

Multiple Agency Fiscal Note Summary

| | |
|---------------------------------|--------------------------------------|
| Bill Number: 5440 P S SB | Title: Competency evaluations |
|---------------------------------|--------------------------------------|

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 |
| Department of Licensing | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Total \$ | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Agency Name | 2023-25 | | 2025-27 | | 2027-29 | |
|---------------------|------------------|-------|-----------|-------|-----------|-------|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Local Gov. Courts | No fiscal impact | | | | | |
| Loc School dist-SPI | | | | | | |
| Local Gov. Other | | | | | | |
| Local Gov. Total | | | | | | |

Estimated Operating Expenditures

| Agency Name | 2023-25 | | | | 2025-27 | | | | 2027-29 | | | |
|--|--|-------------------|-------------------|-------------------|-------------|-------------------|-------------------|-------------------|-------------|-------------------|-------------------|-------------------|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Administrative Office of the Courts | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Office of Public Defense | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Washington State Health Care Authority | .7 | 13,789,000 | 13,789,000 | 13,789,000 | 11.7 | 17,764,000 | 17,764,000 | 17,764,000 | 11.7 | 17,764,000 | 17,764,000 | 17,764,000 |
| Department of Licensing | .0 | 0 | 0 | 47,000 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Department of Licensing | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. | | | | | | | | | | | |
| Department of Social and Health Services | 39.2 | 12,353,000 | 12,353,000 | 12,353,000 | 35.5 | 10,958,000 | 10,958,000 | 10,958,000 | 34.5 | 10,958,000 | 10,958,000 | 10,958,000 |
| Department of Social and Health Services | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. | | | | | | | | | | | |
| Total \$ | 39.9 | 26,142,000 | 26,142,000 | 26,189,000 | 47.2 | 28,722,000 | 28,722,000 | 28,722,000 | 46.2 | 28,722,000 | 28,722,000 | 28,722,000 |

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|---------------------|--|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | No fiscal impact | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget 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 |
| Washington State Health Care Authority | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Licensing | .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 | No fiscal impact | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Breakout

| | | |
|---|---------------------------------|---|
| Prepared by: Robyn Williams, OFM | Phone: (360) 704-0525 | Date Published: Final 2/22/2023 |
|---|---------------------------------|---|

Judicial Impact Fiscal Note

| | | |
|---------------------------------|--------------------------------------|--|
| Bill Number: 5440 P S SB | Title: Competency evaluations | Agency: 055-Administrative Office of the Courts |
|---------------------------------|--------------------------------------|--|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

| STATE | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------|---------|---------|---------|---------|---------|
| State FTE Staff Years | | | | | |
| Account | | | | | |
| General Fund-State 001-1 | 1,900 | | 1,900 | | |
| State Subtotal \$ | 1,900 | | 1,900 | | |
| COUNTY | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
| County FTE Staff Years | | | | | |
| Account | | | | | |
| Local - Counties | | | | | |
| Counties Subtotal \$ | | | | | |
| CITY | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
| City FTE Staff Years | | | | | |
| Account | | | | | |
| Local - Cities | | | | | |
| Cities Subtotal \$ | | | | | |

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: 01/31/2023 |
| Agency Preparation: Jackie Bailey-Johnson | Phone: 360-704-5545 | Date: 02/06/2023 |
| Agency Approval: Chris Stanley | Phone: 360-357-2406 | Date: 02/06/2023 |
| OFM Review: Gaius Horton | Phone: (360) 819-3112 | Date: 02/06/2023 |

182,088.00

Request # 134-1

Part II: Narrative Explanation

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

This bill would amend and add a section to Chapter 10.77 RCW (Criminally Insane Procedures) to provide timely competency evaluations and restoration services to persons suffering from behavioral health disorders.

II. B - Cash Receipts Impact

None

II. C - Expenditures

Minimal fiscal impact expected to the Administrative Office of the Courts and the courts. There would be minimal impact of less than \$5,000 for forms change and may be minimal impacts due to judicial education on the changes.

Part III: Expenditure Detail

Part III: Expenditure Detail

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

| <i>State</i> | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|------------------------------------|--------------|---------|--------------|---------|---------|
| FTE Staff Years | | | | | |
| Salaries and Wages | 1,100 | | 1,100 | | |
| Employee Benefits | 400 | | 400 | | |
| Professional Service Contracts | | | | | |
| Goods and Other Services | | | | | |
| Travel | | | | | |
| Capital Outlays | | | | | |
| Inter Agency/Fund Transfers | | | | | |
| Grants, Benefits & Client Services | | | | | |
| Debt Service | | | | | |
| Interagency Reimbursements | | | | | |
| Intra-Agency Reimbursements | 400 | | 400 | | |
| Total \$ | 1,900 | | 1,900 | | |

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

NONE

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

NONE

III. D - FTE Detail

| Job Classification | Salary | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------|---------|------------|---------|------------|---------|------------|
| .01 | 114,400 | 0.0 | | 0.0 | | |
| Total FTEs | | 0.0 | | 0.0 | | 0.0 |

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

182,088.00

Form FN (Rev 1/00)

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Request # 134-1

Bill # 5440 P S SB

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

NONE

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

NONE

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

NONE

IV. C - Capital Budget Breakout

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

NONE

Individual State Agency Fiscal Note

| | | |
|---------------------------------|--------------------------------------|---|
| Bill Number: 5440 P S SB | Title: Competency evaluations | Agency: 056-Office of Public Defense |
|---------------------------------|--------------------------------------|---|

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: 01/31/2023 |
| Agency Preparation: Sophia Byrd McSherry | Phone: 360-586-3164 | Date: 02/05/2023 |
| Agency Approval: Sophia Byrd McSherry | Phone: 360-586-3164 | Date: 02/05/2023 |
| OFM Review: Gaius Horton | Phone: (360) 819-3112 | 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.

Proposed Substitute Senate Bill 5440 relates to competency evaluation and restoration services for persons charged with crimes.

PSSB 5440 does not impact the Washington State Office of Public Defense (OPD), which does not provide public defense services for criminal defendants at the trial level. Local governments are responsible for public defense services for criminal defendants at the trial level, including defendants in need of competency evaluation and restoration 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

| | | |
|---------------------------------|--------------------------------------|---|
| Bill Number: 5440 P S SB | Title: Competency evaluations | Agency: 107-Washington State Health Care Authority |
|---------------------------------|--------------------------------------|---|

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 | 0.0 | 1.3 | 0.7 | 11.7 | 11.7 |
| Account | | | | | |
| General Fund-State 001-1 | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |
| Total \$ | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |

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: Kevin Black | Phone: (360) 786-7747 | Date: 01/31/2023 |
| Agency Preparation: Hanh OBrien | Phone: 360-725-1447 | Date: 02/22/2023 |
| Agency Approval: Catrina Lucero | Phone: 360-725-7192 | Date: 02/22/2023 |
| OFM Review: Robyn Williams | Phone: (360) 704-0525 | Date: 02/22/2023 |

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 narrative.

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.

See attached narrative.

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 narrative.

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 | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |
| Total \$ | | | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |

III. B - Expenditures by Object Or Purpose

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|-----------|-----------|------------|------------|------------|
| FTE Staff Years | | 1.3 | 0.7 | 11.7 | 11.7 |
| A-Salaries and Wages | | 106,000 | 106,000 | 1,652,000 | 1,652,000 |
| B-Employee Benefits | | 35,000 | 35,000 | 568,000 | 568,000 |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | | 47,000 | 47,000 | 36,000 | 36,000 |
| G-Travel | | | | | |
| J-Capital Outlays | | | | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | 5,971,000 | 7,591,000 | 13,562,000 | 14,806,000 | 14,806,000 |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | 39,000 | 39,000 | 702,000 | 702,000 |
| 9- | | | | | |
| Total \$ | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |

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 |
|------------------------------|---------|---------|---------|---------|---------|---------|
| FISCAL ANALYST 3 | 65,000 | | 0.3 | 0.2 | 2.7 | 2.7 |
| IT DATA MANAGEMENT - JOURNEY | 106,000 | | 1.0 | 0.5 | 1.0 | 1.0 |
| MEDICAL PROGRAM SPECIALIST 3 | 90,000 | | | | 8.0 | 8.0 |
| Total FTEs | | | 1.3 | 0.7 | 11.7 | 11.7 |

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.

HCA Fiscal Note

Bill Number: 5440 PSSB

HCA Request #: 23-103

Part II: Narrative Explanation

This bill relates to providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement (settlement agreement).

The substitute bill makes the following changes from 5440 SB bill:

- Removes all changes that would give responsibility to counties to provide inpatient competency restoration services;
- Removes sections 5 and 6;
- Section 7 retains the original language for felony and removes the added language in (1) for class A felony, class B felony and (2) class C felony as their highest charges;
- Section 8(2)(e) removes county from termination and coordination.

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

Sec 4(9) amends RCW 10.77.074 Competency evaluation – Forensic navigator to require forensic navigator (FN) in counties that have outpatient competency restorations, forensic projects for assistance in transition from homelessness (Forensic PATH), and forensic housing and recovery through peer services programs (Forensic HARPS), meet with individual who is charged with misdemeanors and have had two or more competency evaluations in the preceding 24 months on separate charges/cause numbers. The FN will do the followings:

- (a) Meet with, interview, observe the individual, and complete a recommended diversion program plan;
- (b) If the individual is enrolled into the diversion program, provide monthly status updates to the court and report disengagement of the person from diversion services; and
- (c) Work with the individual for up to six months while engaging in the program.

Sec 7 amends RCW 10.77.086 Competency restoration – Procedure in felony charge

- (1) If the defendant is charged with a felony and determined to be incompetent,
 - (e) The court may not issue an order for outpatient competency restoration unless the Health Care Authority (HCA) certifies that there is an available appropriate outpatient competency restoration (OCR) program that has adequate space for the person at the time the order is issued, or the court places the defendant under the guidance and control of a professional person identified in the court order.

Sec 8 amends RCW 10.77.088 Competency restoration – Procedure in nonfelony charge requiring that if the defendant charged with a nonfelony crime that is a serious offense and is found incompetent and a court finds there is a compelling state interest in pursuing competency restoration treatment, the court shall commit that person to the custody of the secretary for inpatient competency restoration, or may alternatively order the defendant to receive OCR based on recommendation from a FN and input from the parties.

- (2)(c) The court shall enter an order for OCR consistent with the recommendation of the FN, unless the court makes a finding that an order for OCR is inappropriate or inadequate.
- (2)(e) The director of the OCR program shall notify HCA and DSHS when an individual is terminated from OCR program and request placement in an appropriate facility of DSHS for inpatient competency restoration and shall cooperate with HCA, DSHS and law enforcement.

HCA Fiscal Note

Bill Number: 5440 PSSB

HCA Request #: 23-103

Sec 9 New section is added to chapter 10.77 RCW to require if the defendant is charged with misdemeanor within counties that have outpatient competency restorations, FN, Forensic PATH, and Forensic HARPS, and have had two or more competency evaluations in the preceding 24 months on separate charges/cause numbers and who have not been referred for a competency evaluation, then:

- (1) A FN will meet, interview, observe the individual and determine willingness to engage with the FN and relevant other staff;
- (2) The FN will provide a diversion program plan that includes a recommendation on diversion options to defense counsel and the prosecuting attorney;
- (3) If the parties agree on a recommended option for diversion, the prosecutor will determine if charges will be dismissed with or without prejudice;
- (4) If the parties do not agree, the defendant may file a motion requesting enrollment in a diversion option. The court will hold a hearing on this motion within 10 days;
 - (a) At the hearing on the motion for diversion options, the court will consider based upon a preponderance of the evidence whether the defendant is amendable to diversion, is likely to comply with any treatment recommendations, and whether they can be safely treated in the community;
 - (b) If the court determines that diversion is an appropriate option, the defendant will be enrolled in a diversion program as recommended by the court and the charge(s) will be dismissed without prejudice;
- (5) Individuals whose charges are dismissed and enrolled in a diversion program will have a forensic navigator assigned to them for up to six months while engaging in the program;
- (6) For an individual enrolled in a diversion program whose charges are dropped without prejudice, the assigned FN will provide monthly status updates to the court and the parties regarding the individual's status in the diversion program.

Sec 11 New section to state sections 3, 5, and 8 of this act takes effect July 1, 2024.

Sec 12 New section to state section 7 of this act takes effect July 1, 2025.

II. B - Cash Receipts Impact

General Funds State only.

II. C – Expenditures

Fiscal impact. HCA requests \$13,789,000 GF-S in the 2023-25 biennium to implement the provisions of the bill discussed below.

Providers Expenditures:

Sections 4(9) and 9 effective date July 1, 2023

HCA is responsible for the OCR program, Forensic PATH and Forensic HARPS in the phased implementation of the settlement agreement. Currently, individuals with two or more competency evaluations in the preceding 24 months on separate charges/cause numbers on the High Utilizer Referral list (Referral list) is provided to Forensic PATH teams to connect these individuals with community-based programs, including behavioral health, substance use disorder treatment, medical, housing, and other relevant services. Phase 1 Regions enrollment rates for these individuals are 23 percent in Forensic PATH and 16 percent in Forensic HARPS in fiscal year 2022. The proposed language for FN will connect individuals on the Referral list to a suite of services available through Forensic PATH and Forensic HARPS programs more quickly. HCA assumes 50 percent to 75 percent of individuals could be referred to the diversion program. In addition to the current Forensic HARPS services, a new housing component similar to OCR program in phase 2 King region, 24-hour residential

HCA Fiscal Note

Bill Number: 5440 PSSB

HCA Request #: 23-103

housing services, will be available to the participants who are homeless or unstably house, to transitions participants to Forensic HARPS housing vouchers. HCA requests \$6,882,000 GF-S in 2023-25 biennium to implement this section of the bill in the settlement agreement phased regions.

Section 9 does not contain the same language as stated under section 4(3)(d). Section 4(3)(d) states when the individual is enrolled in the diversion program, the FN will provide services to the individual including:

- (i) Assisting the individual with attending appointments related to medical and/or mental health treatment;
- (ii) Coordinating access to housing for individual;
- (iii) Meeting with the individual on a regular basis;
- (v) Coordinating the individual's access to community case management services and mental health services;
- (vi) Assisting the individual with obtaining prescribed medication and encouraging adherence with prescribed medication; and
- (vii) Planning for a coordinated transition of the individual to a case manager in the community behavioral health system.

HCA assumes the FN will not provide these services to the individual enrolled in the diversion program and therefore, Forensic PATH and Forensic HARPS providers would need additional staff to provide these services. HCA requests \$4,979,000 GF-S in 2023-25 biennium.

Section 8(2)(c) and (e) nonfelony orders to OCR program effective date July 1, 2024

Sections 8(2)(c) of the bill will result in an increased number of orders to OCR program and will create fiscal impact to HCA current operations. HCA requests \$1,701,000 GF-S in 2023-25 biennium.

Fiscal year 2022 orders to OCR program are 27 percent for nonfelony in the phase 1 regions. HCA estimates 100 percent of the nonfelony will be ordered to OCR program, with an annual total of 305 for all orders to OCR program for all three phased regions of the settlement agreement. Current removal rate is 30% in the phase 1 regions. HCA estimates there will be an increase of 59 removals for all three phased regions of the settlement agreement. Transition work takes appropriately 12 days for each removal and HCA estimates the Subject Matter Expert (SME) staffs will perform this work.

- Phase 2 region is estimated to have a total of 158 orders to OCR program and an increase of 37 removals. Current funding for OCR program in phase 2 region is \$1.6 million annually and could serve up to 105 orders based on current team size. Additional funding is in the phase 2 region.
- Settlement agreement states residential support shall be provided for unstably housed Class Members, therefore requires client support/flex funds be available for clients served in OCR program. Food, clothing, lodging, rent, daily living needs, transportation and medically necessary services are needed. Flex funds per client can vary by need. Phase 1 regions costs for lodging, rent, and cost of living is \$3,330 per individual in fiscal year 2022. Annual client flex funds are available up to 189 orders. Funding is needed for additional 103 orders.

If Legislator appropriates funding at the same level as the 2023-25 biennium Governor's budget for phase 1 regions additional resources and phase 3 regions, HCA estimates OCR program providers staffing level in phase 1 and 3 regions will be able to handle the increased in orders as a result of section 8(2)(c) of the bill. If Legislator does not fund at the same level, then there will be additional fiscal impact.

HCA Expenditures:

HCA Fiscal Note

Bill Number: 5440 PSSB

HCA Request #: 23-103

Section 7(1)(e) felony adequate space in OCR program certification change from DSHS to HCA effective date July 1, 2025

Currently, DSHS FN have an integral part of engaging with the court to determine suitability for OCR program, certify there is adequate space in OCR program, and work closely with OCR program providers on release planning from jails to OCR programs. HCA OCR program provider staff meet with individuals who are court ordered to the OCR program at the time of enrollment in the community. Section 7(1)(e) of the bill changes the responsibility from DSHS to HCA to directly certify that there is adequate space in OCR program when the order is issued, and would impact HCA current operations. The proposed language will require HCA to communicate through writing, virtually, or in-person, that there is or is not adequate space in OCR programs. Fiscal year 2022 forensic evaluations are 631 in the phase 1 regions and 265 in the phase 2 regions (six months). HCA estimates 1,582 annual forensic evaluations for felony, and 69 courts in phase 1, 2 and 3 regions. HCA estimates eight hours to certify each evaluation, and assumes that capacity certification would occur in-person. HCA will require additional resources to coordinate with the OCR providers, DSHS FN before court date, and coordinate with the court when the order is issued. HCA requests \$1,942,000 GF-S for 8.0 full time equivalents (FTEs) Medical Program Specialist 3 (MPS 3) in 2025-27 biennium and on-going.

In order to determine adequate space in OCR programs in the phased regions of the settlement agreement, HCA will need to collect the data from the OCR program providers and create reports for each of the MPS 3 daily. IT FTE and infrastructure would need to be start one year prior to the effective date. 1.0 FTE IT Data Management – Journey is needed to create and maintain data collection tool, data ingestion method, data validation method, data transmission and storage method, and data export method for analysts to create operational reports. Infrastructure costs include initial software license investment, and annual software license, server and storage. HCA requests \$188,000 GFS for 1.0 FTE IT Data Management - Journey in fiscal year 2025 and \$314,000 GF-S for 1.0 FTE IT Data Management – Journey in 2025-27 biennium and on-going.

HCA Administrative Costs

Administrative costs are calculated at \$39,000 per 1.0 FTE. This cost is included in Object T based on HCA's federally approved cost allocation plan and are captured and/or included as Fiscal Analyst 3 classification. HCA requests \$39,000 GF-S for 0.3 FTE in fiscal year 2025 and \$702,000 GF-S for 2.7 FTEs in 2025-27 biennium and on-going.

By Fund:

II. C - Operating Budget Expenditures

| Account | Account Title | Type | FY-2024 | FY-2025 | 2023-25 | 2025-27 | 2027-29 |
|---------------|---------------|-------|---------------------|---------------------|----------------------|----------------------|----------------------|
| 001-1 | General Fund | State | 5,971,000 | 7,818,000 | 13,789,000 | 17,764,000 | 17,764,000 |
| Totals | | | \$ 5,971,000 | \$ 7,818,000 | \$ 13,789,000 | \$ 17,764,000 | \$ 17,764,000 |

By Object:

II. C - Expenditures by Object Or Purpose

| | | FY-2024 | FY-2025 | 2023-25 | 2025-27 | 2027-29 |
|---------------|------------------------------------|---------------------|---------------------|----------------------|----------------------|----------------------|
| FTE | | 0.0 | 1.3 | 0.7 | 11.7 | 11.7 |
| A | Salaries and Wages | - | 106,000 | 106,000 | 1,652,000 | 1,652,000 |
| B | Employee Benefits | - | 35,000 | 35,000 | 568,000 | 568,000 |
| E | Goods and Other Services | - | 47,000 | 47,000 | 36,000 | 36,000 |
| N | Grants, Benefits & Client Services | 5,971,000 | 7,591,000 | 13,562,000 | 14,806,000 | 14,806,000 |
| T | Intra-Agency Reimbursements | - | 39,000 | 39,000 | 702,000 | 702,000 |
| Totals | | \$ 5,971,000 | \$ 7,818,000 | \$ 13,789,000 | \$ 17,764,000 | \$ 17,764,000 |

HCA Fiscal Note

Bill Number: 5440 PSSB

HCA Request #: 23-103

By FTE:

II. C - Operating FTE Detail: List FTEs by classification and corresponding annual compensation.

| Job title | Salary | FY-2024 | FY-2025 | 2023-25 | 2025-27 | 2027-29 |
|------------------------------|---------|------------|------------|------------|-------------|-------------|
| FISCAL ANALYST 3 | 65,000 | 0.0 | 0.3 | 0.2 | 2.7 | 2.7 |
| IT DATA MANAGEMENT - JOURNEY | 106,000 | 0.0 | 1.0 | 0.5 | 1.0 | 1.0 |
| MEDICAL PROGRAM SPECIALIST 3 | 90,000 | 0.0 | 0.0 | 0.0 | 8.0 | 8.0 |
| Totals | | 0.0 | 1.3 | 0.7 | 11.7 | 11.7 |

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

None

Individual State Agency Fiscal Note

| | | |
|---------------------------------|--------------------------------------|--|
| Bill Number: 5440 P S SB | Title: Competency evaluations | Agency: 240-Department of Licensing |
|---------------------------------|--------------------------------------|--|

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:

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--|---------|---------|---------|---------|---------|
| Account | | | | | |
| Highway Safety Account-State 106 -1 | 47,000 | 0 | 47,000 | 0 | 0 |
| Total \$ | 47,000 | 0 | 47,000 | 0 | 0 |

In addition to the estimates above, there are additional indeterminate costs 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: Kevin Black | Phone: (360) 786-7747 | Date: 01/31/2023 |
| 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.

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.

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.

See attached fiscal note

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------|------------------------|-------|---------|---------|---------|---------|---------|
| 106-1 | Highway Safety Account | State | 47,000 | 0 | 47,000 | 0 | 0 |
| Total \$ | | | 47,000 | 0 | 47,000 | 0 | 0 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | | | | | |
| A-Salaries and Wages | | | | | |
| B-Employee Benefits | | | | | |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 47,000 | | 47,000 | | |
| G-Travel | | | | | |
| J-Capital Outlays | | | | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9- | | | | | |
| Total \$ | 47,000 | 0 | 47,000 | 0 | 0 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Agency 240 – Department of Licensing

Bill Number: PSSB 5440

Bill Title: Competency evaluations

Part 1: Estimates

No Fiscal Impact

Estimated Cash Receipts:

INDETERMINATE; PLEASE SEE NARRATIVE

Estimated Expenditures:

PARTIALLY INDETERMINATE, PLEASE SEE NARRATIVE

| | FY 24 | FY 25 | 23-25 Total | 25-27 Total | 27-29 Total |
|-----------------|-------|-------|-------------|-------------|-------------|
| FTE Staff Years | - | - | - | - | - |

| Operating Expenditures | Fund | FY 24 | FY 25 | 23-25 Total | 25-27 Total | 27-29 Total |
|------------------------|------|---------------|----------|---------------|-------------|-------------|
| Highway Safety | 106 | 47,000 | - | 47,000 | - | - |
| Account Totals | | 47,000 | - | 47,000 | - | - |

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: Kevin Black | Phone: (360) 786-7747 | 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 # | 5440 PSSB |

Part 2 – Explanation

This bill revolves around providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement.

Cash receipts and operational impacts are indeterminate. Expenditures to modify information systems technology systems are included.

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

Section 2 amends RCW 10.77.060 to include a new subsection stating that if the defendant ordered to be evaluated under this subsection (1) is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the prosecutor may make a motion to prohibit the defendant from driving during the pendency of the competency evaluation.

Section 5 amends RCW 10.77.084 to add that if the defendant is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the court must order revocation of the defendant's driver's license for a period of one year.

Section 5 also adds a new subsection that states if the defendant's driver's license is revoked under subsection (1)(a) of this section, and the court subsequently finds that the defendant's competency has been restored, the court shall vacate the revocation order for the driver's license made under this section. The court may vacate the revocation of the defendant's driver's license before the end of one year for good cause upon the petition of the defendant.

Section 8 amends RCW 10.77.088(1)(b) to include that if the defendant is charged with a serious traffic offense under RCW 9.94A.030 the court must order revocation of the defendant's driver's license for a period of one year. The court shall vacate this revocation order if the defendant is restored to competency and may vacate the revocation order at any time before the end of one year for good cause upon the petition of the defendant.

2.B - Cash receipts Impact

The cash receipts impact of this bill is indeterminate. This bill adds a stipulation that an individual's driver license may be revoked due to a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, and may be prohibited from driving subject to competency evaluation. The potential impact for the Department of Licensing (DOL) would be around the number of driver license reinstatements, but it is not known how many there might be under this new circumstance in the courts at the \$75 fee.

The bill further stipulates that "If the defendant's driver's license is revoked under subsection (1)(a) of this section, and the court subsequently finds that the defendant's competency has been restored, the court shall vacate the revocation order for the driver's license made under this section. The court may vacate the revocation of the defendant's driver's license before the end of one year for good cause upon the petition of the defendant." If the court vacates the revocation, there would not be a need for driver license reinstatement or \$75 fee associated with it. It is not known how many of the driver license revocations by the court might be vacated for this reason.

2.C – Expenditures

Operational expenditure impacts are indeterminate. DOL assumes that a Hearings Examiner 3 would be required to manage the workload increase associated with due process. Legal Assistant 2 support staff would move the competency evidence through case management and communicate with drivers on this new case type. Impacts to driver records management is also subject to the volume of events. Driver records are primarily managed by Customer Service Specialist 2 (CSS2) positions.

However, it is not possible, without additional information regarding the frequency of serious traffic offense charges raised in court, to know precisely how much additional workload the bill will generate. DOL will monitor activity volumes, assess capacity, and request additional resources in a future budget cycle as needed.

Information Services:

The agency will use appropriated funds to hire contract programmers to accomplish this work or to support current staff implementing this legislation within the required timeline. Appropriated funds may also be used to hire agency temporary staff to support permanent staff assigned to this legislative effort.

Any change requires a process to ensure changes are correctly applied to the system. This involves Project Managers that manage the team that completes the update, business analyst that documents and reviews the system changes, architect services that analyzes how the update could have an effect on other systems or DOL processes, developers who create the change, and testers and quality assurance teams that ensure the update is working correctly.

| Cost Category | Description | Rate | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | Total Cost |
|------------------------------------|--|-----------|---------------|------|------|------|------|------|---------------|
| TESTER | Test to verify individual components meet requirements; ensure that other business transactions have not been impacted. | \$ 22,620 | 11,300 | - | - | - | - | - | 11,300 |
| BUSINESS ANALYST | Determine business requirements; translate requirements into what changes are needed to various systems including account codes, inventory codes, testing considerations, etc. | \$ 16,530 | 3,300 | - | - | - | - | - | 3,300 |
| PROJECT MANAGER | Manage schedule and contracts | \$ 28,710 | 2,900 | - | - | - | - | - | 2,900 |
| SECURITY AND ARCHITECT SERVICES | Create the conceptual model that defines the structure, behavior and framework of a computerized system including a breakdown of the system into components, the component interactions and interfaces (including with the environment, especially the user), and the technologies and resources to be used in the design. | \$ 16,530 | 1,700 | - | - | - | - | - | 1,700 |
| CONTRACTED FAST DEVELOPER / TESTER | Updates to the DRIVES system will require additional vendor hours outside of the contracted maintenance to make system updates to implement this bill. | \$ 37,236 | 18,600 | - | - | - | - | - | 18,600 |
| Trainer | Trains business partners and employees in new system processes and capabilities. | \$ 22,620 | 4,500 | - | - | - | - | - | 4,500 |
| Project Contingency | Office of the Chief Information Officer designated rate of 10% | \$ 25,474 | 4,200 | - | - | - | - | - | 4,200 |
| Totals | | | 46,500 | - | - | - | - | - | 46,500 |

What DOL will implement:

1. Modify the DRIVES/DIAS system programming to order a driver's license suspension/immediate revocation based on competency concerns from the court.
2. Modify the DRIVES/DIAS system(s) to reinstate the driver's license suspension/revocation order as well upon notification from the court, or at the end of the 1-year period.
3. Letter changes to the to notify the customer their license has been revoked.

Part 3 – Expenditure Detail

3.A – Operating Budget Expenditures

| Operating Expenditures | Fund | FY 24 | FY 25 | 23-25 Total | 25-27 Total | 27-29 Total |
|-------------------------------|-------------|---------------|--------------|--------------------|--------------------|--------------------|
| Highway Safety | 106 | 47,000 | - | 47,000 | - | - |
| Account Totals | | 47,000 | - | 47,000 | - | - |

3.B – Expenditures by Object or Purpose

| Object of Expenditure | FY 24 | FY 25 | 23-25 Total | 25-27 Total | 27-29 Total |
|------------------------------|---------------|--------------|--------------------|--------------------|--------------------|
| Goods and Services | 47,000 | - | 47,000 | - | - |
| Total By Object Type | 47,000 | - | 47,000 | - | - |

Part 4 – Capital Budget Impact

None.

Part 5 – New Rule Making Required

None.

Individual State Agency Fiscal Note

| | | |
|---------------------------------|--------------------------------------|---|
| Bill Number: 5440 P S SB | Title: Competency evaluations | Agency: 300-Department of Social and Health Services |
|---------------------------------|--------------------------------------|---|

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 | 39.2 | 39.2 | 39.2 | 35.5 | 34.5 |
| Account | | | | | |
| General Fund-State 001-1 | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |
| Total \$ | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |

In addition to the estimates above, there are additional indeterminate costs 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: Kevin Black | Phone: (360) 786-7747 | Date: 01/31/2023 |
| Agency Preparation: Sara Corbin | Phone: 360-902-8194 | Date: 02/22/2023 |
| Agency Approval: Dan Winkley | Phone: 360-902-8236 | Date: 02/22/2023 |
| OFM Review: Robyn Williams | Phone: (360) 704-0525 | Date: 02/22/2023 |

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.

PSSB 5440 has a fiscal impact to the Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA) as this bill relates to providing timely competency evaluation and restoration services to persons suffering from behavioral health disorders within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement.

Section 2(1)(b) Requires a court to determine by direct observation of a defendant that there is genuine doubt as to competency before ordering a competency evaluation.

Section 2(6) Requires DSHS to submit a report to the court and parties when completion of the evaluation is not achieved after two attempts to schedule with the defendant. If the evaluation is not achieved after the third attempt, the court may issue a warrant for the defendant and shall vacate order for competency evaluation.

Section 4(3)(e) Adds requirements that DSHS notifies and coordinates with Native American and Alaska Natives tribes, and Indian Health care providers regarding defendant's competency/forensic navigator services related involvement and to ensure that services are coordinated appropriately as soon as possible.

Section 4(9) Adds requirements to the forensic navigator role to engage and assess clients for diversion who have misdemeanor charges, and who have had two or more competency evaluations in the preceding 24 months. A forensic navigator is required to meet with, interview, and observe the individual and complete a recommended diversion plan. If enrolled into the program, the navigator will provide monthly status updates to the court and report disengagement of the person from diversion. Navigators will work with the individual for up to six months in this 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.

There are no cash receipts.

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.

Section 2

Multiple updates and additional fields will be required in the Forensic Data System (FDS) due to the changes in this section. New workflows will need to be added to capture the court's motion, record evaluator's assignment / opinion, 'capacity to proceed', 'status checks' for the counties, and tracking of number of attempts to evaluate with an appropriate closure type in FDS. Furthermore, new reporting related to this data and workflows will be required. The following Information Technology (IT) staff would be needed beginning July 1, 2023, through June 30, 2025:

- 0.6 - IT Project Management – Senior
- 0.6 - IT Business Analyst – Senior
- 1.7 - IT App Development – Senior

FY2024 – 2.9 FTE's and \$525,000

FY2025 – 2.9 FTE's and \$514,000

2023-25 Total Impact 2.9 FTE's & \$1,039,000

Research and Data Analytics

Current Trueblood court reports require the integration of data from roughly 16 sources/systems for which we have developed a robust data error reporting. Experience suggests that the data from counties/ jails will contain a range of quality problems that will have to be addressed on an ongoing basis. Assuming even a small number of counties/jails implement an Alternative Therapeutic Unit (ATU), the current error reporting infrastructure will have to be expanded, as well as the development/provisioning of reports to counties/jails. This will require 0.5 new IT Data Management, Senior/Specialists.

In addition, RDA estimates that 0.5 Research Associates will be required to work with the programs (counties and jails) and IT teams on data collection design, implementation, infrastructure changes, and reporting for the new ATU restoration model and the new Forensic Navigator Misdemeanor Diversion Program. Given the frequency/volume of data requests and reporting to the Court, the legislature, and to agency leadership, this work will continue in out years.

Additional FTEs will be required if ATUs expand beyond a small number of counties/jails. The following staff will be needed beginning July 1, 2023, through June 30, 2025:

- 0.5 - IT Data Management – Senior
- 0.5 – Research Associate

FY2024 – 1.0 FTE's and \$171,000

FY2025 – 1.0 FTE's and \$169,000

2023-25 Total Impact 1.0 FTE's & \$339,000

Section 4

(9) increases the eligibility of clients for navigator services to include those who have misdemeanor charges and have had two or more competency evaluations in the preceding 24 months. The navigator's role under this subsection will be to engage and assess clients for diversion prior to the 10.77 being signed. They are required to meet with, interview, and observe the individual and complete a recommended diversion plan. If enrolled into the program, the navigator will provide monthly status updates to the court and report disengagement of the person from diversion. Navigators will work with the individual for up to six months in this program.

The fiscal estimate is based on the number of individuals who meet the criteria in the current counties where navigator services are provided and includes those counties proposed in Phase 3 of the Trueblood Settlement Agreement.

Fiscal Impact (No phase in is assumed)

FY2024 – 34.5 FTE's and \$5,392,000 (one-time costs of \$207,000)

FY2025 – 34.5 FTE's and \$5,311,000

2023-25 Total Impact 34.5 FTE's & \$10,689,000

FY2026 – 34.5 FTE's and \$5,311,000

FY2027 – 34.5 FTE's and \$5,311,000

2025-27 Total Impact 34.5 FTE's & \$10,622,000

Changes will need to be made to the Navigator Case Management System (NCM) to include new workflow, data collection, and reporting specifically to misdemeanor charges and competency evaluations.

The following IT staff will be needed beginning July 1, 2023, through June 30, 2025:

- 0.2 - IT Project Management – Senior
- 0.2 - IT Business Analyst – Senior

- 0.5 - IT App Development – Senior

FY2024 – 0.8 FTE’s and \$133,000

FY2025 – 0.8 FTE’s and \$137,000

2023-25 Total Impact 0.8 FTE’s & \$270,000

Navigator Program Assumptions

- The number of clients is based on the following criteria:
 - Individuals are considered eligible for Forensic Projects for Assistance in transition from Homelessness (F-PATH) if they had two or more evaluation orders signed in the past 24 months on different dates for different cause numbers.
 - Clients with a Misdemeanor Evaluation Order who are eligible for F-PATH with an In-Jail Status for FY2022 and are unduplicated by fiscal year within each county.
 - Includes only individuals with an "in-jail" client status at some point while they were waiting for competency services.
 - Phase 1 counties consist of Adams, Clark, Ferry, Klickitat, Lincoln, Pend Oreille, Pierce, Skamania, Spokane, and Stevens.
 - Phase 2 consists of King County
 - Phase 3 counties consist of Thurston, Mason, Clallam, Jefferson, and Kitsap.
- Of the total number of clients eligible it is assumed that 56.5 percent will receive navigator services based on the number used previously to calculate impacts to the Navigator program. We will update the fiscal projection based on the number of clients served after the first full year of implementation.
- Staffing assumptions are based on the following ratios to determine the fiscal impact:
 - Navigator caseload is 25:1
 - One Office Assistant for every nine Navigators
 - Two Forms and Records Analysts for every nine Navigators
 - One IT Customer Service – Entry for every nine Navigators
 - One Forensic Navigator Supervisor and Administrative Assistant 3 for every nine Navigators
- Additional staffing requirements are needed for research and data analysis, reporting and data management, and IT resources for updates and modifications to two critical IT systems – the Forensic Data System and Navigator Case Management.

No costs are assumed for the potential need for a certification team for operating an alternative therapeutic unit within counties/jails. If there is interest from counties/jails additional funds will be needed to ensure BHA can certify the competency restoration programs.

Overall Staffing Assumptions

- Costs do not include the potential need for additional funding for leased office space.
- Salary includes the proposed 4 percent cost of living increase in FY2024 and 3 percent in FY2025.

Indeterminate Fiscal Impacts

The addition of 'Alternative therapeutic units' (ATU) would provide an additional option to restoration in the case that the court orders a defendant to inpatient competency restoration. Without having a determinate number of jails that will need to be certified the potential fiscal impact and the impact on the waitlist is unknown at this time.

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 | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |
| Total \$ | | | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

| | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|------------------|------------------|-------------------|-------------------|-------------------|
| FTE Staff Years | 39.2 | 39.2 | 39.2 | 35.5 | 34.5 |
| A-Salaries and Wages | 4,164,000 | 4,289,000 | 8,453,000 | 7,638,000 | 7,638,000 |
| B-Employee Benefits | 1,160,000 | 1,181,000 | 2,341,000 | 2,084,000 | 2,084,000 |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 274,000 | 274,000 | 548,000 | 496,000 | 496,000 |
| G-Travel | 79,000 | 79,000 | 158,000 | 154,000 | 154,000 |
| J-Capital Outlays | 237,000 | | 237,000 | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | 308,000 | 308,000 | 616,000 | 586,000 | 586,000 |
| 9- | | | | | |
| Total \$ | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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 3 | 53,965 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| Forensic Navigator | 122,823 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| Forensic Navigator Supervisor | 122,826 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| Forms & Records Analyst 3 | 64,093 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| IT App Development - Senior | 123,468 | 2.2 | 2.2 | 2.2 | | |
| IT Business Analyst - Senior | 117,576 | 1.8 | 1.8 | 1.8 | 1.0 | |
| IT Customer Support - Entry | 79,878 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| IT Data Management - Senior | 123,468 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| IT Project Management - Senior | 123,468 | 0.8 | 0.8 | 0.8 | | |
| Management Analyst 5 | 97,596 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Office Assistant 3 | 46,594 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| Research Associate | 91,068 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| Total FTEs | | 39.2 | 39.2 | 39.2 | 35.5 | 34.5 |

III. D - Expenditures By Program (optional)

| Program | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--|------------------|------------------|-------------------|-------------------|-------------------|
| Behavioral Health Administration (BHA) (030) | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |
| Total \$ | 6,222,000 | 6,131,000 | 12,353,000 | 10,958,000 | 10,958,000 |

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5440 P S SB

Title: Competency evaluations

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

Legislation Impacts:

- Cities:
- Counties: Indeterminate expenditure impact as a result of changes in attorney time required from prosecutors and public defenders in cases involving diversion
- 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 future cases that may require hearings and supervision related to diversion; amount of attorney time required for such hearings and supervision

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: 02/08/2023 |
| Leg. Committee Contact: Kevin Black | Phone: (360) 786-7747 | Date: 01/31/2023 |
| Agency Approval: Alice Zillah | Phone: 360-725-5035 | Date: 02/08/2023 |
| OFM Review: Robyn Williams | Phone: (360) 704-0525 | Date: 02/09/2023 |

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 proposed substitute bill would remove language from the original bill requiring counties to provide inpatient competency restoration treatment services under certain circumstances.

SUMMARY OF CURRENT BILL:

The proposed legislation would amend several RCW sections related to competency restoration.

Section 1 would amend RCW 10.77.010, adding the following definition for alternative therapeutic unit: “a jail-based competency restoration unit as certified by the [Department of Social and Health Services], which includes standards to ensure the unit is sufficiently safe and therapeutic for defendants.”

Section 7 would amend RCW 10.77.086, specifying that if a court orders inpatient competency restoration for a person charged with a felony, that person may be placed in an alternative therapeutic unit.

Section 9 would add a new section to chapter 10.77 RCW, specifying that under certain conditions, forensic navigators would be required to “meet, interview and observe” a person charged with a misdemeanor who has a qualifying history of previous competency evaluations, and provide a diversion program plan to prosecutors and public defenders.

If the parties agreed on a diversion plan, the defendant would have their charges dismissed. If the parties did not agree on a diversion plan, a defendant could file a motion requesting enrolment in such a plan, and courts would be required to hold a hearing to determine if that would be an appropriate option.

Section 10 states that section 6 of the proposed legislation would take immediate effect.

Section 11 states that sections 3, 5 and 8 of the proposed legislation would take effect July 1, 2024.

Section 12 states that section 7 of the proposed legislation would take effect July 1, 2025.

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:

The proposed substitute bill would not require counties to provide inpatient competency restoration treatment services under certain circumstances, so counties would not incur the one-time and ongoing costs to build and operate inpatient competency restoration units in jails that the original bill would have required.

However, section 7 of the proposed substitute bill would allow the Department of Social and Health Services (DSHS) to place people charged with felonies who have been ordered to receive inpatient competency restoration treatment service in alternative therapeutic units, which section 1 of the proposed substitute defines as “a jail-based competency restoration unit as certified by the department, which includes standards to ensure the unit is sufficiently safe and therapeutic for defendants.” The Washington State Association of Counties (WSAC) indicates that such placements could require counties to build and operate jail-based competency restoration units, in which case they would incur the indeterminate one-time and ongoing costs detailed below.

EXPENDITURE IMPACT OF CURRENT BILL:

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

DIVERSION COSTS:

Section 9 of the proposed legislation would require forensic navigators to provide prosecutors and defenders with diversion program plans for certain defendants under certain circumstances. The Washington Association of Prosecuting Attorneys (WAPA) indicates that this requirement could create additional demands for prosecutor time.

If the parties in a given case did not agree to a diversion plan, a defendant could file a motion to request enrolment in a diversion plan, resulting in a hearing to decide if that is an appropriate option. These hearings would require attorney time. Additionally, WAPA indicates that people who enter diversion plans would be subject to supervision, and depending on the structure of the program, this supervision could require regular meetings that could require time from prosecutors, defenders, probation officers or other court staffers, or judges. If someone were to be enrolled in a diversion program and have their charges dismissed without prejudice, their assigned forensic navigator would be required to provide monthly updates on that person's status in the program to the court and parties involved. It is reasonable to assume that impacts on attorney time as a result of the requirements of section 9 would be similar for prosecutors and public defenders.

It is unknown how many people may require additional hearings or supervision in diversion programs as a result of the requirements of section 9, however, as well as how much attorney time those hearings and supervision cases may require. Additionally, WAPA indicates that because enrolment in a diversion program under section 9 would occur before receiving a competency evaluation, a defendant may not be ordered to Eastern or Western State Hospitals for competency evaluation or restoration, and as such orders require attorney time for hearings, the attorney time required for diversion may not result in a net increase in attorney time required for a given case. Given the above unknowns, the local government expenditure impact of the diversion requirements in section 9 is indeterminate.

ALTERNATIVE THERAPEUTIC UNIT COSTS:

While the proposed legislation would not explicitly require that counties provide inpatient competency restoration treatment services in jails, section 7 would allow DSHS to place people charged with felonies who have been ordered to receive inpatient competency restoration treatment service in alternative therapeutic units, which section 1 of the proposed substitute defines as “a jail-based competency restoration unit as certified by the department, which includes standards to ensure the unit is sufficiently safe and therapeutic for defendants.” WSAC indicates that such placements could require counties to build and operate jail-based competency restoration units, in which case they would incur significant indeterminate expenditures.

According to WSAC, this expenditure impact on counties would come from three main sources: creating competency restoration units, staffing and operating these units, and increased liability exposure for counties as a result of the Trueblood case.

Providing beds in jail-based competency restoration units would require renovating or modifying existing county jail facilities to be suitable for use for competency restoration treatment. Due to the variability in the size, layout and condition of existing jail facilities between counties, the cost of required modifications for each facility cannot be predicted. Accordingly, the total expenditure impact that creating competency restoration units would have is indeterminate, but likely significant.

WSAC indicates that expanding jail facilities to include competency restoration treatment units would require hiring and staffing additional corrections officers. Counties would incur additional one-time costs for hiring and training these additional officers, as well as additional ongoing costs for staffing them. According to the 2022 Association of Washington Cities Salary Survey, the average hourly salary including benefits and overhead for a county corrections officer is \$46. Hiring costs would vary by jurisdiction, but would include reimbursing the Criminal Justice Training Commission for required training. According to the commission, the agency reimbursement for one officer to attend its Corrections Officer Academy is \$1,780. Due to the variability in any future corrections officers staffing requirements and associated costs

between jurisdictions, the county expenditure impact that a need for additional corrections officers would have is indeterminate.

In addition to corrections officers, these units would also require behavioral health professionals to directly provide competency restoration treatment services. At a facility in Yakima County housed in a former jail, which closed its competency restoration unit in 2021, these services were provided by a third party contractor. It is unknown how counties would go about staffing jail-based competency restoration units with behavioral health professionals, what the details of any future third-party contracts for these services might be, or how many people would need competency restoration services in the future from a given county. Accordingly, the county expenditure impact from staffing and operating jail-based inpatient competency restoration units is indeterminate.

Per the DSHS 2022 Timeliness of Services Related to Competency to Stand Trial Annual Report, the department received 3,006 court orders for inpatient competency restoration treatment services between October 1, 2021, and September 30, 2022. Over the same time period, the department recorded a total of 1,674 admissions for inpatient competency restoration treatment services, 300 to Eastern State Hospital and 1,374 to Western State Hospital. It is unknown how many of these orders and admissions stemmed from cases with charges at the felony versus non-felony levels.

Finally, WSAC indicates that operating jail-based competency restoration units could increase the liability exposure of counties as a result of the Trueblood case, which concerned wait times for people in need of competency evaluation and restoration services. Before agreeing to a settlement in 2018, the state was fined tens of millions of dollars for not meeting court-ordered timeliness performance targets for competency evaluation and restoration services. It is unknown how many claims against counties could arise related to the timeliness of providing competency restoration treatment services, or what the details of such claims could be, so the magnitude of this expenditure impact on counties is indeterminate.

WSAC indicates that cities may incur costs related to placements in jail-based competency restoration units as well, since many people charged with misdemeanor offenses who need inpatient competency restoration services are booked by cities. WSAC assumes that in these cases, counties would pass treatments costs along to cities. It is unknown how many cases may include pass-through costs, or what those costs might be, however, so any resulting expenditure impact to cities is indeterminate.

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:

Association of Washington Cities Salary Survey, 2022
Disability Rights Washington
Washington Association of Prosecuting Attorneys
Washington State Association of Counties
Washington State Criminal Justice Training Commission
Washington State Department of Social and Health Services
Yakima County Department of Corrections