

Multiple Agency Fiscal Note Summary

Bill Number: 1108 S HB	Title: Persistent offenders
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Estimated Cash Receipts

NONE

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

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Fiscal note not available											
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Children, Youth, and Families	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Corrections	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.0	0	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	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
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	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Cynthia Hollimon, OFM	Phone: (360) 810-1979	Date Published: Preliminary 2/15/2023
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Individual State Agency Fiscal Note

Bill Number: 1108 S HB	Title: Persistent offenders	Agency: 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: Martha Wehling	Phone: 360-786-7067	Date: 02/06/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/07/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/07/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/08/2023

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.

SHB 1108

RESENTENCING OF PERSISTENT OFFENDERS

101 – Caseload Forecast Council
February 7, 2023

SUMMARY

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

Section 1 Amends RCW 9.94A.647 by adding the circumstance for when an exceptional sentence was imposed pursuant to a plea agreement intended to avoid a persistent offender sentence to the requirement for a resentencing hearing.

Section 1 Additionally adds that upon request, the Department of Corrections and the Administrative Office of the Courts to provide plea agreements to the Office of Public Defense.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact Summary

This bill:

- Requires certain individuals sentenced to a life sentence without the possibility of parole to be resentenced.

Impact on prison and jail beds

The Caseload Forecast Council (CFC) does not receive information regarding the basis of a plea agreement and does not have any information on how many individuals would qualify for resentencing under the provisions of the bill, nor what sentences might be imposed as a result of a resentencing. Therefore, the CFC cannot reliably predict correctional bed impacts resulting from the bill. Individuals serving a life sentence as a persistent offender due to a Robbery in the Second Degree conviction already have the right to resentencing, and as such, it is unknown if additional individuals would qualify for resentencing under the provisions of the bill.

Individual State Agency Fiscal Note

Bill Number: 1108 S HB	Title: Persistent offenders	Agency: 307-Department of Children, Youth, and Families
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

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: Martha Wehling	Phone: 360-786-7067	Date: 02/06/2023
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 02/08/2023
Agency Approval: James Smith	Phone: 360-764-9492	Date: 02/08/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/08/2023

Part II: Narrative Explanation

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

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

Comparison of 1108 HB to 1108 SHB:

Section 1(4) adds the provision that upon request, the Administrative Office of the Courts (AOC) and the Department of Corrections (DOC) shall provide plea agreement data to the Office of Public Defense (OPD), which shall analyze the data for purposes of identifying persons eligible for resentencing under this section. OPD shall notify persons it identifies as eligible for resentencing, and the office shall share this information with county public defenders and county prosecutors.

1108 SHB

Section 1(1) amends RCW 9.94A.647 by adding that when an exceptional sentence as a persistent offender was imposed pursuant to a plea agreement intended to avoid a persistent offender sentence for robbery in the second degree, to the requirement for a resentencing hearing.

Section 1(2) stipulates that if a guilty plea by an offender seeking resentencing from an exceptional sentence pursuant to this section may not be withdrawn, and the offender must be resentenced as charged prior to entering the plea agreement.

Section 1(4) adds the provision that upon request, the AOC and the DOC shall provide plea agreement data to the OPD, which shall analyze the data for purposed of identifying persons eligible for resentencing under this section. OPD shall notify persons it identifies as eligible for resentencing, and the office shall share this information with county public defenders and county prosecutors.

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.

No fiscal impact.

Juvenile adjudications do not count as a most serious offense so it would be very unusual to have someone that committed their current offense under age 18 that is currently incarcerated and has a history of two separate adjudications.

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

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: 1108 S HB	Title: Persistent offenders	Agency: 310-Department of Corrections
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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: Martha Wehling	Phone: 360-786-7067	Date: 02/06/2023
Agency Preparation: Mary Dettlaff	Phone: (360) 725-8428	Date: 02/09/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 02/09/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/09/2023

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.

Substitute House Bill 1108 adds new Section 1 (4) upon request, the administrative office of the courts and the department of corrections shall provide plea agreement data to the office of public defense, which shall analyze the data for purposes of identifying persons eligible for resentencing under this section. The office of public defense shall notify persons it identifies as eligible for resentencing, and the office shall share this information with county public defenders and county prosecutors

Unchanged from previous bill.

House Bill 1108 amends RCW 9.94A.647 resentencing of individuals as a persistent offender even if the offender entered an exceptional sentence prior to entering a plea agreement as to avoid a persistent offender charge.

Amends and includes new language in Sec. 1 (1) in any criminal case wherein an offender has been sentenced as a persistent offender, or wherein an exceptional sentence was imposed pursuant to a plea agreement intended to avoid a persistent offender sentence, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was or would have been a persistent offender.

Includes new language in Sec. 1 (2) a guilty plea by an offender seeking resentencing from an exceptional sentence pursuant to this section may not be withdrawn, and the offender must be resentenced as charged prior to entering the plea agreement.

Amends Sec. 1 (3) date July 28, 2019.

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.

The Department of Corrections (DOC) assumes the bill has no fiscal impact.

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: 1108 S HB

Title: Persistent offenders

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

Legislation Impacts:

- Cities:
- Counties: Indeterminate expenditure increase for prosecutors and public defenders resulting from additional resentencing hearings
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Number of additional resentencing hearings that will be necessary as a result of the proposed legislation; attorney time required for such hearings

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: James Vogl	Phone: 360-480-9429	Date: 02/13/2023
Leg. Committee Contact: Martha Wehling	Phone: 360-786-7067	Date: 02/06/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/13/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/15/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The substitute bill would add a subsection to section 1 that would specify that upon request, the Administrative Office of the Courts and Department of Corrections would be required to provide plea agreement data to the Office of Public Defense for the purpose of identifying and notifying people who would be eligible for resentencing under the provisions of the proposed legislation.

The Office of Public Defense would be required to share this information with county public defenders and prosecutors.

SUMMARY OF CURRENT BILL:

The proposed legislation would amend RCW 9.94A.647, requiring that in any criminal case “wherein an exceptional sentence was imposed pursuant to a plea agreement intended to avoid a persistent offender sentence,” a person must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for finding that person would have been a persistent offender.

These people would be required to be resentenced as though “robbery in the second degree was not a most serious offense at the time the original sentence was imposed.”

The proposed legislation would also would specify that upon request, the Administrative Office of the Courts and Department of Corrections would be required to provide plea agreement data to the Office of Public Defense for the purpose of identifying and notifying people who would be eligible for resentencing under the provisions of the proposed legislation.

The Office of Public Defense would be required to share this information with county public defenders and prosecutors.

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.

CHANGES IN EXPENDITURE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

Notifications from the Office of Public Defense (OPD) to people who would be eligible for resentencing under the substitute bill's provisions, in accordance with subsection 1 (4), could result in additional hearings compared to the original bill. As described below, these hearings would require prosecutor, and for eligible people who are incarcerated, public defender time.

It is unknown, however, how many additional hearings OPD notifications could result in, or, as described below, how much prosecutor and public defender time a given hearing may require. Accordingly, the local expenditure impact that may result from additional hearings due to subsection 1 (4) of the substitute bill is indeterminate.

EXPENDITURE IMPACT OF CURRENT BILL:

The proposed legislation would have an indeterminate impact on local government expenditures.

Both prosecutors and, for eligible people who are incarcerated, public defenders, would be required to participate in the additional resentencing hearings that this bill would require. Chapter 141, Laws of 2021 required that people who were sentenced as persistent offenders who had a current or prior conviction for robbery in the second degree used as a basis for finding they were a persistent offender be resentenced in the same way this bill would require.

According to the Washington Association of Prosecuting Attorneys (WAPA), the resentencing hearings this bill would require would likely take a similar amount of time as the resentencing hearings that have been happening in response to

Chapter 141, Laws of 2021, requiring between one to two days of prosecutor time for simple cases, to several weeks of prosecutor time for complex cases. The Washington Defender Association indicates that most cases where relief is granted would likely require a few hours of defender time, with complex cases requiring more time and resources.

Both associations indicate that they cannot estimate more specific ranges of attorney time that these hearings may require. It is similarly unknown how many people may be eligible for resentencing under the provisions of the proposed legislation. Given those unknowns, the expenditure impact on prosecutors and public defenders that would result from the resentencing hearings this bill would require is indeterminate. According to the 2023 Local Government Fiscal Note Program Unit Cost Model, the average hourly salary plus benefits and overhead for a prosecuting attorney is approximately \$82.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

The proposed legislation would have no impact on local government revenues.

SOURCES:

Local Government Fiscal Note Program Unit Cost Model, 2023

Washington Association of Prosecuting Attorneys

Washington Defender Association