

Multiple Agency Fiscal Note Summary

Bill Number: 1579 2S HB	Title: Independent prosecutions
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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	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other	No fiscal impact					
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 Attorney General	56.2	20,232,000	20,232,000	20,232,000	56.2	20,542,000	20,542,000	20,542,000	56.2	20,542,000	20,542,000	20,542,000
Office of Independent Investigations	.0	290,000	290,000	290,000	.0	290,000	290,000	290,000	.0	290,000	290,000	290,000
Office of Independent Investigations	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Total \$	56.2	20,522,000	20,522,000	20,522,000	56.2	20,832,000	20,832,000	20,832,000	56.2	20,832,000	20,832,000	20,832,000

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	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Independent Investigations	.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	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Cheri Keller, OFM	Phone: (360) 584-2207	Date Published: Final 3/ 7/2023
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Judicial Impact Fiscal Note

Bill Number: 1579 2S HB	Title: Independent prosecutions	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jessica Van Horne	Phone: 360-786-7288	Date: 02/28/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 02/28/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/28/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/28/2023

185,246.00

Form FN (Rev 1/00)

Request # 228-1

Bill # 1579 2S HB

Part II: Narrative Explanation

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

The substitute does not make any changes to the fiscal impact of the original bill.

The bill would establish a mechanism for independent prosecutions within the Office of the Attorney General of criminal conduct arising from police use of force.

II. B - Cash Receipts Impact

None

II. C - Expenditures

No fiscal impact expected to the Administrative Office of the Courts or the courts.

Part III: Expenditure Detail

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

NONE

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

NONE

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

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

IV. C - Capital Budget Breakout

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

NONE

None

185,246.00

Form FN (Rev 1/00)

Individual State Agency Fiscal Note

Bill Number: 1579 2S HB	Title: Independent prosecutions	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	56.2	56.2	56.2	56.2	56.2
Account					
General Fund-State 001-1	10,056,000	10,176,000	20,232,000	20,542,000	20,542,000
Total \$	10,056,000	10,176,000	20,232,000	20,542,000	20,542,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jessica Van Horne	Phone: 360-786-7288	Date: 02/28/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 03/03/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/03/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/06/2023

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.

Bill Summary

Section 1 – Amends RCW 43.10.230. Changes purpose with respect to granting concurrent authority with the Attorney General (AG) and county prosecutors to cover incidences of deadly force by officers.

Section 2 – Amends RCW 43.10.232, to allow the Attorney General’s Office (AGO) concurrent authority to investigate, initiate and conduct prosecutions of crimes involving the use of deadly force by police officers. Additionally allows prosecution of related offenses and defendants. Finally indicates AGO is responsible for its expert witness fees and other costs of prosecution.

Section 3 – Amends RCW 43.10.234 considerations court makes when designating prosecuting authority.

Section 4 – New Section. Findings.

Section 5 – New Section. Establishment of independent prosecution unit.

Section 6 – New Section. Sets out authority and role of independent prosecution unit and has AG appoint an independent counsel to lead unit.

Section 7 – New Section. Creates office of independent prosecutions advisory board.

Section 8 – New Section. Minimum criteria for independent counsel and term limit.

Section 9 – New Section. Sets out powers of independent counsel.

Section 10 – New Section. Personnel who independent counsel can contract with or employ.

Section 11 – New Section. Independent counsel may appoint Assistant Attorneys General (AAG) or Special Assistant Attorneys General (SAAG) to carry out certain functions.

Section 12 – New Section. Nothing prevents law students from working as volunteer or paid interns in this office.

Section 13 – New Section. Public records act, set outs rules for disclosure.

Section 14 – New Section. Liability, not action may be instituted against independent counsel for performing duties in good faith.

Section 15 – New Section, Definitions in RCW 43.102.010 apply to Sections 4 through 14 of this act.

Section 16 – Amends RCW 36.27.020, to set out procedure to transfer case to independent unit when prosecutor has conflict of interest.

Section 17 – Amends RCW 36.27.030. Standard for court to order independent counsel to take over prosecution.

Section 18 – New Section added to chapter 36.27 RCW. If prosecutor declines to file it must refer case to the independent unit at the AGO

Section 19 – Amends RCW 43.102.080. Where completed investigations must be sent and what they must include.

Section 20 – Amends RCW 41.80.400. Excluded independent counsel from bargaining unit.

Section 21 – Amends RCW 10.114.011. Investigatory reports are handled in accordance with RCW 43.102.080.

Section 22 – New Section. Severability clause.

Section 23 – New Section. If funding is not provided by June 30, 2023, the act is void.

Section 24 – New Section. Sections 4 through 15 are added to chapter 43.10 RCW.

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.

General Fund-State (GF-S) Account 001-1: The newly created Attorney General's Office Independent Prosecutions activities would be funded with GF-S dollars. No cash receipt impact. There is no client agency to bill for legal services.

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.

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

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

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

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

Agency Administrative staff included in this request:

One Information Technology (IT) Support Technician 2 for support in wiring and networking, local area network (LAN) management, and ongoing technical support.

One IT Security-Senior Specialist to conduct and maintain data security of business systems used by this office, manage ongoing IT risk assessments, and ensure compliance with applicable laws, regulations and statewide security policies related to data sharing with local law enforcement.

2.71 MA to support for ongoing timekeeping, payroll, budgeting and projection of expenditures, accounting transactions and report generation, and contracting oversight.

1.0 Human Resources Consultant 3 FTE (HRC 3) for oversight from position announcements through the hiring process, an ongoing presence in supporting division turnover and replacements, and evaluations.

1.0 Policy Analyst (exempt) FTE (PA) to facilitate the appointments of the Advisory Committee members, staff the

Advisory Committee's work, and then work on the recommendations in the FY 2026 reports and transition into assisting with the public facing reports.

Assumptions for a new AGO Independent Prosecution Division:

This bill would require the creation of a new division in the AGO headed by an "independent prosecutor" appointed by the Attorney General. This new division would review cases of police use of deadly force for potential criminal charges. The new division would handle a large volume of complex, controversial, high-profile, expensive, time-consuming cases. There is limited data available on the number of incidents per year where police use deadly force in Washington State because that is not information that is tracked or collected. That makes it difficult to estimate exactly how many cases would come to the AGO if this bill passed; and consequently difficult to estimate how many FTE the AGO would need to perform the work required. This fiscal note adopts the projections of the Office of Independent Investigations (OII), which estimates approximately 250 cases involving use of deadly force per year; and approximately 28 of the 250 cases per year resulting in death.

There is difficulty in estimating costs because the AGO is estimating the cases that it will see from OII.

This bill allows the county prosecutor to review the case if the prosecutor has no conflict of interest. Those cases where the county prosecutor recognizes a conflict, or that are reviewed but not charged by the county, then come to the AGO for review. This will likely be the vast majority of cases. If the county prosecutor determines to charge a case, the AGO still reviews the case and if the AGO believes more serious charges should be filed, the AGO can also charge the case. In short, every case of officer use of deadly force will be reviewed by the AGO.

1.

1.0 Division Chief or "Independent Prosecutor"

Organize and create the division

Interview employee candidates and make hiring decisions

Manage/supervise the division

Manage the divisional budget

Provide for necessary training for division employees

Acquire necessary resources for the division

Complete performance evaluations

Liaison with law enforcement, county prosecutors, others

Manage public records response processes

Manage responses to constituent inquiries

Liaison with AGO Media Relations

Supervise Managing AAGs and evaluate their performance

3.0 Managing AAGs (MAAG)

Serve as trial/review team leaders

Supervise groups of five-six employees

Performance evaluations

Handle partial caseload as described below

Supervise AAGs

Supervise Paralegal 3

Supervise Crime Victim Advocate Supervisor

Supervise Crime Analyst

Manage public records issues and responses

Manage responses to constituent inquiries

15.0 AAG

Work with investigators on the investigation

Providing consultation

Brainstorming investigative ideas

Reviewing search warrants

Obtaining necessary court orders

Cause Garrity reviews

This means screening the completed investigations before a prosecutor reviews the case to ensure no compelled statements from police officers—which cannot be considered—are included in the investigative files

Review the investigation for potential criminal charges

Review investigative reports, medical reports, witness statements

Discuss case with investigators

Consulting experts

Medical doctors, including forensic pathologists

Use of force experts

Requesting follow-up investigation by investigating agency

Staffing cases with colleagues and supervisors

Drafting memos

Meetings

Presentations

Preparing letters or reports explaining decisions to decline criminal charges

Meetings with victim or family of deceased

Preparing charging documents

Prosecuting charged cases (Two AAGs per case)

Legal research

Drafting pleadings

Filing motions

Responding to motions

Court appearances/evidentiary hearings

Meetings with law enforcement investigators

Meeting/interviewing prosecution civilian and expert witnesses

Interviewing defense witnesses

Attending defense interviews of prosecution witnesses

Meetings w/ victim or family of deceased

Meetings with AGO staff (supervisors, co-counsel, paralegals, investigators)

Trials

Appeals

Respond to interlocutory appeals

Defend convictions on appeal

Respond to post-conviction motions/personal restraint petitions

Court appearances

Public Records

Provide advice to AGO staff responding to public records requests

Every case is likely to be the subject of a public records request

Review and redact AGO documents (correspondence, investigative materials, etc.) as necessary in response to public records requests

Respond to constituent inquiries

1.0 Administrative Operations Manager FTE (AOM)

Manage the day to day administrative and fiscal operations of the division

3.0 Paralegal 3 FTE (PL3)

Supervise paralegals and supervising legal assistant(s),
Performance evaluations
Manage public records intake and responses
Carry partial caseload (described below for Paralegal 2 FTE (PL2))

7.0 PL2

Respond to public records requests
Review records
Redact records
Ensure attorneys review and redact records as necessary
Coordinate discovery from completed investigations
Organize investigative files received from investigating agency for review by AAGs
Run criminal histories as needed
Coordinate meetings/interviews of witnesses for individual cases
Support assigned trial prosecutors for charged cases
Handle discovery
Subpoenas for witnesses
Subpoenas duces tecum
Coordinate witness interviews/court appearances
Use software for trial organization and presentation of evidence
Create trial exhibits
Assist at trial with courtroom technology and witness scheduling

5.0 Victim Advocates

1.0 victim advocate supervisor
Supervises four victim advocates
Evaluates performance
Liaison between AGO and injured person or the family of deceased
Provide comfort and support to injured persons or family of deceased
Connect injured person or family of deceased with needed resources
Counseling
Financial assistance
Legal assistance
Collect restitution information
Medical expenses
Funeral expenses
Attend meetings between AGO and injured person or family of deceased
Attend defense interviews of injured person or family members of deceased
Assist in scheduling court appearances for injured person or family members of deceased
Attend court appearances where injured person or family of deceased will attend

2.0 Data Consultant 2 FTE (DC2)

Create data points from the review and prosecution of these cases
Collect and organize data in a database
Reach out to local, state, and federal criminal justice partners for data/information as needed
Analyze data as needed on specific cases
Cell phone data
Timelines
Police agency organization/policies/practices
Criminal organizations

Bank records
Other
Create annual (or other) report of the division's cases and outcomes

9.0 LA (1.0 for every 2.0 AAGs, plus 2.0 MAAG)

Maintain and update case files for assigned attorneys
Draft, proofread, serve, and file legal pleadings and correspondence
Independently compose routine correspondence to courts and parties
Schedule hearings by coordinating with the court and opposing counsel
Schedule depositions by coordinating dates with parties, securing facilities, court reporters, and videographers
Utilize the case management system to track deadlines and log documents
Assist attorneys and paralegals in organizing and preparing trial notebooks, pleadings, and exhibits to be used at trial
Track and organize discovery materials
Arrange travel and processed travel reimbursements for attorneys
Process invoices and incoming mail

The AGO assumes the new division will be located in Thurston County and additional lease space will be necessary for staff. The AGO assumes \$550,000 per FY based on current lease contract rates in the Bristol Court Office Building.

Expert Witnesses: \$1 million per FY. Some cases will require no paid expert consultation while other cases will require extensive use of experts (use of force experts, pathologists, medical experts, etc.)

Litigation Travel: \$250,000 per FY.

AAG Travel: \$220,000 per FY for potential crime scene response; attend autopsies; meetings with investigators; meetings with medical examiner/doctors; meetings with injured person or family of deceased; interviewing witnesses; attend defense interviews, court appearances, and trial.

Victim Advocacy Travel: \$20,000 per FY;

PLs Travel for Trials: \$10,000 per FY.

Contract interpreter services: \$150,000 per FY (\$150/hour x 1,000 estimated annual hours). For witnesses, injured parties, or family of deceased where English is not their first language.

Data storage costs: \$250,000 per FY

For anticipated large volumes of video evidence (police body-worn camera video, police dash camera video, cell phone video, doorbell video, store security camera video).

Video Files (720p HD @30 frames/sec) / 3.5 gigabyte (GB) per hour.

10 Videos per Case / 35 GB per case.

50 Cases per FY = 1,750 GB per FY.

Everlaw Cost (2022 estimated rate) totals \$9,960 per fiscal month.

\$119,520 annual cost is rounded up to \$120,000 per FY.

File retention from the previous FY is required as well as new electronic files for the current FY.

This total is assumed to increase by \$120,000 each FY.

Total costs:

FY 2024: \$10,056, 000 for 1.0 Division Chief, 3.0 MAAG, 15.0 AAG, 1.0 AOM, 3.0 PL3, 7.0 PL2, 1.0 Victim Advocate Supervisor, 4.0 Crime Victim Advocates, 1.0 DC2, 2.71 MA 5, 1.0 IT Support Tech 2, 1.0 IT Security Senior Specialist, 1.0 HRC3, 1.0 PA and 9.0 LA (this includes litigation costs of \$3,142,000).

FY 2025: \$10,176,000 for 1.0 Division Chief, 3.0 MAAG, 15.0 AAG, 1.0 AOM, 3.0 PL3, 7.0 PL2, 1.0 Victim Advocate Supervisor, 4.0 Crime Victim Advocates, 1.0 DC2, 2.0 MA 5, 1.0 IT Support Tech 2, 1.0 IT Security Senior Specialist, 1.0 HRC3, 1.0 PA and 9.0 LA (this includes litigation costs of \$3,262,000).

FY 2026 and in each FY thereafter: \$10,271,000 for 1.0 Division Chief, 3.0 MAAG, 15.0 AAG, 1.0 AOM, 3.0 PL3, 7.0 PL2, 1.0 Victim Advocate Supervisor, 4.0 Crime Victim Advocates, 1.0 DC2, 2.0 MA 5, 1.0 IT Support Tech 2, 1.0 IT Security Senior Specialist, 1.0 HRC3, 1.0 PA and 9.0 LA (this includes litigation costs of \$3,357,000).

The AGO Government Compliance and Enforcement Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the OII. This bill would establish within the AGO an independent prosecutions unit, and would give the AGO concurrent authority with prosecuting attorneys to investigate and prosecute crimes involving the use of deadly force by police officers and any other investigations within the scope of the OII. Upon the completion of an investigation, OII would be required to send the completed investigation and referral to both the county prosecutor and the AGO independent prosecutions unit. As this bill essentially allows for the substitution of one prosecutor for another, we do not anticipate any increase in legal advice requests from OII as a result of its enactment. New legal services are nominal and costs are not included in this request.

The AGO Administration Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload. New legal services are nominal and costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	10,056,000	10,176,000	20,232,000	20,542,000	20,542,000
Total \$			10,056,000	10,176,000	20,232,000	20,542,000	20,542,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	56.2	56.2	56.2	56.2	56.2
A-Salaries and Wages	5,196,000	5,196,000	10,392,000	10,392,000	10,392,000
B-Employee Benefits	1,688,000	1,688,000	3,376,000	3,376,000	3,376,000
C-Professional Service Contracts	1,000,000	1,000,000	2,000,000	2,000,000	2,000,000
E-Goods and Other Services	1,872,000	1,992,000	3,864,000	4,174,000	4,174,000
G-Travel	300,000	300,000	600,000	600,000	600,000
Total \$	10,056,000	10,176,000	20,232,000	20,542,000	20,542,000

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
Admin Office Manager	100,000	1.0	1.0	1.0	1.0	1.0
Assistant Attorney General	118,700	15.0	15.0	15.0	15.0	15.0
Crime Victim Advocate	96,000	4.0	4.0	4.0	4.0	4.0
Crime Victim Advocates - Supervisor	105,000	1.0	1.0	1.0	1.0	1.0
Data Consultant 2	58,704	1.0	1.0	1.0	1.0	1.0
Division Chief	150,000	1.0	1.0	1.0	1.0	1.0
Human Resource Consultant 3	73,260	1.0	1.0	1.0	1.0	1.0
IT Security - Senior/Specialist	115,824	1.0	1.0	1.0	1.0	1.0
IT Support Technician 2	58,704	1.0	1.0	1.0	1.0	1.0
Legal Assistant 3	55,872	9.0	9.0	9.0	9.0	9.0
Management Analyst 5	91,524	7.2	7.2	7.2	7.2	7.2
Managing AAG	125,000	3.0	3.0	3.0	3.0	3.0
Paralegal 2	71,520	7.0	7.0	7.0	7.0	7.0
Paralegal 3	78,900	3.0	3.0	3.0	3.0	3.0
Policy Analyst (Exempt)	95,000	1.0	1.0	1.0	1.0	1.0
Total FTEs		56.2	56.2	56.2	56.2	56.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Headquarters Administration (ADM)	162,000	162,000	324,000	324,000	324,000
Financial Services Division (FIS)	306,000	306,000	612,000	612,000	612,000
Facilities Division (FST)	550,000	550,000	1,100,000	1,100,000	1,100,000
Human Resources Division (HRO)	122,000	122,000	244,000	244,000	244,000
Information Services Division (ISD)	300,000	300,000	600,000	600,000	600,000
New Division (NEW)	8,616,000	8,736,000	17,352,000	17,662,000	17,662,000
Total \$	10,056,000	10,176,000	20,232,000	20,542,000	20,542,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 1579 2S HB	Title: Independent prosecutions	Agency: 229-Office of Independent Investigations
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
General Fund-State 001-1	145,000	145,000	290,000	290,000	290,000
Total \$	145,000	145,000	290,000	290,000	290,000

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.

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Agency Approval: Jamie Langford	Phone: (360) 902-0422	Date: 03/01/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/02/2023

Part II: Narrative Explanation

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

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

The second substitute of this legislation will no longer require OII to conduct the conflict-of-interest investigation of the prosecuting attorney. This eliminated the need for an additional FTE. The substitute legislation also reduced the AGO cost based on how we the Office will engage with the AGO on the cases referred to the Independent Prosecutor or the Prosecuting Attorney.

New fiscal impacts for the second substitute are as follows:

Sec (2)(a) The attorney general's office of independent prosecutions shall have concurrent authority and power with the prosecuting attorneys to review investigations and initiate and conduct prosecutions of crimes involving the use of deadly force by involved officers as described in chapter 43.102 RCW. "Prosecution" includes appeals and requests for postconviction relief.

This section could require additional resources in the Office of Independent Investigations (OII) for staff time to communicate with both the AG staff and local prosecuting authority as conflicts of interest are being determined.

Sec (9)(a) Upon the completion of an investigation authorized under this chapter, the office shall send its completed investigation and referral to both the county prosecuting attorney of the jurisdiction in which the offense occurred and the office of independent prosecutions in accordance with protocols established under RCW 43.102.050(2)(c)(viii), and include any information, if known, regarding the presence of a conflict of interest.

This section will require OII to make a referral to both the AG Independent Prosecution as well as the local PA and if known, includes any information regarding the presence of a conflict of interest.

This bill contains a null and void clause if this bill is not enacted by June 30, 2023.

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.

This legislation would increase the current contracted services OII pays to the AGO. We estimate our consultation and communication with the AGO for their billable hours to increase and could potentially double OII's costs. This is based on an average of 28 cases of use of deadly force incidents during 2020 (39), 2021 (13) and 2022 (32). OII estimates its AGO costs will be about \$145,000 in fiscal year 2024. The fiscal note reflects the added AGO costs of this legislation; \$145,000.

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	145,000	145,000	290,000	290,000	290,000
Total \$			145,000	145,000	290,000	290,000	290,000

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					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	145,000	145,000	290,000	290,000	290,000
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 \$	145,000	145,000	290,000	290,000	290,000

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1579 2S HB

Title: Independent prosecutions

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

Legislation Impacts:

- Cities:
 Counties:
 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:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 03/07/2023
Leg. Committee Contact: Jessica Van Horne	Phone: 360-786-7288	Date: 02/28/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/07/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/07/2023

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 PRIOR BILL VERSION:

The second substitute adds a new section 25 that establishes that sections 2, 3, 16, 17, 18, and 19 of this act take effect July 1, 2024. This change does not create fiscal impacts for local governments.

SUMMARY OF CURRENT BILL:

Sec. 2 amends RCW 43.10.232. The OIP shall have concurrent authority and power with the prosecuting attorneys to investigate, initiate, and conduct prosecutions of crimes involving police use of deadly force in the state of Washington. Nothing in this subsection affects the authority of the prosecuting attorney to conduct prosecutions of crimes committed by an individual who is the subject of the use of force action by the involved officer.

Sec. 18 create a new section in RCW 36.27. If the prosecuting attorney makes a determination not to file criminal charges in the case, the prosecuting attorney or conflict-free special deputy prosecuting attorney must refer the case and all investigative materials concerning the case to the independent prosecutions unit of the AGO within 30 days of the decision to not file criminal charges.

B. SUMMARY OF EXPENDITURE IMPACTS

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

The legislation would have no expenditure impact for local government. According to the Washington Association of Prosecuting Attorneys, county prosecutors already review cases of deadly force by law enforcement officers for potential conflicts of interest, and refer cases to other prosecutor offices as needed. As such, the bill would not result in any additional costs.

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 legislation would have no revenue impacts for local government.

SOURCES:

Washington Association of Prosecuting Attorneys