**  
**PROVIDING RELIEF FOR PERSONS AFFECTED**  
**BY *STATE V. BLAKE***  
**101 – Caseload Forecast Council**  
**February 4, 2023**

**SUMMARY**

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

- Section 1 Adds a new section defining terms in the act, to include “Qualifying Conviction,” “Qualifying Nonconviction,” and “Qualifying Offense.”
- Section 2 Adds a new section stating that any person with a qualifying conviction is eligible to have such conviction vacated by the sentencing court under this chapter. Additionally state any person with a qualifying conviction or qualifying nonconviction is eligible for a refund of all legal financial obligations paid as a result of the qualifying conviction or qualifying nonconviction.
- Section 3 Adds a new section requiring a prosecuting attorney to review all qualifying convictions and nonconvictions upon receipt of a report required in Section 9 of the act.
- Section 4 Adds a new section state persons with a qualifying conviction or nonconviction may apply to the sentencing court for a vacation of the conviction or a refund of nonconviction legal financial obligations (LFOs), regardless of whether a prosecuting attorney is expected to file a motion under Section 3 of the act. Requires the prosecutor to respond within 30 days to any applications.
- Section 5 Adds a new section requiring the court to do the following when a valid motion to vacate a qualifying conviction is determined:
- Set aside each plea or verdict, dismiss the information, indictment, complaint, or citation and vacate the judgment and sentence;
  - Quash any outstanding warrants related to the vacated qualifying conviction;
  - Release the individual from all penalties resulting from the vacated qualifying conviction;
  - Prohibit the vacated qualifying conviction from being included in a person’s criminal history for purposes of determining bail in a subsequent prosecution;
  - Direct the clerk to notify Dept. of Licensing to reinstate the person’s privilege to drive if suspended due to the qualifying conviction; and
  - Other requirements associated with legal financial obligations resulting from the qualifying conviction.
- Section 5 Additionally requires the clerk to transmit the court order to vacate a qualifying conviction to the Washington State Patrol (WSP), upon receipt of the court order. Requires WSP and any local police agency to update their records to reflect the vacation and transmit the vacation order to the Federal Bureau of Investigation,

within 7 working days of receipt. States vacated convictions may not be disseminated or disclosed.

Section 5 Additionally states a qualifying conviction vacated under this chapter may not be included in a person's criminal history and the person must be released from all penalties and disabilities resulting from the offense.

Section 6 States that if a vacation of a qualifying conviction affects a sentence imposed for a separate conviction by altering the person's offender score, then a person may file a motion to be resentenced. States any person with a qualifying conviction who is currently serving a sentence under the supervision of the Department of Corrections (DOC) has a right to counsel for resentencing proceedings. Restricts prosecuting attorneys from filing dismissed chargers in relation to the conviction for which a person qualifies for resentencing.

Sections 7-8 Concerns LFOs.

Section 9 Adds a new section requiring the Administrative Office of the Courts (AOC), in coordination with other specified courts, to develop reports for each court of all persons with qualifying convictions or qualifying nonconvictions. Lists the prioritization of cases and states DOC and the clerks of the courts shall provide assistance. Requires clerks to provide reports to local prosecutors. Requires AOC to complete the report for all qualifying convictions and qualifying nonconvictions by January 1, 2024, for those under Section 1(6)(a)-(c); and for those under Section 1(6)(d) by July 1, 2024. Exempts reports from public disclosure.

Section 10 Concerns LFOs.

Section 11 Adds a new section to chapter 42.56 RCW stating reports compiled, received, and shared under Section 9 of the act are exempt from disclosure under the chapter.

Section 12 Amends RCW 9.94A.640 by adding provisions of Section 1 and subsection 12 of this section from the list of offenders who may not have the record of conviction cleared.

Section 13 Amends RCW 9.96.060 by adding a reference to Section 1 of the act and correcting a reference to a subsection changed by the act exclusions to the list of persons convicted of a misdemeanor or gross misdemeanor who may not have the record of conviction cleared.

Section 14 Amends RCW 72.09.480 by amending the definition of "program" and excluding subsection (9) added in this section to the list of required deductions. Subsection (9) is added, stating LFOs reimbursed pursuant to *State v. Blake* are exempt from required deductions. Additionally exempts funds for certificate programs from required deductions.

Section 15 States Sections 1-10 of the act constitute a new chapter in Title 9 RCW.

## **EXPENDITURES**

### **Assumptions.**

None.

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

None.

## **Impact Summary**

This bill establishes a process for vacating convictions and nonconvictions and reimbursement of LFOs pursuant to the *State v. Blake* decision, and sets timelines for review and processing of *State v. Blake* cases.

## **Impact on Prison and Jail beds, Juvenile Rehabilitation (JR) and local detention beds and DOC Supervision Caseload**

While eligible individuals currently have the ability to apply for vacation, this bill may result in the identification, and subsequent vacation or resentencing, of additional individuals with a simple possession offense. Additionally, this bill expands the right to vacate convictions to individuals convicted of an offense that was predicated by a simple possession offense listed in Section 1(6)(a)-(c) of the act (i.e., individuals who have convictions for Escape 2, Bail Jump, Unlawful Possession of a Firearm, etc., whose prior offense that predicated the conviction was a *State v. Blake* offense). The definition of qualifying conviction established in this bill includes RCWs for simple possession dating back to 1951, which may be an expansion of eligible individuals.

As such, there may be decreased need for Prison and Jail beds, JR and local detention beds, and reduced DOC Supervision caseload, but the CFC does not have the information necessary to estimate the impact.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 179-Department of Enterprise Services
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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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Piper Lisa	Phone: 360-407-9331	Date: 01/23/2023
Agency Approval: Ashley Howard	Phone: (360) 407-8159	Date: 01/23/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/23/2023

## 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.*

The purpose of this bill is to provide relief for persons affected by State v. Blake. This bill amends RCW 9.94A.640, 9.96.060, and 72.09.480, and adds a new section to chapter 42.56 RCW, and adds a new chapter to Title 9 RCW.

Section 2 indicates that those convicted of certain drug-related offenses may have their conviction expunged and may seek reimbursement for costs and penalties associated with that conviction.

Section 10 (1) indicates that the Administrative Office of the Courts must create and administer a refund bureau to provide direct refunds to persons who are entitled to a refund of legal financial obligations.

These payments would not be made from the Department of Enterprise Services Self-Insurance Liability Account. Therefore, there is no fiscal impact to the Department of Enterprise Services.

### 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

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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 225-Washington State Patrol
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	12.0	12.0	12.0	10.0	10.0
<b>Account</b>					
General Fund-State 001-1	1,567,421	1,423,882	2,991,303	2,387,752	2,387,752
<b>Total \$</b>	1,567,421	1,423,882	2,991,303	2,387,752	2,387,752

### 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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Michael Middleton	Phone: (360) 596-4072	Date: 02/06/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 02/06/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 02/06/2023

## 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.*

The proposed bill has a fiscal impact for the Washington State Patrol (WSP).

Subsections 1(6)(a) through (e) list qualifying offenses that could be eligible for records vacating or the conditions under which the qualifying offense meets such eligibility.

Section 5(3) establishes a seven working-day turnaround on complying with vacate orders and that dissemination or disclosure regarding this record is not permissible by us, local law enforcement, or prosecuting attorneys.

### 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.*

To fully meet the expected workload of the bill requires continuation and expansion of our Drug Conviction Correction Unit (DCCU) within the Criminal Records Division that is currently funded under a one-time budget proviso. We estimate a 25% monthly increase in records (from approximately 8,000 to 10,000) for vacation processing as a result of this bill requiring a unit of 10.0 FTE: 1.0 Correctional Records Supervisor, 1.0 Correctional Records Technician Lead, and 8.0 Correctional Records Technicians. With the seven-day turnaround on processing introduced by subsection 5(3) and each CRT presently processing approximately 1,300 records a month the unit size provides a processing buffer to account for impacts from work absence or turnover. New staff require approximately 6-8 months of training to be fully skilled in the systems processing, so initial throughput of the added CRTs will be less than 1,300 records per month.

Note: The governor's budget proposal includes funding for 8 of the 10 FTE referenced in the paragraph above to continue the DCCU work.

Additionally, we expect that our existing backlog of vacate orders to be approximately 25,000 records by July 1, 2023, which will require an additional 2.0 Correctional Records Technicians for a period of two years, inclusive of training time, to clear the backlog and allow the DCCU to achieve and maintain the seven-day turnaround on processing.

To meet the requirement of preventing dissemination of information per subsection 5(3) would require re-programming to update our systems. We estimate the cost at \$10,000.

We base estimated salary expenditures on current levels for the positions requested per published salary schedules, plus any applicable incentive or assignment pay. We compute estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers' compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase.

We compute estimated support expenditures such as supplies & materials, communications, computer costs (hardware and software), vehicle and vehicle operating costs, among others, using average costs to support agency FTEs. We adjust the estimated support costs to reflect the needs of individual divisions or positions within the agency.

We base our estimate for agency indirect costs on the approved federal indirect cost rate of 31.88 percent. We apply this indirect cost rate percentage to all categories of expenditure with only two exceptions: capital equipment and expenditures after \$25,000 of each projected contract. Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

**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	1,567,421	1,423,882	2,991,303	2,387,752	2,387,752
<b>Total \$</b>			1,567,421	1,423,882	2,991,303	2,387,752	2,387,752

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	12.0	12.0	12.0	10.0	10.0
A-Salaries and Wages	688,428	688,428	1,376,856	1,153,368	1,153,368
B-Employee Benefits	292,877	292,877	585,754	489,222	489,222
C-Professional Service Contracts	10,000		10,000		
E-Goods and Other Services	79,824	66,288	146,112	110,480	110,480
G-Travel	12,000	12,000	24,000	24,000	24,000
J-Capital Outlays	134,400	21,900	156,300	36,500	36,500
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Indirect Costs	349,892	342,389	692,281	574,182	574,182
<b>Total \$</b>	1,567,421	1,423,882	2,991,303	2,387,752	2,387,752

**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
Correctional Records Supervisor	68,076	1.0	1.0	1.0	1.0	1.0
Correctional Records Technician	55,872	10.0	10.0	10.0	8.0	8.0
Correctional Records Technician Lead	61,632	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		12.0	12.0	12.0	10.0	10.0

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

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

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief	<b>Agency:</b> 240-Department of Licensing
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## 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: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Preparation: Don Arlow	Phone: (360) 902-3736	Date: 02/06/2023
Agency Approval: Gerrit Eades	Phone: (360)902-3863	Date: 02/06/2023
OFM Review: Kyle Siefering	Phone: (360) 995-3825	Date: 02/07/2023

## 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.*

Please see attached fiscal note.

### 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.*

Please see attached fiscal note.

### 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.*

Please see attached 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.*

See attached fiscal note

# Individual State Agency Fiscal Note

Agency 240 – Department of Licensing

Bill Number: HB 1492

Bill Title: State v Blake relief

## Part 1: Estimates

No Fiscal Impact

### Estimated Cash Receipts:

**INDETERMINATE; PLEASE SEE NARRATIVE**

### Estimated Expenditures:

**INDETERMINATE; PLEASE SEE NARRATIVE**

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

Legislative Contact: Edie Adams	Phone: (360) 786-7180	Date: 2/1/2023
Agency Preparation: Don Arlow	Phone: (360) 902-3736	Date: 2/6/2023
Agency Approval: Gerrit Eades	Phone: (360) 902-3931	Date:

Request #	1
Bill #	1492 HB

## **Part 2 – Explanation**

This bill requires the courts to refund or cancel financial obligations related to a qualifying conviction or nonconviction defined by the State v. Blake decision. The bill requires the courts to vacate qualifying convictions and nonconvictions and provide the Administrative Office of the Courts (AOC) with reports related to paid financial obligations that must be refunded.

Under the bill, AOC will establish a refund unit, forms, processes, and a searchable website for individuals to find these refunded fee amounts. AOC must refund the financial obligations. AOC will be responsible for processing these refunds. The definition of financial obligations includes any fees related to the vacated convictions and nonconvictions. In addition, the bill also authorizes AOC to notify the Department of Licensing (DOL) to reinstate driving privileges when applicable.

### **2.A – Brief Description Of What The Measure Does That Has Fiscal Impact**

Section 1 is a new chapter in Title 9 RCW that defines "Legal financial obligation" to mean any financial obligation that a person is required to pay as a result of a charge or conviction for the offense, regardless of whether the amount is required to be paid to the court, a governmental entity, or a private entity. The definition includes fees.

Section 2 is a new chapter in Title 9 RCW stating that as a result of the Washington State Supreme Court decision in State v. Blake, No. 96873-0 (decided February 25, 2021), any person with a qualifying conviction is eligible to have such conviction vacated by the sentencing court under this chapter. Any person with a qualifying conviction or qualifying nonconviction is eligible for a refund of all legal financial obligations paid as a result of the qualifying conviction or qualifying nonconviction as provided in this chapter.

Section 3 is a new chapter in Title 9 RCW states that by January 1, 2026 the courts shall file an ex parte motion to refund the legal financial obligations under this chapter. The courts will report to AOC on these from Oct. 1, 2023 to January 1, 2026. The clerk must identify all legal financial obligation refund amounts which have been ordered by the court as a result of a qualifying conviction or qualifying nonconviction beginning from the date of the mandate in State v. Blake, to the effective date of this section, and determine any additional legal financial amounts not previously refunded or ordered to be refunded, but entitled to be refunded.

Section 4 is a new chapter in Title 9 RCW stating that a person with a qualifying conviction or nonconviction can apply to the court for a vacation or refund of financial obligations.

Section 5 is a new chapter in Title 9 RCW authorizes AOC to notify DOL to "reinstate the person's privilege to drive, if suspended due to the qualifying conviction" and subsection (f) which directs the clerk to "cancel" any unpaid legal financial obligations, and subsection (g) create an itemized list of already paid financial obligations, and subsection (h) which orders AOC to refund the legal financial obligations.

Section 10 is a new chapter in Title 9 RCW that directs AOC to create a refund unit to refund these financial obligations paid pursuant to “a vacated qualifying conviction or a qualifying nonconviction based on certifications of legal financial obligations received from clerks in the superior, district, or municipal courts. The administrative office of the courts must create a model application form that may be used for persons to submit to the refund bureau for purposes of obtaining a refund.”

## **2.B - Cash receipts Impact**

The cash receipts impact is indeterminate. The definition of financial obligations includes any fees related to the vacated convictions and nonconvictions. In addition, the bill authorizes AOC to notify DOL to reinstate driving privileges when applicable. It is assumed that the reinstatements in this instance would not be accompanied by the \$75 reinstatement fee or any other applicable fees to DOL. DOL further assumes that fees paid by individuals to DOL that are part of the group covered by the State v Blake Decision would result in a refund based on an AOC request. It is not known how many individuals may be impacted by the bill or what amount of fees would have been paid that would be refunded.

## **2.C – Expenditures**

The fiscal impact of this bill is indeterminate. Under current law the department takes action on minor in possession of drugs charges, or drug paraphernalia and felony drug charges involving a motor vehicle are reported. Persons whose license is either suspended or revoked under those provisions must pay a license reissue fee and may be subject to other fees depending on the nature of the sanction. AOC will send a copy of the vacated Blake order to DOL for a person who has requested a refund. DOL staff will need to look through several DOL systems to determine what financial obligations this driver has paid.

DOL assumes that the work sent to DOL from AOC will require significant technical knowledge and historical system knowledge to complete. The department would use Customer Service Specialist 3 (CSS3) positions to manage workflow. Staffing requirements are unknown as the data are not available to further quantify the volume of instances requiring research.

Operational assumptions:

- DOL assumes that AOC would send us requests for record research, and some of these records may take significant manual processing. Inquiries may require research in antiquated systems such as COLD, microfiche, etc. The work in these antiquated systems takes longer to research and determine record updates.
- DOL assumes that reissue fees, SR22 and testing fees have changed over time and this increases the complexity of the research which increases the touch time per request from AOC.
- DOL assumes that Minor in Possession charges could have a large impact on manual corrections workload and research. This involves analyzing years of DRIVES records to determine what can be refunded and as forms, and systems have changed over time may require significant levels of manual work.

Depending on workload volumes, DOL may also require accounting resources to manage refund processing. Similar to operational impacts, the level of resources needed to support this activity are unknown until the department knows what level of requests must get managed. DOL will monitor activity volumes, assess capacity, and request additional resources in a future budget cycle as needed.

**Part 3 – Expenditure Detail**

Indeterminate.

**Part 4 – Capital Budget Impact**

None.

**Part 5 – New Rule Making Required**

None.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1492 HB	<b>Title:</b> State v Blake Relief
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**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities: Costs for law enforcement agencies to update records and transmit information to the FBI.
- Counties: Costs for county prosecutors and court-appointed defense attorneys; revenue for public defense; costs for law enforcement agencies to update records and transmit information to the FBI. Please see the fiscal note of the Administrative Office of the Courts for a discussion of revenue reductions due to reimbursed LFOs.
- 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: Decreased need for jail beds; number of instances in which law enforcement records are updated and orders vacating convictions are transmitted to the FBI

**Estimated revenue impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	2,550,000	2,550,000	5,100,000		
<b>TOTAL \$</b>	2,550,000	2,550,000	5,100,000		
<b>GRAND TOTAL \$</b>					5,100,000

**Estimated expenditure impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	5,050,000	5,050,000	10,100,000		
<b>TOTAL \$</b>	5,050,000	5,050,000	10,100,000		
<b>GRAND TOTAL \$</b>					10,100,000

**Part III: Preparation and Approval**

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 02/09/2023
Leg. Committee Contact: Edie Adams	Phone: 360-786-7180	Date: 01/20/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/09/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/09/2023

## **Part IV: Analysis**

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

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

Sec. 2 creates a new section. As a result of the Washington State Supreme Court decision in *State v. Blake*, any person with a qualifying conviction is eligible to have such conviction vacated by the sentencing court under this chapter. Any person with a qualifying conviction or qualifying nonconviction is eligible for a refund of all legal financial obligations (LFOs) paid as a result of the qualifying conviction or qualifying nonconviction as provided in this chapter.

Sec. 3 creates a new section. Upon receipt of a report from the clerk, a prosecuting attorney shall review all qualifying convictions and nonconvictions within his or her jurisdiction. The prosecutors shall coordinate with the appropriate clerk and other appropriate entities to develop a list of all LFO amounts paid as a result of the qualifying conviction or qualifying nonconviction. The prosecutor shall determine whether the person is currently serving a sentence for any offense under the supervision of the Department of Corrections, and in such case, notify the state Office of Public Defense that the person may be eligible for resentencing. For each qualifying conviction, the prosecuting attorney shall file an ex parte motion by January 1, 2026, with the applicable sentencing court to dismiss and vacate the conviction under this chapter.

For each qualifying nonconviction where LFOs were paid as a result of the qualifying nonconviction, the prosecuting attorney shall file an ex parte motion by January 1, 2026, with the applicable sentencing court to refund the LFOs. The prosecuting attorney is not required to notify the defendant of the motion, and the court shall consider a motion under this section without requiring the presence of the prosecuting attorney or defendant.

By July 1, 2023, prosecuting attorneys shall submit to clerks in their respective jurisdictions a report on the status of all filed motions required under this section, including all filed motions to vacate pursuant to *State v. Blake* since the decision was issued. The report shall be in a format that includes individual cause numbers, individual names, case outcomes, and legal financial reimbursement amounts for all cases.

Beginning October 1, 2023, through January 1, 2026, prosecuting attorneys shall submit to the clerks on a quarterly basis a report in the same format with the same data points on the status of motions required under this section. The clerk shall identify all LFO refund amounts which have been ordered by the court as a result of a qualifying conviction or qualifying nonconviction beginning from the date of the mandate in *State v. Blake*, to the effective date of this section, and determine any additional legal financial amounts not previously refunded or ordered to be refunded, but entitled to be refunded. The clerk shall provide this information to the prosecuting attorney and the Administrative Office of the Courts. The prosecuting attorney shall seek amended orders for the refund of LFO amounts identified under this subsection.

Sec. 4 creates a new section. A person with a qualifying conviction or nonconviction may apply to the sentencing court for a vacation of the conviction or a refund of nonconviction LFOs under this chapter, regardless of whether a prosecuting attorney is expected to file a motion. If a person applies under this section, the prosecuting attorney shall respond to the application within 30 days. The prosecuting attorney may object to the application only on the basis that the conviction or nonconviction is not a qualifying conviction or qualifying nonconviction. A person may challenge the amount of any LFO refund ordered by the court in the court that issued the order by bringing a motion to amend the order's refund amount. The person has a right to the assistance of counsel in reviewing the refund determination and in bringing a motion to amend the refund amount in the court that issued the order.

Sec. 5 creates a new section. Upon receipt of a court order to vacate a qualifying conviction under this section, a local police agency shall have no more than seven working days to update their records to reflect the vacation of the qualifying conviction, and shall transmit the order vacating the conviction to the Federal Bureau of Investigation. A qualifying conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol, prosecuting attorney, or local law enforcement agency to any person.

A qualifying conviction vacated under this chapter may not be included in the person's criminal history for purposes of determining bail in a subsequent prosecution or a sentence in any subsequent conviction, and the person must be released

from all penalties and disabilities resulting from the offense.

Sec. 6 creates a new section. If the vacation of a qualifying conviction under this chapter affects a sentence imposed for a separate conviction by altering the person's offender score, then the person may file a motion to be resentenced in the applicable sentencing court.

A prosecuting attorney may not file or refile previously dismissed charges contained in any indictment, information, or affidavit of probable cause filed in relation to the conviction for which the person qualifies for resentencing under this section, and may not file new or additional charges based on acts alleged in any law enforcement report from which the conviction arose for which the person is being resentenced.

## **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. Costs for county public defense and prosecutors are shown in the grid. These figures assume that requests for conviction vacations and reimbursed LFOs would be addressed in the next two years. It may take longer to work through the case load, in which case the costs would be spread out over a longer period of time.

### **PUBLIC DEFENSE COSTS:**

The Office of Public Defense assumes that it would distribute \$5.1 million in pass-through funding and resources to counties for Blake defense services. The Local Government Fiscal Note Program (LGFN) assumes county costs for public defense would match this appropriation and would be spread over fiscal years 2024 and 2025.

### **COUNTY PROSECUTOR COSTS:**

According to the Washington Association of Prosecuting Attorneys, the legislation would result in costs for prosecutors similar to those for defense attorneys, at an estimated 4 to \$6 million in addition to what has already been allocated by the Legislature. For the purposes of this fiscal note, LGFN assumes the costs to be \$5 million, spread between fiscal years 2024 and 2025.

### **LAW ENFORCEMENT IMPACTS**

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), the work detailed in Section 5 to update law enforcement records and transmit orders vacating the conviction to the Federal Bureau of Investigation would take approximately 10 minutes per order. 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. Because the number of instances of updating records and transmitting orders is not known, the law enforcement impacts are indeterminate.

### **JAIL BED IMPACTS:**

According to the Caseload Forecast Council, the bill may result in the identification, and subsequent vacation or resentencing, of additional individuals with a simple possession offense. As a result, there may be a decreased need jail beds.

## **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 Office of Public Defense assumes it would continue to provide \$5.1 million in pass-through funding and resources to counties for Blake defense services. Continuing the model previously adopted by the Legislature, counties could opt to either receive funds through entitlement grants, or they may instead delegate OPD to directly contract with attorneys to perform Blake work in their counties.

SOURCES:

Caseload Forecast Council

Office of Public Defense

Office of Civil Legal Aid

Washington State Association of Sheriffs and Police Chiefs