

Multiple Agency Fiscal Note Summary

Bill Number: 5415 SB	Title: Public defense/insanity
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Office of Public Defense	3.0	13,464,645	13,464,645	13,464,645	3.0	13,214,523	13,214,523	13,214,523	3.0	13,230,420	13,230,420	13,230,420
Department of Social and Health Services	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	3.0	13,464,645	13,464,645	13,464,645	3.0	13,214,523	13,214,523	13,214,523	3.0	13,230,420	13,230,420	13,230,420

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									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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 Public Defense	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	.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									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Gaius Horton, OFM	Phone: (360) 819-3112	Date Published: Final 2/15/2023
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Judicial Impact Fiscal Note

Bill Number: 5415 SB	Title: Public defense/insanity	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: Kevin Black	Phone: (360) 786-7747	Date: 01/23/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 01/27/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/27/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2023

180,397.00

Request # 094-1

Form FN (Rev 1/00)

1

Bill # 5415 SB

Part II: Narrative Explanation

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

This bill would direct the Office of Public Defense to administer a program of statewide public defense services to ensure the right to counsel for indigent persons who are committed to state psychiatric care following acquittal by reason of insanity.

II. B - Cash Receipts Impact

None

II. C - Expenditures

No or minimal fiscal impact expected to the Administrative Office of the Courts. The bill would not cause significant court form changes (5 hours, less than \$1,000) or any case management system impacts.

The impact to the courts is indeterminate. The bill would make the court the primary assistant for indigents who are conditionally released in obtaining an expert or professional person for examination. There may impacts due to additional responsibility and judicial education on the changes.

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

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

NONE

180,397.00

Form FN (Rev 1/00)

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

Revised

Bill Number: 5415 SB	Title: Public defense/insanity	Agency: 056-Office of Public Defense
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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	3.0	3.0	3.0	3.0	3.0
Account					
General Fund-State 001-1	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420
Total \$	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420

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: Kevin Black	Phone: (360) 786-7747	Date: 01/23/2023
Agency Preparation: Shoshana Kehoe-Ehlers	Phone: 3605863164 110	Date: 02/01/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/01/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/03/2023

Part II: Narrative Explanation

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

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

Sec. 2: Directs the Washington State Office of Public Defense (OPD) to administer post-commitment public defense services statewide for indigent persons who are acquitted of criminal charges as "not guilty by reason of insanity" (NGRI) and are committed to state psychiatric care.

Sec. 3: Creates a new section in Chapter 2.70 RCW listing OPD's mandatory responsibilities in administering post-commitment NGRI public defense services. These include: (1) Establish annual contract fees for public defense legal services within amounts appropriated; (2) contract with individual attorneys, government agencies, and nongovernment organizations who provide indigent representation; (3) establish office policies and procedures for the payment of expert, professional, litigation and investigation costs; (4) review and analyze existing caseload standards and update as necessary; and (5) periodically submit reports regarding the program and any necessary policy changes.

Sec. 4: Creates a new section transferring county and DSHS services pertaining to representation of indigent NGRI patients after the individual has been committed to the care of DSHS. This section also provides that patients may keep current assigned counsel up to six months after OPD assumes the administration of NGRI post-commitment public defense services, if the patient has a scheduled court hearing during those six months.

Sec. 5: Amends RCW 10.77.010 to incorporate the definition of "indigent" as provided in RCW 10.101.010.

Sec. 6: Directs the court to notify OPD immediately following an NGRI acquittal, and requires OPD to provide counsel to represent indigent post-commitment NGRI patients throughout their term of civil commitment. (Local authorities would continue the existing practice of providing counsel at trial, prior to a determination that a person is NGRI.)

Sec. 7: Directs OPD to assist indigent post-commitment NGRI patients in obtaining qualified expert or professional services and directs OPD to compensate the provider of these services.

Sec. 8: Directs OPD to assist indigent post-commitment NGRI patients with obtaining an expert or professional provider to evaluate the patient anytime a conditional release is being considered. OPD is also responsible for payment of this evaluation.

Sec. 9: Directs DSHS to notify the patient's attorney of record if an NGRI patient escapes.

Sec. 10: Directs OPD to assist indigent post-commitment NGRI patients on a conditional release with obtaining an expert or professional provider to evaluate the patient for increased privileges during their conditional release. OPD is responsible for payment of this evaluation.

Sec. 11: Directs OPD to assist indigent post-commitment NGRI patients facing modification or revocation of a conditional release with obtaining an expert or professional provider to evaluate the patient. OPD is responsible for payment of this evaluation.

Sec. 12: Directs OPD to assist indigent post-commitment NGRI patients with obtaining an expert or professional provider to evaluate the patient for release when the Secretary of DSHS believes there are reasonable grounds for the patient's discharge from commitment. OPD is responsible for payment of this evaluation on behalf of the patient.

Sec. 13: Directs DSHS to notify the patient's attorney of record if an NGRI patient escapes.

Sec. 14: Provides that the Office of Public Defense shall be responsible for costs of public defense services, including

expert and professional services, for indigent NGRI patients throughout their term of commitment to state psychiatric care.

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.

1. OPD assumes it would hire 1.0 FTE managing attorney to oversee the NGRI post-commitment indigent representation program. Annual salary \$120,000 is included in the total for Expenditure Object A (salaries) and benefits \$27,600 is included in the total for Expenditure Object B (benefits).
2. OPD assumes it would hire 1.0 FTE administrative assistant to provide support to the managing attorney. Annual salary Range 50 starting at \$49,404 is included in the total for Expenditure Object A (salaries) and benefits \$11,363 is included in the total for Expenditure Object B (benefits). State salary schedule step increases are included for this position.
3. OPD assumes it would hire 1.0 FTE paralegal to provide support to the program. Annual salary at Range 58 starting at \$69,756 is included in the total for Expenditure Object A (salaries) and benefits \$16,000 is included in the total for Expenditure Object B (benefits). State salary schedule step increases are included for this position.
4. OPD assumes it would spend \$15,000 in FY 2024 for start-up expenses for the managing attorney, paralegal, and program assistant (\$5,000 each). Start-up costs cover necessary equipment and supplies for the new positions, and are included in the totals for Expenditure Object E (goods & services).
5. OPD assumes that approximately 307 patients under RCW 10.77 post-commitment NGRI jurisdiction would require OPD representation. This number accounts for patients at Western and Eastern state hospitals and those on conditional releases. Estimates are based on census data provided to OPD by DSHS-Behavioral Health Administration.
6. OPD assumes it would contract with the equivalent of 20 full-time attorneys to provide post-commitment representation to indigent NGRI patients. Based on OPD attorney contract fees for a comparable program, each contract is estimated at \$187,392 (20 contracts x \$187,392= \$3,747,840). Attorney contract fees are included in the totals for Expenditure Object N (grants, benefits & client services).
7. OPD assumes it would contract with 4 full-time defense social workers to provide release planning and other defense social work support to indigent NGRI patients. Based on OPD social worker contract fees for a comparable program, each contract is estimated at \$99,000 (4 contracts x \$99,00= \$396,000). Social work contract fees are included in the totals for Expenditure Object N (grants, benefits & client services).
7. OPD assumes it would spend \$2,000,000 annually on expert and professional services. Expert and professional services costs are included in the totals for Expenditure Object N (grants, benefits & client services).
8. OPD assumes it would spend \$120,000 annually to reimburse contracted attorney/social worker travel (client visitations & trials). Travel costs are shown at Expenditure Object G (travel).
9. OPD assumes it would spend \$40,000 annually on training for contracted attorneys and defense social workers. Training costs are included in the totals for Expenditure Object E (goods & services).

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	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420
Total \$			6,863,007	6,601,638	13,464,645	13,214,523	13,230,420

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	3.0	3.0	3.0	3.0
A-Salaries and Wages	239,160	242,112	481,272	493,368	506,292
B-Employee Benefits	55,007	55,686	110,693	113,475	116,448
C-Professional Service Contracts					
E-Goods and Other Services	55,000	40,000	95,000	80,000	80,000
G-Travel	120,000	120,000	240,000	240,000	240,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	6,393,840	6,143,840	12,537,680	12,287,680	12,287,680
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Assistant (1.0 FTE)	49,404	1.0	1.0	1.0	1.0	1.0
Managing Attorney (1.0 FTE)	120,000	1.0	1.0	1.0	1.0	1.0
Paralegal (1.0 FTE)	69,756	1.0	1.0	1.0	1.0	1.0
Total FTEs		3.0	3.0	3.0	3.0	3.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
SB 5415 NGRI - A new program will need to l assigned to OPD (070)	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420
Total \$	6,863,007	6,601,638	13,464,645	13,214,523	13,230,420

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: 5415 SB	Title: Public defense/insanity	Agency: 300-Department of Social and Health 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: Kevin Black	Phone: (360) 786-7747	Date: 01/23/2023
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 02/13/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 02/13/2023
OFM Review: Robyn Williams	Phone: (360) 704-0525	Date: 02/13/2023

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.

Passage of this legislation will not impact the Department of Social and Health Services (DSHS) workload or client benefits. Therefore, there is no fiscal impact to DSHS from this bill.

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5415 SB

Title: Public defense/insanity

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

Legislation Impacts:

- Cities:
- Counties: Indeterminate decrease in costs related to representation for post-commitment of individuals who are not guilty by reason of insanity (NGRI)
- 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: How much counties would be liable to pay for post-commitment NGR cases

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 01/31/2023
Leg. Committee Contact: Kevin Black	Phone: (360) 786-7747	Date: 01/23/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/31/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/03/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This bill would transfer the responsibility to provide representation for persons acquitted by reason of insanity and committed to state psychiatric care from counties to the Washington State Office of Public Defense (OPD). It also directs OPD to contract with attorneys and other entities for legal representation for such persons throughout their term of commitment, and to pay costs related to expert witnesses, investigation, and litigation.

Section 2: Directs OPD to administer post-commitment public defense services statewide for persons who are acquitted of criminal charges as "not guilty by reason of insanity" (NGRI) and are committed to state psychiatric care.

Section 3: Creates a new section in Chapter 2.70 RCW listing OPD's mandatory responsibilities in administering post-commitment NGRI public defense services.

Section 4: Creates a new section transferring county and DSHS services pertaining to representation of indigent NGRI patients after the individual has been committed to the care of DSHS.

Section 5: Amends RCW 10.77.010 to incorporate the definition of "indigent" as provided in RCW 10.101.010.

Section 6: Directs the court to notify OPD immediately following an NGRI acquittal, and requires OPD to provide counsel to represent indigent post-commitment NGRI patients throughout their term of civil commitment. (Local authorities would continue the existing practice of providing counsel at trial, prior to a determination that a person is NGRI.)

Section 7: Directs OPD to assist indigent post-commitment NGRI patients in obtaining qualified expert or professional services and directs OPD to compensate the provider of these services, previously a responsibility of counties.

Section 8: Directs OPD to assist indigent post-commitment NGRI patients with obtaining an expert or professional provider to evaluate the patient anytime a conditional release is being considered. OPD is also responsible for payment of this evaluation, previously a responsibility of counties.

Section 10: Directs OPD to assist indigent post-commitment NGRI patients on a conditional release with obtaining an expert or professional provider to evaluate the patient for increased privileges during their conditional release. OPD is responsible for payment of this evaluation, previously a responsibility of counties.

Section 11: Directs OPD to assist indigent post-commitment NGRI patients facing modification or revocation of a conditional release with obtaining an expert or professional provider to evaluate the patient. OPD is responsible for payment of this evaluation, previously a responsibility of counties.

Sec. 12: Directs OPD to assist indigent post-commitment NGRI patients with obtaining an expert or professional provider to evaluate the patient for release when the Secretary of DSHS believes there are reasonable grounds for the patient's discharge from commitment. OPD is responsible for payment of this evaluation on behalf of the patient, previously a responsibility of counties.

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.

Counties would no longer be responsible for post-commitment NGRI defense costs. The amount counties would be liable to pay for post-commitment NGRI defense costs in the future is unknown, therefore, savings cannot be estimated.

The amount saved would vary by county. For illustrative purposes, Pierce County estimates a savings of approximately

\$260,000 per year for the cost of an experienced attorney and necessary expert services. This figure does not include travel and logistical expenses.

According to OPD, there are approximately 307 patients under RCW 10.77 post-commitment NGRI jurisdiction would require OPD representation. This number accounts for patients at Western and Eastern state hospitals and those on conditional releases. Estimates are based on census data provided to OPD by DSHS-Behavioral Health Administration. It is unknown what defense services each patient will need or what county would have been responsible for those costs in the future. NGRI representation is costly and time consuming, this bill will save counties an indeterminate amount of money.

Please see the OPD fiscal note for a complete of their assumptions.

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.

This bill will not have a direct impact on local government revenues.

Previously, counties could seek reimbursement from DSHS to offset some NGRI post-commitment public defense related costs. This bill will transfer the responsibility of all post-commitment public defense services costs to OPD, therefore counties will not need to seek those reimbursements.

SOURCES:

Pierce County Department of Assigned Counsel
Senate Bill Report, SB 5415, Law & Justice Committee (1/30/2023)
Spokane County Public Defender's Office
Washington Association of Counties
Washington Defender Association
Washington State Office of Public Defense
Washington State Office of Public Defense fiscal note, SB 5415 (2023)